

# **MCCOOK CITY COUNCIL**

## **REGULAR MEETING**

**Monday, September 16, 2024  
5:00 PM - City Council Chambers**

Call to Order and Roll Call.

Open Meetings Act Announcement.

Items

1. Approve the minutes of the August 12, 2024 regular Planning Commission meeting.
2. Public Hearings and Regular Agenda.
  - A. Public Hearing - Regarding modifications to McCook Zoning Ordinance No. 2016-2929, Article 3 - Definitions, adding Shouse, prohibiting Shouse in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); reducing the maximum height provision for accessory buildings from 35 feet to 25 feet in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M) and Article 11 - Residential High Density District (RH); and amending accessory buildings maximum height requirement in Article 21 - Supplementary District Regulations, Section 2103 from 20 feet to 25 feet.
    1. Adjourn the Public Hearing.
  - B. Recommend approval of the modifications to McCook Zoning Ordinance No. 2016-2929, Article 3 - Definitions, adding Shouse, prohibiting Shouse in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); reducing the maximum height provision for accessory buildings from 35 feet to 25 feet in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M) and Article 11 - Residential High Density District (RH); and amending accessory buildings maximum height requirement in Article 21 - Supplementary District Regulations, Section 2103 from 20 feet to 25 feet.

Adjournment.

**CITY MANAGER'S REPORT  
SEPTEMBER 16, 2024 PLANNING COMMISSION MEETING**

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**ITEM:**        1.A.

**RECOMMENDATION:**

Approve the minutes of the August 12, 2024 regular McCook Planning Commission meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

September 12, 2024

McCook Planning Commission  
August 12, 2024  
5:15 P.M.

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Chair Lyons; Vice Chair Hilker; Commissioners Bradley, Dueland, Friehe, McDowell, Stevens, Vosburg, Mockry.

Absent: Commissioner Davidson.

City Officials present: City Manager Schneider, Assistant City Manager Koetter, City Attorney Shifflet, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on August 8, 2024, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Chair Lyons announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the April 8, 2024 regular Planning Commission meeting.

Motion to approve the minutes of the April 8, 2024 regular Planning Commission meeting. This motion, made by McDowell and seconded by Vosburg, passed.

Bradley: YEA, Davidson: ABSENT, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: YEA  
YEA: 9, NAY: 0, ABSENT: 1

2. Public Hearings and Regular Agenda.

- 2.A. Public Hearing - Request for a special exception by Randy and Kimberly Bauer to locate a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM) - property located at 1205 West 3rd Street; legally described as Lot 9, Block 14, Hillcrest Addition to the City of McCook, Red Willow County, Nebraska.

Motion to recess as a Planning Commission and convene a public hearing for the purpose of receiving public comment with respect to the request for a special exception by Randy and Kimberly Bauer to locate a Bed and Breakfast/Vacation Rental in a Medium Density Residential

District (RM) - property located at 1205 West 3rd Street; legally described as Lot 9, Block 14, Hillcrest Addition to the City of McCook, Red Willow County, Nebraska, with the City Attorney to act as hearing officer. This motion, made by Lyons and seconded by Vosburg, passed.

Bradley: YEA, Davidson: ABSENT, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: YEA  
YEA: 9, NAY: 0, ABSENT: 1

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the August 12, 2024 Planning Commission meeting (1 page), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing mailed and posted (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (2 pages); Exhibit #5 - Land Use Action Request Form and attachments (9 pages); Exhibit #6 - City of McCook Zoning Ordinance Article 9, Residential Medium Density District (RM) (3 pages); Exhibit #7 - City of McCook Zoning Ordinance Article 24, Special Exceptions (1 page); and Exhibit #8 - Findings and Determinations of McCook City Council (2 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

The applicants, Randy and Kimberly Bauer, were present to address questions from the Commission. Mr. Bauer stated that the property has been used as a rental and now they would like to use it as an Air BNB/Vacation rental. Occupant wise there would not be much difference between the two.

