

**ACAA Attorney Working Group Draft\* Model Ordinance  
on the Adoption of Accessory Dwelling Unit to Conform to H.B. 2720 (2024)**

Draft 8/13/24

(\*This draft will be modified based on feedback)

ORDINANCE NO. \_\_\_\_\_<sup>1</sup>

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY / TOWN] OF \_\_\_\_\_, ARIZONA, AMENDING THE CODE OF \_\_\_\_\_, ARIZONA BY [ADOPTING / AMENDING ARTICLE \_\_\_\_\_] RELATING TO ACCESSORY DWELLING UNITS; INCORPORATING THE RECITALS BY REFERENCE; [ESTABLISHING A PURPOSE;] SETTING FORTH DEFINITIONS; ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS the Legislature adopted H.B. 2720 to mandate certain code amendments relating to the construction of accessory dwelling units;

WHEREAS becomes effective on H.B. 2720 and mandates that certain code amendments be adopted on or before January 1, 2025;

WHEREAS H.B. 2720 prohibits [the City/Town] from requiring additional parking or in lieu parking fees to accommodate a new accessory dwelling unit;

WHEREAS H.B. 2720 prohibits [the City/Town] from enforcing rear and side setbacks that are greater than five feet for a new accessory dwelling unit;

WHEREAS H.B. 2720 prohibits [the City/Town] from requiring improvements to public streets as a condition of allowing a new accessory dwelling unit except as necessary to reconstruct or repair a public street that is disturbed because of the construction of the accessory dwelling unit;

WHEREAS H.B. 2720 prohibits [the City/Town] from requiring a restrictive covenant pertaining to a new accessory dwelling unit on a lot or parcel zoned for residential use by a single-family dwelling except with respect to restricted-affordable dwelling units;

WHEREAS, notwithstanding the above, H.B. 2720 allows for the [the City's/Town's] enforcement of residential building codes, fire codes, public health and safety regulations, and other regulations; however, zoning regulations regarding the height, setbacks, lot size, lot coverage, or building frontage of a proposed accessory dwelling unit cannot be more restrictive than the regulations that apply to a single-family dwelling within the same zoning area;

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<sup>1</sup> The format of this model ordinance distinguishes between the subsections in A.R.S. § 9-461.18 of H.B. 2720 that specifically mention cities above 75,000 (A, F) and the other subsections; however, this format does **not** suggest any particular interpretation of H.B. 2720. Throughout the legislative session, H.B. 2720 was discussed by the sponsor and lawmakers as applying to **cities above 75, 000 only**; however, subsections B-E, G, and H do not specifically mention the population threshold. The Working Group urges cities and towns to discuss H.B. 2720 with their attorneys.

WHEREAS H.B. 2720 does not apply to tribal land, land in the territory in the vicinity of a military airport or ancillary military facility, land in the vicinity of a Federal Aviation Administration commercially licensed airport, land in the vicinity of a general aviation airport, and land in the vicinity of a public airport;

WHEREAS, under H.B. 2720, [the City/Town] cannot prohibit the use or advertisement of either a single-family dwelling or any accessory dwelling unit located on the same lot or parcel as separately leased long-term rental housing;

WHEREAS, under H.B. 2720, [the City/Town] cannot require a familial, marital, employment or other preexisting relationship between an owner or occupant of a single-family dwelling and the occupant of an accessory dwelling unit located on the same lot or parcel;

WHEREAS H.B. 2720 requires the owner of a short-term rental to reside on the property if an accessory dwelling unit on the same lot or parcel was constructed on or after the general effective date of H.B. 2720 and the accessory dwelling unit being used as a short-term rental; however, H.B. 2720 says this requirement does not apply to property owners with a right to build an accessory dwelling unit on their properties before September 15, 2024, unless the time period specified in Ariz. Rev. Stat. § 12-1234(G) has expired;

