ORDINANCE NO. 4431

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REVISE THE ALLOWANCES FOR ACCESSORY DWELLING UNITS

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Unified Development Ordinance (Chapter 7 of the City Code of Ordinances) provides allowances for accessory dwelling units and the options for such units should be expanded; and

WHEREAS, this Ordinance is determined to be reasonable, in the public interest, and is consistent with the Comprehensive Plan in the following ways:

1. It employs zoning tools to increase the supply of housing that is compatible with existing neighborhoods;
2. It provides incentives for infill development throughout the City; and
3. It provides needed residential units while making efficient use of existing housing stock, parcels of land and community infrastructure.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1: Chapter 7 of the Code of Ordinances of the City of Asheville is hereby amended as follows:

a. Section 7-2-5 is amended by altering the following definitions:

Accessory dwelling unit means a separate and complete dwelling unit that is contained on the same lot as the structure of a single-family dwelling or business.

Accessory dwelling commercial caretaker means a residence located on premises with a main nonresidential use and occupied only by a caretaker or guard employed on the premises and, as applicable, his or her family.

b. Section 7-8-1(d) regarding Table of Permitted Uses is amended by changing "Accessory apartment" to "*Accessory dwelling unit*" under the category of "*Residential Uses*" and changing the use type as follows:
RS2- P
RS4- P
RS8- P

RM6- P
RM8- P
RM16-P

c. Section 7-8-1(d) regarding Table of Permitted Uses is amended by changing "Accessory dwelling" to "*Accessory dwelling commercial caretaker*" under the category of "Residential Uses"

d. Section 7-10-1.(b) is amended as follows:

(b) Single-family dwellings. There shall be no more than one single-family dwelling on an individual lot in a single-family residential zoning district. This requirement does not affect the use of accessory dwelling units in conjunction with the standards set forth in subsection 7-14-1(b)(3) or the development of duplexes, triplexes, and quadraplexes in accordance with the standards set forth in subsection 7-16-2(c)(3)d.

e. Section 7-14-1(b) be amended by adding new sections (3) and (4) as follows:

(3) Accessory dwelling units. Accessory dwelling units are allowed as permitted in the Table of Permitted Uses located in this chapter. The purpose of the accessory dwelling unit provision is to allow the efficient use of existing housing stock, parcels of land and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

(a) *General provisions. The following standards apply to accessory dwelling units located in all residential districts except Urban Residential.*

1. An accessory dwelling unit shall be located only on a residential lot containing one single-family detached structure. The residential lot may contain other accessory structures as provided in this ordinance.

2. Only one accessory dwelling unit shall be permitted per single-family detached dwelling.

3. Accessory dwelling units shall not be considered as additional dwelling units for the purpose of determining minimum lot size or maximum density.

(b) *Standards. Accessory dwelling units may occupy conforming existing accessory structures or lawfully created non-conforming primary residential structures. The maximum size of the accessory dwelling unit shall be determined based on the following:*

1. A detached accessory dwelling unit:

Area- may not exceed the lesser of:

70% percent of the gross floor area of the primary dwelling unit, or

800 square feet.

Height- The height of a detached accessory dwelling unit may not exceed 25 feet.

2. An attached accessory dwelling unit (located within the same structure as the primary dwelling unit with shared foundation, exterior walls and roof):

Area- may not exceed the lesser of :

70% percent of the gross floor area of the primary dwelling unit, or

1,000 square feet.

Height- The height of an attached accessory dwelling unit will be governed by the height requirements for the residential structure.

(c) *Parking. Parking for the primary dwelling unit must be maintained or replaced on site. Parking for the accessory dwelling unit shall be provided at a rate of one parking space per accessory dwelling unit if off-street parking is required for the primary residential unit. This parking space(s)shall be located to the side or rear of the primary residential unit, outside of the front setback area.*

Sec. 7-14-1(b)

(4) Accessory structures.

(a) *General provisions. The following standards apply to accessory structures located in all residential districts including Urban Residential*

(b) The footprint of accessory structures located on a lot shall not exceed the following maximum footprint(s):

Lot Size	One Structure	All Structures
Less than 1 acre	800 square feet	1,000 square feet
1 to 3 acres	1,200 square feet	1,600 square feet
More than 3 acres	No limit	No Limit

The footprint of the portion of accessory structures used as accessory dwelling units shall not be included in this calculation of footprint for accessory structures.

The footprint of any accessory structures used for agricultural purposes shall not be included in this calculation of footprint for accessory structures. Such structures must meet the requirements established for agricultural uses established in section 7-16-1 of this chapter.

(c) Accessory structures shall not exceed 25 feet in height except that height may be increased one foot for every one foot of additional side and rear setback, up to a maximum of 40 feet.

(d) Accessory structures, except for detached garages shall be located only in side or rear yards for non-corner lots and not in front of the principal structure. On lots of more than three acres, accessory structures may be located in the front of the principal structure, but not in the required front yard. Accessory structures, including detached garages, located in side yards of corner lots whose rear or side yards are adjacent to a front yard of the adjacent lot shall maintain a setback equivalent to the front yard setback of the adjacent lot. Detached garages may be located in front of the principal structure if it is determined by the planning and development director that practical difficulties exist for garage location in side or rear yards due to topography, lot width or other physical factors. Upon this determination, detached garages may be located in front of the principal structure provided that: 1) the garage is not located in the front setback, and 2) the garage is located and/or designed so that it is clearly subordinate to the principal structure in terms of scale.

(e) Reserved.

(f.) Accessory structures providing common facilities for residential developments (clubhouse, pool house, etc.) shall not be subject to the gross floor area limits set forth in subsection 7-16-1(c)(2)(b) above, or the location requirements set forth in subsection 7-16-1(c)(2)(d) above.

(g) Accessory structures may be located or expanded on lawfully existing nonconforming lots or lots (conforming or nonconforming) containing nonconforming structures, provided that all other requirements of this chapter and other applicable local, state, and federal regulations are met.

f. Section 7-16-1(b) be amended by removing:

(1) Accessory apartments. All residential except Urban Residential.

(2) Accessory structures. All residential including Urban Residential.

g. Section 7-16-1(c) be amended by removing in their entirety:

(1) Accessory apartments.

(2) Accessory structures.

Section 2: If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3: All ordinances or parts of ordinances in conflict are hereby repealed to the extent of such conflict.

Section 4: This ordinance will become effective upon adoption.

Read, approved, and adopted this 23rd day of June, 2015.

Magdalen Bullson
City Clerk

Mayor

Approved as to form:

City Attorney