

**Case No. PZ-21-00066 Updates to Zoning Code 2021 – Accessory Dwelling Unit and Accessory Structure Encroachments Requirements**

Amendment for Adoption into the Flagstaff Zoning Code

**HOW TO READ THIS DOCUMENT**

Unless otherwise stated, provisions that are being deleted are shown in bold red strikethrough text, like this: ~~Provisions that are being deleted are shown with a bold red strikethroughs text.~~

Provisions that are being added are shown in bold blue text, like this: **Provisions that are being added are shown in bold blue text.**

Section 1. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, 10-40.60.020 Accessory Structures, Subsection B. Approvals and Standards., paragraph 7, list d., as follows:

**10-40.60.020 Accessory Structures**

**B. Approvals and Standards.**

7. All other accessory structures shall comply with the property development standards of the property’s zone, except as specified below:

- d. ~~Allowed~~ Encroachments into the required setbacks ~~in addition to Section 10-50.40.020.A nonhabitable structure (e.g., garage, workshop, carport, shed, greenhouse, etc.) may encroach into the property’s required zone setbacks in accordance with Table 10-40.60.020.B.7.d.~~ **are allowed in accordance with Table 10-50.40.020.A.**

Section 2. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.020 Accessory Structures, Table 10-40.60.020.B.7.d., to delete the table, as follows:

<del>Table 10-40.60.020.B.7.d.</del>	
<del>Allowed Accessory Structure Encroachments into Setbacks</del>	
<del>Yard of Encroachment</del>	<del>Minimum Setback</del>
<del>Rear yard abutting a public alley right of way or private alley tract:</del>	<del>0 feet.</del>
<del>Rear yard abutting another lot or parcel:</del>	<del>5 feet.</del>
<del>Interior side yard:</del>	<del>5 feet.</del>
<del>Street side yard:</del>	<del>No encroachment allowed.</del>

<del>Table 10-40.60.020.B.7.d.</del>	
<del>Allowed Accessory Structure Encroachments into Setbacks</del>	
<del>Yard of Encroachment</del>	<del>Minimum Setback</del>
<del>Front yard:</del>	<del>No encroachment allowed.</del>
<b>Notes</b>	
<del>1. Refer to Section 10-50.50.030, Siting and Building Standards, regarding the locations and heights of walls and fences.</del>	

Section 3. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.030 Accessory Dwelling Units (ADUs), Table 10-40.60.030.C., rows (5), as follows:

<b>Table 10-40.60.030.C.</b>	
<b>Accessory Dwelling Unit Design, Development and Exceptions Standards</b>	
(5) Building Form and Property Development Standards	<p>(a) <del>Setbacks. An ADU shall comply with the setback requirements of the property's zone and as allowed in (d) and 14 of this table.</del>  <b>Setbacks.</b>            (i) A Detached ADU structure may be located in the rear and interior side setbacks, provided that the following are maintained:            (i.1) Minimum rear setback abutting a public alley right-of-way or private alley tract: 0 feet.            (i.2) Minimum rear setback abutting another lot or parcel: 5 feet.            (i.3) Minimum interior side setback: 5 feet.            (ii) An Attached or Interior ADU shall comply with the required setbacks of a lot's or parcel's zone.            (iii) Alternative setbacks and placements are allowed in accordance with Section 10-40.60.030.D.</p> <p>(b) (i) Detached ADU Encroachments. Only the encroachments in subsection (7) of Table 10-50.40.020.A. are allowed in the setbacks of subsection (5)(a)(i) of this Table. The other encroachments of Table 10-50.40.020.A. are not allowed as part of a Detached ADU.            (ii) Attached and Interior Encroachments. The encroachment of Table 10-50.40.020.A. are allowed.            (iii) A detached garage constructed prior to February 16, 2016 that is in the minimum setback(s) of subsection (5)(a)(i) of this Table or in the street side setback may be converted to an ADU or have an ADU above the garage as a second floor, provided that no exterior additions or an increase in building height is developed to accommodate the ADU.</p> <p><del>(b) (c) Building Height. The maximum height of an Attached and Detached ADU, measured in accordance with Section 10-50.30.030: 24 feet</del>            (i) Attached and Interior ADU: Maximum height allowed by the lot's or parcel's zone.            (ii) Detached ADU within the required setbacks of a lot's or parcel's zone: 24 feet.</p>