***In municipalities with a population exceeding 75,000 residents:***

WHEREAS H.B. 2720 provides that certain accessory dwelling units must be allowed on all lots or parcels zoned for residential use in a municipality with a population exceeding 75,000, if the municipality fails to adopt the regulations mandated by H.B. 2720 on or before January 1, 2025;

WHEREAS, subject to limitations, H.B. 2720 requires a municipality with a population exceeding 75,000 residents to adopt regulations allowing for at least one attached and one detached accessory dwelling unit on a lot or parcel where a single-family dwelling is allowed;

WHEREAS, subject to limitations, H.B. 2720 requires a municipality with a population exceeding 75,000 residents to adopt regulations allowing for at least one additional detached accessory dwelling unit on a lot or parcel where a single-family dwelling is allowed if the lot or parcel is one acre or more in size and at least one restricted-affordable dwelling unit is located on the same lot or parcel;

WHEREAS, , subject to limitations, H.B. 2720 requires a municipality with a population exceeding 75,000 residents to adopt regulations allowing for an accessory dwelling unit that is 75% of the gross floor area of a single-family dwelling unit on the same lot or parcel or 1,000 square feet, whichever is smaller;

WHEREAS the [City/Town] Council has considered the probable impact of this ordinance on the cost to construct housing for sale or rent; and

WHEREAS a public hearing was held by the Planning and Zoning Commission as required by the [Zoning Code.]

WHEREAS the [City/Town] deems it necessary to adopt certain regulations to [conform with H.B. 2720];

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of [redacted], Arizona, as follows:

[continued on the next page]

## CHAPTER \_\_\_\_ . ACCESSORY DWELLING UNITS.

### Section \_\_\_\_ . Purpose and applicability.<sup>2</sup>

The purpose of this [Chapter] is to establish regulations that comply with state law regarding the construction of an accessory dwelling unit on a lot or parcel where the zoning allows a single-family dwelling. These regulations are in addition to [list other applicable codes]. To the extent any provision in this [Chapter] conflicts with [state law/ A.R.S. § 9-461.18], the state law shall control.<sup>3</sup>

### Section \_\_\_\_ . Definitions.<sup>4</sup>

For the purpose of this [Chapter], the following definitions apply:

“**Accessory dwelling unit**”<sup>5</sup> means a self-contained living unit that is on the same lot or parcel as a single-family dwelling of greater square footage than the accessory dwelling unit, that includes its own sleeping and sanitation facilities and that [may/shall include its

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<sup>2</sup> Modify this section to reflect Council policy/intent.

<sup>3</sup> Optional/additional language regarding general plan: “This [Chapter] further the goals and policies of the [City’s/Town’s] housing element within the general plan by [increasing access to housing stock, promoting affordable housing], while also ensuring that accessory dwelling units are consistent with the character of the [City/Town] and not creating any significant impacts to traffic flow or public safety.”

<sup>4</sup> You can either reference the definitions in A.R.S. § 9-461.18 or copy the statutory definitions in this ordinance. Other terms and phrases that may need a definition for the purpose of this Chapter (or a cross-reference to an existing definition in another part of your code): “Attached accessory dwelling unit”; “Building frontage” (see Phoenix definition as an example); “Building height” or “height”; “Detached accessory dwelling unit”; “Dwelling Unit”; “Exterior design” (H.B. 2070 gives examples of exterior design, e.g., roof pitch, finishing materials); “Finishing materials” (Comment from group: In context the dictionary meaning of finishing and materials is easily understood. It could include such as stucco, brick, slump block, wood, metal siding, paint color etc.); “Habitable area” (defining what is habitable area and how it is measured); “Kitchen” (Comment from group: a definition of kitchen is important – see comments below); “Lot” (see Tucson definition as an example); “Lot area”; “Lot coverage” (Comment from group: This is an important definition.); “Lot size”; “Lot coverage” (Comment from group members: This definition will be critical. A city may want to review/revise their existing definition of “lot coverage” to make sure it still makes sense in light of H.B. 2070); “Owner” (e.g., the person(s) holding fee title to the lot); “Property line”; “Roof pitch”; “Setback”; “Building setback”; “Front Setback”; Rear /Side Setback (Comment from group: Please note that H.B. 2720 measures rear and side setbacks “from the property line.”); “Single Family Dwelling Lot” (e.g., means a lot where the zoning allows a single dwelling unit, but does not allow multiple dwelling units).

