



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 6/13/2024

File ID: TMP-4259

Department: Planning

Subject:

Type of Action: Approval/Action

Resolution to set a public hearing on an ordinance amending the Zoning Ordinance Article 3 - Definitions, Section 3.1 - Interpretation, to add the definition for Accessory Dwelling Unit; and Article 73 - Supplementary Regulations and Modifications, Section 73.1 - Uses: Accessory and Temporary and Section 73.5 - Rear Dwelling Prohibited, to add regulations regarding Accessory Dwelling Units; and the introduction of an Ordinance pertaining to the same. (Set July 25, 2024 Regular Council Meeting)

Resolution No.

Ordinance No.

Does this item need to be published? Yes

If yes, please list preferred date(s) of publication: Resolution: June 26 and July 3, 2024; Ordinance: July 31, 2024

Finance Information:

Account Number: n/a

City Cost Amount: \$ 0

Total Cost: \$ 0

Special Circumstances:

Grant Funded: \$ 0

Grant Title - CFDA or granting Agency: n/a

Resolution #: n/a

Location:

Address: n/a

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments: Recommended by Planning Commission

RESOLUTION NO. 24-

WHEREAS, the Planning Commission of the City of Huntsville, Alabama, has given consideration to an amendment to the Zoning Ordinance, a synopsis of said amendment being as follows:

- (1) Amend Zoning Ordinance ARTICLE 3 - DEFINITIONS, Section 3.1 – Interpretation, to add the definition for Accessory Dwelling Unit; and ARTICLE 73 - SUPPLEMENTARY REGULATIONS AND MODIFICATIONS, Section 73.1 - Uses: Accessory and Temporary and Section 73.5 - Rear Dwelling Prohibited, to add regulations regarding Accessory Dwelling Units.
- (2) The first publication of this resolution, this synopsis, and the ordinance hereinafter set out at length shall be in the Speakin' Out News on the 26th day of June, 2024, and the second publication shall be one week thereafter on the 3rd day of July, 2024, both of which publications shall be at least 15 days in advance of the date of the public hearing hereinafter referred to.

WHEREAS, it is the judgement and opinion of the City Council of the City of Huntsville, Alabama, that consideration should be given to the adoption of an amendment to the Zoning Ordinance of the City of Huntsville, Alabama, in accordance with said request;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, as follows:

1. That the City Council of the City of Huntsville, Alabama, shall meet at 5:30 p.m. on the 25th day of July, 2024, in the Council Chambers of the City of Huntsville Administration Building at 305 Fountain Circle in the City of Huntsville, Alabama, for the purpose of holding a public hearing at which time and place all persons, parties in interest and cities who desire, shall have an opportunity to be heard in opposition to or in favor of said Ordinance No. 24-_____, which is introduced by the City Council of the City of Huntsville on the 13th day of June, 2024, amending the Zoning Ordinance of the City of Huntsville, Alabama.

2. That the proposed amendment to the Zoning Ordinance of the City of Huntsville, Alabama, is substantially in words and figures as follows:

ORDINANCE NO. 24-

AN ORDINANCE TO AMEND THE ZONING ORDINANCES OF THE CITY OF HUNTSVILLE, ALABAMA

The public welfare requiring it, and under authority granted by Section 11-52-78 of the 1975 Code of Alabama, BE IT ORDAINED by the City Council for the City of Huntsville, Alabama, that the Zoning Ordinance of the City of Huntsville, Alabama, as adopted on the 21st day of March 1963, as amended, is hereby further amended as follows:

Section 1. Amend Zoning Ordinance ARTICLE 3 - DEFINITIONS, Section 3.1 – Interpretation, to add the following definition:

Accessory Dwelling Unit – An accessory use that is on the same lot and incidental and subordinate to the sole and principal use of the lot as a single-family dwelling and that meets the requirements of section 73.1.3.

