

## ORDINANCE NO. 3908

### ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE CREATING A NEW APPLICATION PROCESS AND DEVELOPMENT INCENTIVES FOR PROJECTS MEETING KEY STRATEGIC GOALS

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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 City of Asheville establishes general use districts to support and guide orderly growth and development in the city and its extra-territorial jurisdiction; and

WHEREAS, orderly growth includes growth of high quality meeting key strategic goals and community needs; and

WHEREAS, affordable housing and sustainable building practices have been identified as key strategic goals in multiple adopted plans and documents; and

WHEREAS, this proposed ordinance is determined to be reasonable and in the public interest as follows:

- a. Addresses key strategic goals and community needs
- b. Provides incentives and flexibility to development to encourage growth
- c. Includes compatibility requirements to ensure that the existing character of the community is not negatively affected

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

Section 1. Chapter 7 of the Asheville City Code be amended as follows:

- a. Sec. 7-2-5 is revised to insert the following definitions alphabetically:

*Block* means a small section of the city enclosed by neighboring and intersection consecutive cross streets often rectangular in shape occupied by or intended for buildings for commercial, institutional or residential uses. Blocks in special circumstances may also include a length of street not bounded by a typical cross street but by significant topographic barriers or manmade features such as a ridge line, steep slope area, ravine, river, parks, bridges, cemeteries, un-subdivided acreage or other jurisdictional boundaries. This definition also includes the term 'blockface'.

*Principal structure(s)* means the main or predominant structure(s) in which the primary use occurs. Parcels may support more than one principal structure when said structures do not vary in gross floor area by more than 20 percent."

b. The following Sections:

7-8-5(d)	7-8-11(d)	7-8-17(d)
7-8-6(d)	7-8-12(d)	7-8-19(d)
7-8-7(d)	7-8-13(d)	7-8-20(d)
7-8-9(d)	7-8-15(d)	
7-8-10(d)	7-8-16(d)	

are revised to include a new Use by Right, Subject to Special Requirements, inserted alphabetically, to read: "Sustainable development projects".

c. Sec. 7-16-1(b) is revised by adding a new subsection to read:

"(68.2) *Sustainable development projects* (RM-6, RM-8, RM-16, Office, Office II, Office-Business, Community Business I, Community Business II, Institutional, Highway Business, Regional Business, River, Commercial Industrial)"

d. Sec. 7-16-1(c) is revised by adding a new subsection to read:

"(68.2) Sustainable development projects.

a. Use districts: RM-6, RM-8, RM-16, Office, Office II, Office-Business, Community Business I, Community Business II, Institutional, Highway Business, Regional Business, River, Commercial Industrial.

b. Purpose. This section is intended to meet key strategic goals by providing incentives for the construction of high quality, sustainably based development projects that are reasonably compatible with the natural and built environments of the city. It is not the intent of this section to provide an alternative for other, small-scale infill development processes, such as the process for allowing duplexes, triplexes and quadraplexes in single family zoning districts.

c. General. All sustainable development projects shall meet the following minimum standards. Additionally, all sustainable development projects shall meet the standards established elsewhere in the *Unified Development Ordinance* except as otherwise afforded through Appendix 7-G and subsection "f" below.

1. A minimum of five residential units must be provided.

2. All property owners in residential districts receiving density bonuses shall execute a Good Neighbor Agreement. A sample of such an agreement can be provided by the Planning & Development Department or may be submitted by the owner for review and approval by the Planning Director. This agreement shall be posted in clear view of all residents and shall be provided separately to each resident.

3. All sustainable development projects offering affordable housing shall provide a Declaration of Deed Restrictions ensuring that rents or sale prices shall remain affordable for a period of no less than 15 years, increasing by no more than four percent (4%) per annum, or the annual increase in the Consumer Price Index, whichever is lower, excepting rental housing constructed with other public funding that includes a separate long-term affordability requirements that is equal to or more rigorous.

4. Sustainable development projects receiving density bonuses are not eligible for other Use by right, subject to special requirements uses.