<sup>5</sup> As defined in H.B. 2720. Comment from group: If the jurisdiction defines a dwelling unit as having a kitchen, then the ADU definition should too. A sleeping unit with a bathroom is considered a guesthouse by some zoning codes. However, there are variations in zoning codes. Defining an ADU similarly to the base features of the DU and having a kitchen, sleeping and sanitation facility are the key features in most zoning codes. For example, Tucson just uses accessory use definition and dwelling unit definition and does not create a separate definition for and ADU.

<sup>6</sup> Review the “kitchen” definition(s) in your zoning and building codes, if any. There does not appear to be a uniform definition of “kitchen.” Gilbert refers to a kitchen as a range, oven, and built-in cooking facilities. The 2024 IRC addresses “accessory dwelling units” in Appendix BC. The 2021 IBC does not use the phrase “accessory dwelling unit” (it refers to “accessory buildings” and “accessory occupancies”). The 2021 IBC refers to a “kitchen area” with respect to any “dwelling unit,” e.g.: “Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink . . . Plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system . . . Plumbing fixtures shall be connected to an approved water supply. Kitchen sinks. . . outlets shall be provided with hot and cold water.”

own kitchen facilities].<sup>6</sup>

**“Deed Restriction”** means the restriction document recorded against the restricted-affordable dwelling unit on the lot to apply the acknowledgment of affordable housing restriction and ensure compliance with this [Chapter.]

**“Gross floor area”<sup>7</sup>** means the interior habitable area of a single-family dwelling or an accessory dwelling unit.

**“Long-term rental”<sup>8</sup>** means rental use in which the tenant holds a lease of ninety [consecutive<sup>9</sup>] days or longer or on a month-by-month basis.

**“Permitted use”<sup>10</sup>** means the ability for a development to be approved without requiring a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determination that a site plan conforms with applicable zoning regulations.

**“Restricted-affordable dwelling unit”<sup>11</sup>** means a dwelling unit that, either through a deed restriction or a development agreement with the municipality, shall be rented to households earning up to eighty percent of area median income.

***Subsections that specifically refer to municipalities with populations exceeding 75,000 residents:***

**Section [redacted]. Accessory Dwelling Unit as a Permitted Use; Eligibility; Appeals.**

**(a) Eligibility.**

**(1)** If the [City/Town] determines that adequate [public<sup>12</sup>] utility services are provided and the application complies with this [Chapter and the City’s/Town’s] building codes, fire codes, and

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<sup>7</sup> As defined in H.B. 2720. Comment from Group: You may want to clarify how gross floor area is measured. For example, Tucson defines “gross floor area” as: The sum of the horizontal areas of all floors of all buildings, including accessory buildings on a lot, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and includes elevator shafts and the stairwells at each story. Gross floor area includes floor space with structural headroom of six feet and six inches or more used for mechanical equipment; penthouses; attic space; interior balconies; mezzanines; and service bays but does not include any interior space used for parking, loading, or loading space that is incidental to the principal use.

<sup>8</sup> As defined in H.B. 2720.

<sup>9</sup> The bill does not specify “consecutive,” but it reflects the intent of the bill.

<sup>10</sup> As defined in H.B. 2720.

<sup>11</sup> As defined in H.B. 2720. Cities should specify the process for recording the restrictive covenant or development agreement on the property, as well as the format and deadline.

<sup>12</sup> H.B. 2720 specifically refers to “public utilities.”