With no one else present to comment, motion to adjourn the public hearing and to reconvene as a Planning Commission. This motion, made by Lyons and seconded by Stevens, passed.

Bradley: YEA, Davidson: ABSENT, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: YEA  
YEA: 9, NAY: 0, ABSENT: 1

2.B. Recommend approval to the City Council the application for a special exception by Randy and Kimberly Bauer to allow a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM), said property located at 1205 West 3rd Street; legally described as Lot 9, Block 14, Hillcrest Addition to the City of McCook, Red Willow County, Nebraska, finding Special Exception considerations A-I are satisfied.

Motion to recommend approval to the City Council the application for a special exception by Randy and Kimberly Bauer to allow a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM), said property located at 1205 West 3rd Street; legally described as Lot 9, Block 14, Hillcrest Addition to the City of McCook, Red Willow County, Nebraska, finding Special Exception considerations A-I are satisfied. This motion, made by Lyons and seconded by McDowell.

Commissioners completed their Special Exception Findings and Determinations; all found that considerations A - I have been satisfied.

Motion on the floor was considered, passed.

Bradley: YEA, Davidson: ABSENT, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: YEA  
YEA: 9, NAY: 0, ABSENT: 1

City Manager Schneider updated the Commission regarding the update of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance.

Adjournment.

With no further business, Chair Lyons declared the Planning Commission meeting adjourned at 5:37 P.M.



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Lea Ann Doak, City Clerk-Treasurer  
Recording Secretary

**CITY MANAGER'S REPORT  
SEPTEMBER 16, 2024 PLANNING COMMISSION MEETING**

**ITEM NO. 2.A.** Public Hearing - Regarding modifications to McCook Zoning Ordinance No. 2016-2929, Article 3 - Definitions, adding Shouse, prohibiting Shouse in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); reducing the maximum height provision for accessory buildings from 35 feet to 25 feet in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M) and Article 11 - Residential High Density District (RH); and amending accessory buildings maximum height requirement in Article 21 - Supplementary District Regulations, Section 2103 from 20 feet to 25 feet.

**ITEM NO. 2.B.** Recommend approval of the modifications to McCook Zoning Ordinance No. 2016-2929, Article 3 - Definitions, adding Shouse, prohibiting Shouse in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); reducing the maximum height provision for accessory buildings from 35 feet to 25 feet in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density - Mobile Home District (RM-M) and Article 11 - Residential High Density District (RH); and amending accessory buildings maximum height requirement in Article 21 - Supplementary District Regulations, Section 2103 from 20 feet to 25 feet.

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**BACKGROUND:**

Over the course of the past couple of years, City staff has received requests for a new type of structure to be built in McCook's Residential Districts. The name given to the new structure is "shouse". A shouse essentially is a workshop or storage space connected to a living space. A shouse is not currently defined in McCook's Zoning Ordinance, nor are there any restrictions with respect to where a shouse can be located. An example of a shouse can be seen at 309 East 6<sup>th</sup> Street. When the plans for the project at 309 East 6<sup>th</sup> Street were presented to McCook's Building Inspector, there were no limitations to said construction. Nebraska is a Dillon's Rule State, which means if there is no law disallowing a requested action, the City cannot preclude the action from occurring.

As part of McCook's zoning update project, City staff has questioned how best to handle requests to build shouses within McCook's corporate limits. After consultation with Miller & Associates, staff recommends that shouses be defined in the zoning regulations and that shouses be restricted from McCook's residential districts. The concern with shouses is that the primary purpose of the building appears to be the creation of large storage spaces with the accompanying living space serving as a secondary motive to said work/storage area. Staff's concern is that the function of the building is to facilitate a use that is traditionally considered accessory to a primary purpose, said primary use mandated to be a residential dwelling, which promotes the construction of a building that does not fit in a residential neighborhood. At the point the shouse is constructed, the property owner or any subsequent property owners, may use the structure only for storage/work space, not for primary residential purposes. Accessory storage structures are not

**EXHIBIT #1**

**PAGE(S) - 2**

allowed to be a primary structure in McCook's residential districts, and the continued permitting of shouses encourages such use. In order to eliminate the concern of a structure that does not fit in a residential neighborhood, staff believes it best to ban shouses on individual lots in each of the residential districts enumerated in McCook's Zoning Regulations.