5. All units shall be within 1/8 mile of a high frequency transit corridor or other corridors as identified on the "Sustainable Development Project Eligibility Map" on file with the Planning & Development Department.
  6. Seventy-five percent (75%) of the project area, including all grading activity, must be located within a 1/8 mile of the designated applicability area identified on the Sustainable Development Project Eligibility Map.
  7. All units shall be Energy Star Certified.
- d. Off-street Parking. Off-street parking shall be provided per Sec. 7-11-2(c) with the additional following requirements.
1. All Off-street parking located in residential districts shall comply with the following:
    - a) When located in a sidewalk priority area or along a major thoroughfare or connector street as described in the *City of Asheville Pedestrian Plan*, all parking shall be located to the side or rear of the principal structure(s) and shall not be located closer to the street than the leading edge of said structure(s).
    - b) Parking in excess of two spaces located in front of the principal structure may be approved by the planning and development director provided the area will be screened to be 80 percent opaque year round from adjacent single family zoning and:
      - The topography of the site makes it difficult to access the side or rear of the property; or
      - The majority of the properties on both sides of the street on the block on which the proposed use is to be constructed have parking areas located in front of the principal structures.
    - c) All off-street parking areas of five or more spaces shall be screened with vegetation from adjacent single family zoned lots. The vegetative screening shall consist of the planting required for a Type A buffer or its equivalent as determined through the alternative landscape compliance process. Other designated buffers would not be required between structures or open lawn areas.
    - d) Landscaping shall be provided as required per Sec. 7-11-3(d)(4)
  2. Off-street parking requirements may be reduced or waived per Sec.7-11-2(c)(4).
- e. Architectural and design requirements.
1. For all large multi-family and mixed use structure(s) containing more than four units, the following standards apply:
    - a) The structure shall be oriented towards the primary access street in a manner similar to the residential structures on both sides of the street on the block on which it is to be constructed.
    - b) The front yard depth for the proposed structure shall be not less than the average front yard depth for the residential structures on the same side of the street on the block on which the new construction is proposed. A modification of ten percent or two feet, whichever is greater, may be considered in cases of physical hardship or practical difficulty.
    - c) For commercially zoned areas, buildings shall meet the definition of pedestrian oriented design as defined in Article 2 of this chapter.
    - d) On corner lots, buildings shall be located at the corner where the exposed corner-side resembles the front of the building. See 7-8-23(f)(2) for building templates.

- e) Facades facing primary access streets (primary facades) should include well-defined entrances facing the street. Buildings placed at the corner may include a corner entrance.
- f) Windows shall be placed evenly across the primary façade and make up a minimum of 20 percent of the wall surface for an exclusively residential structure and, 20 percent of the wall surface above the ground story for a mixed use structure, to complement pedestrian activity.
- g) The first floor of all mixed use structures shall be designed in a way that a minimum of 50 percent of the length of the first floor primary facade incorporates pedestrian scale windows, doors and other openings to complement pedestrian activity.
- h) All storefront windows shall be transparent or lightly tinted and shall not appear false or applied.
- i) Sidewalk or greenways shall provide connections from the new construction to the existing community on all frontages where the subject property abuts a public right-of-way. In situations where a parcel does not directly abut a public right-of-way, a sidewalk or greenway connection shall be provided along private easements or rights-of-way. Projects with 50 units or more, shall provide a minimum of two pedestrian/bike access points.
- j) For projects with a frontage length greater than 400 feet, a network of internal streets and sidewalks shall be required unless otherwise approved by the Planning director where exceptions may be considered in cases of practical difficulty and/or conflicting goals.

f. Development Incentives.

1. Additional density may be applied to the base density allowed by right under the existing zoning per Appendix 7-G. Review levels will be determined by base densities not including units added as a result of the application of this section. Regardless of the base density, any project between 50-69 units total shall be required a Level II review as set forth in Sec. 7-5-9(b); projects with 70 or more units shall be required a Level III review as set forth in Sec. 7-5-9(a).
2. Minimum lot size, lot width, and setback requirements for single family structures in a new single family subdivision may be reduced by 30 percent when one or more of the following criteria is met:
  - Dedicated community open space is provided at a minimum rate of 500 square feet per unit. Community open space areas must be maintained for the benefit of the entire community and must be accessible by all units in the community either directly or by a sidewalk or trail system.
  - The subdivision is within 300 feet of a public park where a connection is provided by sidewalk or greenway.
3. Off-street parking requirements may be reduced by 25 percent if:
  - 60 percent or more of the units are affordable (as defined by the City of Asheville) and if the City's traffic engineer and planning director determine that adequate on-street parking is available within a 100 foot radius to off-set the balance of spaces needed, or
  - 60 percent or more of the units are one-bedroom or efficiency apartments.
4. Height maximums may be extended an additional 10 feet if 100 percent of the units are affordable or if Silver, or higher, LEED certification is achieved.

5. Lot sizes, widths, and setbacks may be reduced by 30 percent if no density bonuses are being sought and the project meets Bronze (or higher) LEED certification or NC Healthy Built Homes certification."

e. The following Sections:

- 7-8-2(e)
- 7-8-3(e)
- 7-8-4(e)
- 7-8-5(e)
- 7-8-6(e)
- 7-8-7(e)

are revised to delete, "Development standard bonuses for residential zoning districts."

f. Subsection 7-16-2(b)(17), "Development standards bonuses for residential zoning districts," is deleted in its entirety.

g. Subsection 7-16-2(c)(17) "Development standards bonuses for residential zoning districts," is deleted in its entirety.