<sup>13</sup> Per H.B. 2070, “permitted use” means the ability for a development to be approved without requiring a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determination that a site plan conforms with applicable zoning regulations. H.B. 2070 is generally being interpreted as allowing: (i) no more than 2 ADUs on a lot less than 1 acre or (ii) no more than 3 ADUs on a lot greater than 1 acre (or no more than 2 if there is no affordable ADU).

public health and safety regulations, the following is a permitted use<sup>13</sup> on a single-family lot or parcel that contains a primary dwelling:

(i) No more than one<sup>14</sup> attached accessory dwelling unit and one detached accessory dwelling unit if the single-family dwelling lot is less than one acre;

(ii) No more than one<sup>15</sup> attached accessory dwelling unit and one detached accessory dwelling unit if the single-family dwelling lot is one acre or more; or

(iii) No more than one<sup>16</sup> attached accessory dwelling unit and two detached accessory dwelling units if the single-family dwelling lot is one acre or more, but only if at least one of the accessory dwelling units is a restricted-affordable dwelling unit.

(2) For the purpose of eligibility under this section, an accessory dwelling unit shall not exceed the lesser of:

(i) seventy-five percent of the gross floor area of the existing single-family dwelling on the same lot or parcel; or

(ii) one thousand square feet.<sup>17</sup>

(3) For the purpose of eligibility under this section, the single-family lot or parcel shall not be located on:

(i) tribal land;

(ii) land in the territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461;

(iii) land in the territory in the vicinity of a federal aviation administration commercially licensed airport;

(iv) land in the territory in the vicinity of a general aviation airport; or

(v) land in the territory in the vicinity of a public airport as defined in A.R.S. § 28-8486.

**(b) Appeals.** If an application for a proposed accessory dwelling unit is denied or deemed to not be a permitted use, the applicant can appeal the [City's/Town's] decision by [modify as applicable – this subsection may be removed if your zoning ordinance already has an appeal provision.]

<sup>14</sup> Note: A.R.S. § 9-461.18(A)(1) says “at least one.”

<sup>15</sup> A.R.S. § 9-461.18(A)(1) says “at least one.”

<sup>16</sup> A.R.S. § 9-461.18(A)(1) says “at least one.”

<sup>17</sup> Note: H.B. 2070 says: “on any lot or parcel where a single-family dwelling...”

**Section [redacted]. Accessory Dwelling Units; Deviations from Certain Zoning Regulations; Eligibility.**

**(a) Eligibility.** Except as provided in [state law, this Chapter, or the City's/Town's building codes, fire codes, and public health and safety regulations], an accessory dwelling unit that is proposed on the same lot or parcel as a single-family dwelling of greater square footage and includes its own sleeping and sanitation facilities is eligible for the following deviations from the zoning regulations in [add chapter/sections]:

**(1) Location.** The accessory dwelling unit may be constructed where the zoning allows for a single-family dwelling on the lot or parcel. [Optional: An accessory dwelling unit is not permitted on the same lot or parcel as a duplex or other multiple-family development.]

**(2) Building frontage.** The accessory dwelling unit is subject to the same building frontage requirements that apply to a single-family dwelling on the same lot or parcel.

**(3) Setbacks.** The accessory dwelling unit is subject to the same setback requirements that apply to a single-family dwelling on the same lot or parcel except that:

(i) The rear setback for the accessory dwelling unit shall be no less than five (5) feet from the property line.

(ii) The side setbacks for the accessory dwelling unit shall be no less than five (5) feet from the property line.

(iii) The front setback for the accessory dwelling unit shall be no less than [add existing setbacks or reference to code section].<sup>18</sup>

**(4) Lot coverage.** The accessory dwelling unit is subject to the same lot coverage regulations that apply to a single-family dwelling on the same lot or parcel. [add cross reference to lot coverage regulations]

**(5) Height.** The accessory dwelling unit is subject to the same height restrictions that apply to a single-family dwelling on the same lot or parcel. [add reference to height regulations in the local code]

**(6) Exterior design.** The exterior design of the accessory dwelling unit [shall comply with \_\_\_\_\_,] but the exterior design is not required to match the exterior design of the single-family dwelling on the same lot or parcel.