Section 2. Amend Zoning Ordinance ARTICLE 73 SUPPLEMENTARY REGULATIONS AND MODIFICATIONS, 73.1 Uses: Accessory and Temporary, to add:

73.1.3 Accessory Dwelling Unit. An accessory dwelling unit shall be allowed as an accessory use to a detached, single-family dwelling in R1, R1A, and R1B zoning districts and, in addition to any other applicable requirements, shall conform to each of the following regulations, from which no variance is allowed except as provided under subsection (13) of this section:

- (1) The lot upon which the accessory dwelling unit is located shall be a single, platted, lot of record that, in the case of R1 and R1A zoning districts, meets or exceeds the minimum required lot area, lot width, and lot frontage for the zoning district in which the lot is located; and, in the case of R1B zoning districts, meets or exceeds the minimum required lot area, lot width, and lot frontage for an R1A zoning district.
- (2) The lot upon which the accessory dwelling unit is located shall be used solely as a detached, single-family dwelling.
- (3) An accessory dwelling unit shall not be allowed on a corner lot.
- (4) A single-family dwelling shall have no more than one accessory dwelling unit on the lot, neither the principal dwelling nor the accessory dwelling unit shall have a second kitchen, and the accessory dwelling unit shall not be used as a customary home occupation either for its residents or the residents of the primary dwelling.
- (5) The maximum total floor area (habitable and non-habitable) of an accessory dwelling unit shall be *the lesser of* 900 square feet *or* 60 percent of the habitable floor area of the principal single-family dwelling on the same lot, and the minimum total floor area (habitable and non-

habitable) of an accessory dwelling unit shall be greater than 500 square feet. An accessory dwelling unit shall have no more than one bedroom.

- (6) No accessory dwelling unit shall be erected in any front yard, secondary front yard, or side yard.
- (7)
 - (a) Accessory dwelling units shall be designed as a subordinate structure to the principal dwelling on the lot in terms of its mass, size, and height. The number of stories and the height of the accessory dwelling unit shall not exceed the *lesser of* (i) the number of stories and height of the principal single-family dwelling on the lot *or* (ii) the maximum number of stories and the maximum height, as the case may be, for the zoning district in which the accessory dwelling unit is located.
 - (b) To maintain a consistent aesthetic, the accessory dwelling unit shall share common architectural design, character, style, and appearance with the principal dwelling.
 - (c) If the accessory dwelling unit is a converted garage, the garage door shall be replaced with materials that match the exterior of the accessory dwelling unit.
 - (d) No accessory dwelling unit shall be allowed to use aluminum, steel, or other metal siding or cladding as an exterior finish; provided that this requirement shall not include window framework, doors, roof, and walkway covers.
 - (e) Any two-story accessory dwelling unit shall limit exterior access stairs, decks, and entry doors to the walls facing the principal dwelling, or to the alley if applicable. Two story accessory dwelling units shall not have windows on any wall facing or overlooking any rear neighboring dwelling unit except when such windows are completely and irreversibly opaque, from both the interior and exterior. Two story accessory dwelling units may only have one window on any wall from which the side or rear yard of any neighboring dwelling unit can be observed, any window that is completely and irreversibly opaque from the interior and exterior shall not be included in such calculation.
- (8) An accessory dwelling unit: 1) shall be at least fifteen (15) feet from the rear lot line, ten (10) feet from the side lot line, and at least ten (10) feet from the principal single-family dwelling on the lot; 2) together with any other structure located in the required rear yard, including all or any portion of the principal dwelling or an accessory structure, shall not cover more than thirty percent (30%) of the required rear yard; and (3) shall, in combination with other structures on the lot, not exceed the maximum total building area for the applicable zoning district.