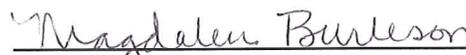
Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, 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 herewith are hereby repealed to the extent of such conflict.

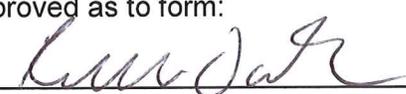
Section 4. This ordinance is enforceable as provided in Article 18 of Chapter 7, and Sec. 1-5 of the Asheville City Code.

Section 5. This ordinance is effective upon adoption.

Read, approved, and adopted on first reading on October 12, 2010, and on its second and final reading on October 26, 2010.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

Approved as to form:  
  
\_\_\_\_\_  
City Attorney

**Appendix 7-G**  
**Sustainable Development Projects Bonus Evaluation Form**

Developer: \_\_\_\_\_ Project Location: \_\_\_\_\_  
Date: \_\_\_\_\_

Current Zoning: \_\_\_\_\_ Total Land Area: \_\_\_\_\_ Density allowed:  
\_\_\_\_\_

<b>Evaluation Criteria – Affordable Housing</b> <i>Multi-part items may earn points in one section only.</i>	Self Score	Verified Score	Comments
Infill on existing street not requiring extensive new infrastructure, such as storm drains, curbs, sidewalks (5 points)			
Proximity to services and employment centers* within one mile (10 points)			
Site is located within 500 feet of a high frequency transit line (15 points)			
At least 20% of <u>all</u> rental units (with a minimum of 5 units) will be affordable as defined by the City of Asheville. Scoring below: <ul style="list-style-type: none"> <li>a. 80 -100% of units are affordable (35 points)</li> <li>b. 60-80 % of units are affordable (30 points)</li> <li>c. 40-60% of units are affordable (25 points)</li> <li>d. 20-40% of units are affordable (20 points)</li> </ul>			
At least 20% of <u>all</u> for sale units (with a minimum of 5 units) will be affordable as defined by the City of Asheville. Scoring below: <ul style="list-style-type: none"> <li>a. 80 -100% of units are affordable (30 points)</li> <li>b. 60-80 % of units are affordable (25 points)</li> <li>c. 40-60% of units are affordable (20 points)</li> <li>d. 20-40% of units are affordable (15 points)</li> </ul>			
Project includes specific plan to preserve long-term affordability of units for: <ul style="list-style-type: none"> <li>a. 20 years. (15 points)</li> <li>b. 30 years (25 points)</li> </ul>			
Project incorporates affordable housing: <ul style="list-style-type: none"> <li>a. Into the development (15 points)</li> <li>b. Provided off-site (10 points)</li> <li>c. Provides a fee in lieu per the Housing Trust Fund guidelines (5 points)</li> </ul>			
Project includes a mix of housing types (apartment, townhome, single family) (5 points)			
Over half of all units are one bedroom or efficiency units (10 points)			
Renewable energy on-site (10 points)			
Project includes efficiency features: <ul style="list-style-type: none"> <li>a. Energy Star Certified (5 points)</li> <li>b. NC Healthy Built Silver or Bronze LEED Certification (10 points)</li> <li>c. NC Healthy Built Gold or Silver or above LEED Certification (15 points)</li> </ul>			
Project is located in brownfields redevelopment area (10 points)			
Project is located in the River District (5 points)			
Project is located within a designated Transformational Project area (5 points)			

OPTION 1 BONUS – Affordable Housing Only

50-80 points = 20% density bonus

81-100 points = 50% density bonus

100+ points = 100% density bonus

OPTION 2 BONUS – Green Building

LEED Bronze or NC Healthy Built Silver = 20% density bonus

LEED Silver or NC Healthy Built Gold = 40% density bonus

LEED Gold or NC Healthy Built Platinum = 60% density bonus

LEED Platinum = 80% density bonus

OPTION 3 BONUS – Affordable Housing & Green Building

For an affordable housing project, an additional 10% may be added to the affordable housing density bonus for each level of NC Healthy Built or the corresponding LEED Certification achieved.

OPTION 4 BONUS – Green Building & Affordable Housing

For a green building project, an additional matching percentage of bonus may be added for the percentage of affordable units included in the project.

\* Employment Centers shall include:

- Mission Regional Hospital
- Downtown Asheville
- Biltmore Village & Biltmore Estate
- The Asheville Mall & S. Tunnel Rd.
- Other centers considered with supporting data from the applicant