**(7) Roof pitch.** The roof pitch of the accessory dwelling unit [shall comply with \_\_\_\_\_,] but the roof pitch is not required to match the roof pitch of the single-family dwelling on the same lot or parcel.

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<sup>18</sup> Comment: This number cannot be more restrictive than what would be allowed for a single-family dwelling on the same lot.

**(8) Finishing materials.** The finishing materials of the accessory dwelling unit [shall comply with \_\_\_\_\_,] but the finishing materials are not required to match the finishing materials of the single-family dwelling on the same lot.

**(9) Parking and Access.** No additional parking space or in lieu parking fee shall be required to accommodate the accessory dwelling unit. [add applicable regulations or cross references to existing regulations<sup>19</sup>].

**(b) Utility conflicts.** The accessory dwelling unit shall not encroach upon an existing or planned public utility easement unless the property owner obtains written consent from each easement holder and each affected utility.

**(c) Other Requirements.** The accessory dwelling unit must comply with all other [code] requirements unless [otherwise approved by use permit or variance].

**(d) Exception.** This section does not apply to any lot or parcel within tribal land, on land in the territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, on land in the territory in the vicinity of a federal aviation administration commercially licensed airport or a general aviation airport or on land in the territory in the vicinity of a public airport as defined in A.R.S. § 28-8486.

***Additional/optional provisions - examples:***

**Accessory use.** No accessory dwelling unit shall be constructed prior to construction of the single-family dwelling unit to which it is accessory. The accessory dwelling unit shall be secondary in size and function to the primary dwelling on the same lot or parcel.

**Sale.** Accessory dwelling units shall not be sold or otherwise conveyed separately from the primary dwelling on the same lot or parcel.

**Entrances.** The accessory dwelling unit shall be provided with a separate entrance from that serving the primary dwelling on the same lot or parcel, either from the exterior of the accessory dwelling unit or from a common hallway in the case of an attached accessory dwelling unit.<sup>20</sup>

**Means of Egress.** The path of ingress and egress from an accessory dwelling unit to a public way or to a yard that opens to a public way shall be independent of, and not pass through, the primary dwelling.<sup>21</sup>

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<sup>19</sup> E.g.: “Vehicular access to an accessory dwelling unit from the nearest public or private street shall be provided by a common driveway with the primary dwelling. No parking space shall encroach upon fire truck access or obstruct driveway access to the primary dwelling.”

<sup>20</sup> The Working Group recommends a subsection regarding entrance-related requirements, e.g., separate entrance, emergency access. This language is from the 2024 IRC, Appendix BC.

<sup>21</sup> This is amended language from the 2024 IRC, Appendix BC.

**Fire separation.** For an attached accessory dwelling unit, the one-hour fire-resistance-rated wall and floor assembly provisions of [Section R302.3 of the building code] shall not be required, provided that both of the following conditions have been met:

(1) The interconnection of smoke alarms per [Section R310.4] activates the smoke alarms in both the primary dwelling unit and the attached accessory dwelling unit; and

(2) The interconnection of carbon monoxide alarms per [Section R311.5] activates the carbon m alarms in both the primary dwelling unit and the attached accessory dwelling unit.<sup>22</sup>

**Smoke and carbon monoxide alarms.** For an attached accessory dwelling unit, the interconnectivity of smoke alarms and carbon monoxide alarms may be independent for the primary dwelling and the attached accessory dwelling unit, provided that a 1-hour fire-resistance rating is provided for walls and floor assemblies in accordance with [Section R302.3].<sup>23</sup>

**Heating, ventilation and air-conditioning systems.**<sup>24</sup> The accessory dwelling unit shall be provided with all of the following:

(1) [an air conditioning and/or heating system] that is separate and independent from the primary dwelling.