<b>Table 10-40.60.030.C. Accessory Dwelling Unit Design, Development and Exceptions Standards</b>	
	<p><b>(iii) Any portion of a Detached ADU that encroaches into the required setbacks of the property's zone: 16 feet.</b></p> <p><del>(e)</del> <b>(d)</b> Lot Coverage. The lot coverage requirements of a property's zone shall:</p> <ul style="list-style-type: none"> <li>(i) Not apply to Attached and Detached ADU; and</li> <li>(ii) Apply to a dwelling unit containing an interior ADU.</li> </ul> <p><del>(d)</del> <b>Encroachment into setbacks.</b></p> <ul style="list-style-type: none"> <li><del>(i)</del> <b>The encroachments specified in Section 10-50-40.020 are allowed.</b></li> <li><del>(ii)</del> <b>The development of a Detached ADU on the second floor of a garage that was developed prior to February 16, 2016, and is in the required setback(s), shall be allowed, provided that no exterior additions or an increase in building height was developed to accommodate the ADU.</b></li> </ul>

Section 4. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.030 Accessory Dwelling Units (ADUs), Table 10-40.60.030.C., row (12), as follows:

<b>Table 10-40.60.030.C. Accessory Dwelling Unit Design, Development and Exceptions Standards</b>	
(12) Required Occupancy	<p>(a) The property owner, which includes title holders and contract purchasers, shall occupy either the primary <del>residence</del> <b>dwelling unit</b> or the ADU as their principal <del>residence.</del> <b>residence, unless the primary dwelling unit and ADU are allowed to be separately leased or rented in accordance with subsection G of this Section. The residence or ADU that is not occupied by the property owner that is rented or leased shall be for a period of no less than 30 days.</b></p> <p>(b) <b>The primary dwelling unit or the ADU that is not occupied by the property owner that is rented or leased shall be for a period of no less than 30 days.</b></p>

Section 5. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.030 Accessory Dwelling Units (ADUs), Table 10-40.60.030.C., row (17), as follows:

(17) Utility Service	<p>(a) An ADU <del>shall</del> <b>shall</b> be connected to <del>the utilities</del> <b>utilities</b> (except internet, telephone and television), <del>(except internet, telephone and television)</del> <b>either through</b> <del>main of</del> the</p>
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	primary dwelling unit, or <del>and may not have</del> separate utility services.
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Section 6. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.030 Accessory Dwelling Units (ADUs), to amend subsection E. Restrictive Covenant., as follows:

**Section 10-40.60.030 Accessory Dwelling Units (ADUs)**

**E. Restrictive Covenant.**

**1. The following shall be required, unless the property owner participates in the Rental Dwelling Unit Incentive of subsection G of this section:**

~~1~~ **a.** The property owner shall sign before a notary public a restrictive covenant that runs with the land on a form prepared by the City **Attorney or designee** affirming that the property owner shall:

~~a~~ **i.** Occupy either the primary residence or the ADU; or

~~b~~ **ii.** If the property owner rents or leases a property with both a primary residence and an ADU to a third party, then neither the primary residence nor the ADU shall be sub-leased.

~~2~~ **b.** The restrictive covenant shall be submitted to the City prior to the issuance of a building permit for the ADU. The City shall record the restrictive covenant after the building permit has been issued.