As for amending accessory buildings maximum height requirement from 35 feet to 25 feet, McCook's current Zoning Ordinance allows accessory structures to be 35 feet in height, the same height permitted for principle structures in residential districts. Staff recommends limiting the size of the accessory structure to 25 feet to achieve the objective of making the use or structure detached from the principle structure located on the same lot incidental and subordinate to the principle use of the structure. Accordingly, staff recommends that Article 21 -Supplementary District Regulations be amended to assure conformity with the 25 feet accessory structure limit (currently, Article 21 limits the height of an accessory structure to 20 feet, conflicting with the residential district height limitations).

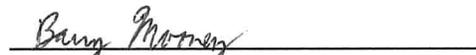
**APPROVALS:**

  
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Nathan A. Schneider, City Manager

September 10, 2024

  
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Lea Ann Doak, City Clerk

September 10, 2024

  
\_\_\_\_\_  
Barry Mooney, Building Inspector

September 10, 2024

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City of McCook Planning Commission on September 16, 2024, at 5:00 P.M. and by the McCook City Council on September 16, 2024 at 5:30 P.M. The hearings will be held in the City Council Chambers, 505 West "C" Street, McCook, Nebraska, to consider modifications to Article 3 - Definitions, adding Shouse; prohibiting Shouse in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density-Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); reducing the maximum height provision for accessory buildings from 35' to 25' in Article 8 - Residential Low Density District (RL), Article 9 - Residential Medium Density District (RM), Article 10 - Residential Medium Density-Mobile Home District (RM-M), and Article 11 - Residential High Density District (RH); and amending accessory buildings maximum height requirement in Article 21 - Supplementary District Regulations, Section 2103 from 20' to 25'. Any and all persons desiring to comment may attend said public hearing and will be given an opportunity to be heard. For additional information regarding this notice please contact Nate Schneider, City of McCook City Manager, at 345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: September 6, 2024.

**EXHIBIT #2**

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ORDINANCE NO. 2024-3090

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE AMENDMENT OF MCCOOK ZONING ORDINANCE NO. 2016-2929, AMENDING ARTICLE 3 - DEFINITIONS, ADDING SHOUSE; AMENDING ARTICLE 8 - RESIDENTIAL LOW DENSITY DISTRICT (RL), ARTICLE 9 - RESIDENTIAL MEDIUM DENSITY DISTRICT (RM), ARTICLE 10 - RESIDENTIAL MEDIUM DENSITY-MOBILE HOME DISTRICT (RM-M), AND ARTICLE 11 - RESIDENTIAL HIGH DENSITY DISTRICT (RH), PROHIBITING A SHOUSE AND REDUCING THE MAXIMUM HEIGHT PROVISION FOR ACCESSORY BUILDINGS FROM 35' TO 25'; AND AMENDING ARTICLE 21 - SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 2103 CHANGING THE ACCESSORY BUILDINGS MAXIMUM HEIGHT REQUIREMENT FROM 20' TO 25'; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. Article 3 - Definitions, Section 302, of McCook Zoning Ordinance No. 2016-2929 shall be amended by adding the following definition to Section 302:

**Shouse.** Concept that combines a personal workspace and storage space with a dwelling, all under one roof.

SECTION 2. Article 8 - Residential Low Density District (RL), Section 805 - Prohibited Uses and Structures and Section 806 - Height and Area Regulations, of McCook Zoning Ordinance No. 2016-2929 shall be amended to read as follows:

**Section 805. Prohibited Uses and Structures.** All other uses and structures including a Shouse, which are not specifically permitted or not permissible as special exceptions shall be prohibited from Residential Low Density Districts (RL).