(2) ducting for heating and cooling systems that is separate and independent from the primary dwelling. Return air openings for heating, ventilation and air-conditioning shall not be taken from another dwelling unit.

(3) climate controls that are separate and independent from the primary dwelling.

**Utility Service.** The accessory dwelling unit shall be provided with adequate electricity, water supply and sewage disposal.<sup>25</sup> An accessory dwelling unit shall [have separate utility connections/be connected to the same utilities] as the primary single-family dwelling [add exceptions, if any].<sup>26</sup>

**Water service.** A primary dwelling and an accessory dwelling unit [may/shall share a common potable water system, provided there are separate, accessible main shutoff valves allowing the water to be turned off on one side without affecting the other.]<sup>27</sup>

**Electrical systems.** A primary dwelling and an accessory dwelling unit shall be provided with:

(1) ready access to the service disconnecting means serving the dwelling unit; and

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<sup>22</sup> This language is from the 2024 IRC, Appendix BC.

<sup>23</sup> This language is from the 2024 IRC, Appendix BC.

<sup>24</sup> This language is based on the 2024 IRC, Appendix BC.

<sup>25</sup> This is amended language from the 2024 IRC, Appendix BC.

<sup>26</sup> The Working Group recommends a subsection that addresses whether attached and detached ADUs must be connected to the same utilities as the primary dwelling or whether separate connections are required. There are pros and cons for each option.

<sup>27</sup> This language is from the 2024 IRC, Appendix BC.

(2) ready access for each occupant to all overcurrent devices protecting the conductors supplying the dwelling unit in which they reside.<sup>28</sup>

**Occupancy; vacation rentals.** An accessory dwelling unit that is issued a certificate of occupancy on or after September 14, 2024, shall not be used as a vacation rental or short-term rental unless the owner resides on the same property. The residency requirement does not apply to property owners who demonstrate they had a legal right to build an accessory dwelling unit on their lot or parcel on or before September 14, 2024, unless the three-year statute of limitations in A.R.S. § 12-1134(G) has expired.

**Occupancy; Number of Occupants.** The maximum number of persons allowed to reside in an accessory dwelling unit is [two persons].

**Occupancy; Home occupation.** A home occupation shall be allowed subject to \_\_\_\_\_.

**Impact Fees.** [An accessory dwelling unit is considered a separate or new dwelling unit for the purpose of providing service for water, sewer, or power, including calculation of impact fees.]

**Movable Habitable Space.** A mobile home, recreational vehicle, or other movable habitable space shall not be used as an accessory dwelling unit.

**Subdivisions or Lot Splits.** A lot or parcel containing an accessory dwelling unit shall not be subdivided or split into two or more lots or parcels unless each lot or parcel complies with [the zoning code and subdivision ordinance]. The entire accessory dwelling unit shall remain on one lot only. For an existing accessory dwelling unit to remain on the new lot or parcel created by subdivision, the property owner must modify the [primary dwelling] and the accessory dwelling unit of the subdivided lots to comply with [the city code], including [providing separate utility connections to each dwelling unit and obtaining a new Certification of Occupancy for each dwelling unit when required by the Building Official] prior to [City staff] recording the subdivision or lot split of the property. The accessory dwelling unit that remains on the new lot or parcel shall be considered a primary dwelling, unless a new primary dwelling unit is constructed on the new lot or parcel.

**Addressing.** An accessory dwelling unit shall have a separate house number from the primary dwelling.<sup>29</sup>

**Maximum number of bedrooms.** An accessory dwelling unit shall have a maximum number of two bedrooms.<sup>30</sup>

**Ceiling Height.**

**Exterior light fixtures.**

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<sup>28</sup> This language is from the 2024 IRC, Appendix BC.

<sup>29</sup> For public safety reasons, some cities require a separate address. This language is from the 2024 IRC, Appendix BC.

<sup>30</sup> This language is from the 2024 IRC, Appendix BC.