- (9) An accessory dwelling unit shall be built on a foundation and may be a state-approved modular home, but shall not be a mobile home, a manufactured home, a house trailer, a prefabricated accessory structure, or a tiny home that is built on wheels and transported to the lot.
- (10) One off-street parking space shall be provided for the accessory dwelling unit. This parking requirement may be satisfied by utilizing excess off-street parking for the principal dwelling, including a garage. In the case of garage conversions, the garage conversion shall accommodate at least one motor vehicle parking space. For lots with an accessory dwelling unit, no motor vehicles or trailers shall be parked in the required front yard.
- (11) An accessory dwelling unit shall only be used as a separate residence by one family. The maximum occupancy of an accessory dwelling unit shall not exceed two (2) individuals. The accessory dwelling unit shall have its own permanent facilities for living, sleeping, eating, cooking, and sanitation that are adequate to support independent residential use of the unit. The accessory dwelling unit shall not be used by transients, occupants of a boarding house or rooming house, or occupants that act as separate roomers or boarders.
- (12) Either the principal dwelling or the accessory dwelling unit shall be the residence of the owner of the lot on which it is located and the accessory dwelling unit must remain in common ownership with that of the principal dwelling, and shall not be sold as a separate piece of property or as a condominium unit.
- (13) (a) An accessory dwelling unit must always be paired with a principal dwelling located on the same lot. An accessory dwelling unit may never be a principal dwelling. The owner of a lawful accessory dwelling unit that subsequently becomes non-compliant as a result of the absence of a primary dwelling located on the same property for any reason shall: 1) remove the accessory dwelling unit within 180 days of the occurrence of the event that caused the non-compliance; or 2) construct or cause the construction of a primary dwelling on the property that would bring the accessory dwelling unit into compliance within 180 days of the occurrence of the event that caused the non-compliance; provided, however, the board of zoning adjustment may, subject to applicable law, grant a variance to extend the foregoing time limits for an additional 180-day period.
- (b) If an accessory dwelling unit is to be removed, appropriate permits and inspections must first be received from the city. If a homeowner wants to remove the statement as required by subsection (n) of this section from the property's title, then the zoning administrator shall issue an appropriate release upon evidence that the accessory dwelling unit has been removed. The release shall be recorded by the owner in the real

estate records of the probate judge of the county in which the property is located and a copy of the recorded release shall be provided to the city.

- (14) (a) The owner of a principal dwelling desiring to use his lot for an accessory dwelling unit must apply for, on forms provided by the zoning administrator, and obtain annually an accessory dwelling unit permit from the zoning administrator evidencing, to the satisfaction of the zoning administrator, compliance with this section and other applicable provisions of the zoning ordinance. Failure to obtain and maintain the permit and failure to continue to comply with this section and other applicable provisions of the zoning ordinance may result in appropriate legal action being taken to address the non-compliance.

(b) It shall be the responsibility of the owner of the principal dwelling to provide the information and documentation necessary for the zoning administrator to ascertain compliance with this section and other applicable provisions of the zoning ordinance. Failure to provide the same shall be grounds for denial of the permit.

(c) Before issuance of the certificate of occupancy for an accessory dwelling unit, the owner must provide a copy of a statement recorded in the real estate records of the probate judge of the county in which the property is located that: (i) identifies the owner of the property, and the property's PIN number, address, and legal description, and (ii) states the following:

An application for a permit for an accessory dwelling unit has been submitted to the City of Huntsville by the owner of this property. Future owners are advised that the owner of the property must comply with all requirements of the Huntsville Zoning Ordinance, as amended, if the accessory dwelling unit is to be occupied or rented.

- (15) Nothing in this section shall be construed to relieve any person from compliance with other applicable laws that govern the property, which may include but not necessarily be limited to, the city's building code, fire code, and minimum housing standards.

Section 3. Amend Zoning Ordinance ARTICLE 73 SUPPLEMENTARY REGULATIONS AND MODIFICATIONS, by amending 73.5 Rear Dwelling Prohibited to read as follows:

No dwelling shall be erected on a lot which does not abut on at least one street for at least twenty (20) feet.

No building in the rear of a main building on the same lot may be used for residential purposes except in compliance with Section 73.1.3.

Section 4. This ordinance shall take effect from and after the date of its publication.

ADOPTED this the ____ day of _____, 2024.

President of the City Council of
the City of Huntsville, Alabama.

APPROVED this the ____ day of _____, 2024.

Mayor of the City of Huntsville, Alabama

ADOPTED this the ____ day of _____, 2024.

President of the City Council of
the City of Huntsville, Alabama.

APPROVED this the ____ day of _____, 2024.

Mayor of the City of Huntsville, Alabama