**Section 806. Height and Area Regulations.** The minimum lot and maximum height provisions shall be as follows:

	Lot Area (Sq. Ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Height Principle/Acces.
Single Family Dwelling	9,000	70', or 45' when on a curved Street.	25'	10'	20'	35' / 25'
Duplex Dwelling	4,500 per unit	70', or 45' when on a curved Street.	25	10	20	35' / 25'
Townhouse dwelling	4,500 per unit	70', or 45' when on a curved Street.	25	10	20	35' / 25'
Other Permitted Uses	9,000	70'	25'	10'	20'	35' / 25'

**SECTION 3.** Article 9 - Residential Medium Density District (RM), Section 905 - Prohibited Uses and Structures and Section 906 - Height and Area Regulations, of McCook Zoning Ordinance No. 2016-2929 shall be amended to read as follows:

**Section 905. Prohibited Uses and Structures.** All other uses and structures, including a Shouse, which are not specifically permitted or not permissible as special exceptions shall be prohibited from Residential Medium Density Districts (RM).

**Section 906. Height and Area Regulations.** The minimum lot and maximum height provisions shall be as follows:

	Lot Area (Sq. Ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Height Principle/Access.
Single Family Dwelling	5,000	50' interior lots, or 60' for corner lots, or 45' on cul-de-sac curve.(4)	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	35' / 25'
Duplex Dwelling	2,500 per dwelling unit	50' interior lots, or 60' for corner lots, or 45' on cul-de-sac curve.(4)	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	25' / 25'
Multifamily Dwelling	2,500 per dwelling unit	50' interior lots, or 60' for corner lots, or 45' on cul-de-sac curve.(4)	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	45' / 25'
Townhouse dwelling	2,500 per dwelling unit	50' interior lots, or 60' for corner lots, or 45' on cul-de-sac curve.(4)	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	45' / 25'
Other Permitted Uses	5,000	50' interior lots, or 60' for corner lots, or 45' on cul-de-sac curve.(4)	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	35' / 25'

- Notes:
- (1) In the case of structures erected on lots adjacent to lots which have structures existing at the effective date of this Ordinance, the required front yard may be the average of the front yards existing on the adjacent lots.
  - (2) Side yards for corner lots facing the street shall be one-half of the front yard setback minimum requirements.
  - (3) A non-combustible carport may be constructed with a minimum side yard clearance of three feet (3') feet and shall be attached to an existing structure.

- (4) Platted lots in existence as of the 2013 update of this Ordinance may have a lot width of fifty (50) feet or less, as long as the lot meets the front, side and rear yard setback requirements. (See Section 2202 of this Ordinance.

**SECTION 4.** Article 10 - Residential Medium Density Mobile Home District (RM-M), Section 1005 - Prohibited Uses and Structures and Section 1006 - Height and Area Regulations, of McCook Zoning Ordinance No. 2016-2929 shall be amended to read as follows:

**Section 1005. Prohibited Uses and Structures.** All other uses and structures, including a Shouse, which are not specifically permitted or not permissible as special exceptions shall be prohibited from Residential Medium Density, Mobile Home Districts (RM-M).