Section 7. Amend Title 10 Flagstaff Zoning Code, Division 10-40.60 Specific to Uses:, Section 10-40.60.030 Accessory Dwelling Units (ADUs), to add subsection G in alphabetical order, as follows:

**Section 10-40.60.030 Accessory Dwelling Units (ADUs)**

**G. Rental Dwelling Unit Incentive.**

**1. As an incentive to property owners to construct ADUs and to increasing the number of long-term rental dwelling units that are available in the Flagstaff area, the primary residential dwelling unit and the ADU a may be rented or leased separately if the property owner agrees to and signs before a notary public a restrictive covenant on a form prepared by the City Attorney or designee affirming that the property owner will not rent or lease either of the dwelling units for a period of less than 30 days. The restrictive covenant shall be submitted to the City prior to the issuance of a building permit for the ADU, or before the property owner rents or leases the primary residential dwelling unit and the ADU, whichever is earlier. The restrictive covenant shall run with the land.**

Section 8. Amend Title 10 Flagstaff Zoning Code, Division 10-50.40: Encroachments, Section 10-50.40.020 Encroachments into Minimum Required Setbacks, Table 10-50.40.020.A., as follows – including table format and shading:

<b>Table 10-50.40.020.A.: Allowed Encroachments into Setbacks <del>and</del> Heights</b>	
<b>(1) Arbors, Awnings, Canopies, Court Yards, Decks, Patios, Pergolas, Porches, Stoops, Trellis, Hooded Entries, Carports and <del>Balconies</del><sup>1,2,3</sup> Balconies</b>	
<b>Standard</b>	<b>Maximum Encroachment in Setback</b>
Front, Rear, Street Side Setback <del>(max.)</del>	<b>5 feet<sup>1,2,3</sup> <del>5 feet</del></b>
Interior Side Setback <del>(max.)</del>	<b>3 feet<sup>1,2,3</sup> <del>3 feet</del></b>
<b>(2) Accessory Dwelling Units <del>(ADUs)</del><sup>1</sup> (ADUs)</b>	
See Section 10-40.60.030	
<b><del>Accessory Buildings and Structures</del><sup>1</sup></b>	
<b>(3) Accessory Buildings and Structures, Excluding Walls and Fences</b>	
<b><del>See Section 10-40.60.020</del></b>	
<b>Standard</b>	<b>Minimum Setback from Property Line</b>
Rear setback abutting a public alley right-of-way or private alley tract	<b>0 feet</b>
Rear setback abutting another lot or parcel	<b>5 feet<sup>2,3</sup></b>
Interior side setback	<b>5 feet<sup>2,3</sup></b>
Street side setback	<b>No encroachment allowed</b>
Front setback	<b>No encroachment allowed</b>
<b>(4) Walls and Fences</b>	
Refer to Section 10-50.50.030, Siting and Building Standards, regarding the allowed locations of walls and fences.	
<b>(5) Ground Mounted Solar Panels</b>	
<b>Standard</b>	<b>Maximum Encroachment in Setback</b>
Front, Rear, Street Side Setback <del>(max.)</del>	<b>5 feet</b>
Interior Side Setback <del>(max.)</del>	<b>3 feet</b>
<b>(6) Open Stairways</b>	
<b>Standard</b>	<b>Maximum Encroachment in Setback</b>
Rear and Exterior Side Setback	<b>5 feet<sup>2,3</sup></b>
Interior Side Setback	<b>3 feet<sup>2,3</sup></b>
<b>(7) Bay Windows, Open Eaves, Cornices, Fireplaces and Chimneys, and Window Sills</b>	
<b>Standard</b>	<b>Maximum Encroachment in Setback</b>

**Table 10-50.40.020.A.: Allowed Encroachments into Setbacks ~~and~~ Heights**

All Setbacks <del>(max.)</del>	2 feet
<b>End Notes:</b>	
1. In no case shall the permitted encroachment exceed 50 percent of the required setback.	
2. Refer to applicable Building Code sections for permitted projections into setback areas and ensure that a 3' space is maintained between an open stairway and the property line.	
3. Refer to applicable Building Code sections for construction less than 5' from a property line.	