**Section 1006. Height and Area Regulations.** The minimum lot and maximum height provisions shall be as follows:

	Lot Area (Sq. Ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Height <sup>3</sup> Principle/Acces.
Single Family Dwelling	3,000	30' interior lots, or 30' for corner lots, or 45' on cul-de-sac curve.	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	35' / 25'
Duplex Dwelling	2,500 per dwelling unit	30' interior lots, or 30' for corner lots, or 45' on cul-de-sac curve.	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	35' / 25'
Multifamily Dwelling	2,500 per dwelling unit	30' interior lots, or 30' for corner lots, or 45' on cul-de-sac curve.	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	55' / 25'
Townhouse dwelling	2,500 per dwelling unit	30' interior lots, or 30' for corner lots, or 45' on cul-de-sac curve.	20' (1)	8' on 1 side & 5' on 2 <sup>nd</sup> side of interior lots. (2) (3)	15'	55' / 25'
Other Permitted	3,000	30' interior	20' (1)	8' on 1 side	15'	35' / 25'

- Table Notes:
- (1) In the case of structures erected on lots adjacent to lots which have structures existing at the effective date of this Ordinance, the required front yard may be the average of the front yards existing on the adjacent lots.
  - (2) Side yards for corner lots facing the street shall be one-half of the front yard setback minimum requirements.
  - (3) A non-combustible carport may be constructed with a minimum side yard clearance of three feet (3') feet and shall be attached to an existing structure.

SECTION 5. Article 11 - Residential High Density District (RH), Section 1105 - Prohibited Uses and Structures and Section 1106 - Height and Area Regulations, of McCook Zoning Ordinance No. 2016-2929 shall be amended to read as follows:

**Section 1105. Prohibited Uses and Structures.** All other uses and structures, including a Shouse, which are specifically permitted or not permissible as special exceptions shall be prohibited from Residential High Density Districts (RH).

**Section 1106. Height and Area Regulations.** The minimum lot and maximum height provisions shall be as follows:

	Lot Area (Sq. Ft.)	Lot Width	Front Yard	Side Yard	Rear Yard	Height <sup>3</sup> Principle/Access.
Single Family Dwelling	4,000	40' interior lots, or 50' for corner lots. (4)	20' (1)	5' (2) (3)	10'	35' / 25'
Duplex Dwelling	2,000 per dwelling unit	40' interior lots, or 50' for corner lots. (4)	20' (1)	5' (2) (3)	10'	35' / 25'
Multifamily Dwelling	2,000 per dwelling unit. Efficiency units	40' interior lots, or 50' for corner lots. (4)	20' (1)	5' (2) (3)	10'	75' / 25'

- Notes: (1) In the case of structures erected on lots adjacent to lots which have structures existing at the effective date of this Ordinance, the required front yard may be the average of the front yards existing on the adjacent lots.
- (2) Side yards for corner lots facing the street shall be one-half of the front yard setback minimum requirements.
- (3) A non-combustible carport may be constructed with a minimum side yard clearance of three (3') feet and shall be attached to an existing structure.
- (4) Platted lots in existence as of the 2013 update of this Ordinance may have a lot width of forty (40) feet or less, as long as the lot meets the front, side and rear yard setback requirements. (See Section 2202 of this Ordinance.

SECTION 6. Article 21 - Supplementary District Regulations, Section 2103 - Accessory, of McCook Zoning Ordinance No. 2016-2929 shall be amended to read as follows:

**Section 2103. Accessory.** Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly

associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Any accessory building shall have a minimum setback of six (6) feet on interior lots and fifteen (15) on corner lots and all garage/carport entrances must have a minimum ten (10) feet long drive when garage/carport opening is perpendicular to the access alley or twenty (20) feet perpendicular to the access street, but must meet the front yard setback if more restrictive. Garages/carports can be located three (3) feet from rear property line when garage doors do not open onto the alley. Attached garages/carports are considered part of principal building. Accessory buildings shall not exceed **twenty-five (25)** feet in height, or the height of the principal permitted building, whichever is greater. No accessory building shall be erected within five (5) feet of any other building.

SECTION 7. Any and all other ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION 8. This ordinance shall be in full force and take effect from and after its passage, approval, and publication as required by law in its entirety or in pamphlet form, as the case may be.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Linda Taylor, Ex-Officio Mayor  
and President of the Council

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk-Treasurer