**Stairs.**

**Conversions.**

**Application Fees.**

**Appeals.**

**Section \_\_\_\_ . Accessory Dwelling Unit; Permit Approval.**

**(a) Applicability.** This Section governs ministerial review of applications for accessory dwelling units under this Chapter.

**(b) Ministerial review.** Applications for the following types of accessory dwelling units shall be approved ministerially by the [planning director] pursuant to the procedures of this Section without a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determine whether a site plan conforms with [add applicable chapters/sections.]

**(c) Permit requirement.** The applicant shall obtain a building permit prior to the construction of any accessory dwelling unit and shall also meet the requirements set forth in [add local code references].

**(d) Procedure for review.**

**(1) Administrative completeness review time frame.** For each residential zoning application,<sup>31</sup> the [planning director/building official] shall designate a staff member to review the application. The designated [City/town] staff member shall determine whether the application is administratively complete within thirty (30) days after receiving the application. If the application is deemed incomplete, the staff member will provide the applicant with a written notice that includes a comprehensive list of the specific deficiencies. Upon issuance of the written notice, the administrative completeness review time frame and overall time frame contained in this Section are suspended until the staff member receives the resubmitted application. The staff member shall have fifteen (15) days to review the resubmitted application and determine whether every deficiency has been resolved for administrative completeness.

**(2) Substantive review.** After determining that the application is administratively complete, the [planning director/building official] shall review the application to determine whether it meets the requirements of [this Chapter]. Unless an administrative adjustment is

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<sup>31</sup> S.B. 1162 does not define “residential zoning” or “zoning application.” The title of 9-462.10 refers to “residential zoning.” Based on the comments made by the sponsor, 9-462.10 applies to applications that seek to rezone from one type of zoning district to a residential-type of zoning district.

granted by the [zoning administrator] pursuant to [Section \_\_\_\_] excusing noncompliance that would otherwise require denial of the application, the [planning director/building official] shall deny an application for an accessory dwelling unit if the requirements of Sections \_\_\_\_ have not been satisfied.

**(e) Right to Appeal.** The applicant may appeal the decision of the [planning director] in accordance with Section \_\_\_\_\_. The appeal shall be limited to a consideration of whether the objective criteria in Sections \_\_\_\_\_ for have been met.

[Add other sections as applicable.]

**Section \_\_\_\_ . Nonconforming Accessory Dwelling Unit.**

Owners of nonpermitted accessory dwelling units that were constructed or otherwise in existence prior to [September 15, 2024,] may apply for permits to legalize the units subject to conformance with the regulations in [this Chapter, the current building standards code in effect at the time of the application, and such rules and regulations as may be adopted by resolution of the city council.]

**Section \_\_\_\_ . Restricted-Affordable Dwelling Unit.**

**(a) Deed Restriction.**

(1) The owner of a proposed restricted-affordable dwelling unit that is subject to this Chapter must execute and deliver an original recorded copy of a development agreement with the [City/Town] or a deed restriction on the [City's/Town's] standard form prior to issuance of a building permit for the construction of the proposed restricted-affordable dwelling unit on the lot or parcel.

(2) The deed restriction shall be recorded by the owner of the lot burdened thereby in the property records of [Maricopa County Recorder's Office] and remain a covenant and restriction running with the property for a minimum period of [thirty (30) years].

(3) The restricted-affordable dwelling unit shall be constructed in accordance with [\_\_\_\_\_] and the conditions and restrictions set forth in the deed restriction and any applicable development agreement between the developer/owner and the [City/Town].

**(b) Affordability.** The rent of the restricted-affordable dwelling unit shall not exceed the maximum rents established according to [\_\_\_\_\_]. The restricted-affordable dwelling unit shall not be rented to any entity.

**(c) Occupancy Requirement.**

(1) When the restricted-affordable dwelling unit becomes vacant, the owner shall promptly make it available and actively market said unit for lease to another qualified occupant in

accordance with the deed restriction or development agreement and any rental guidelines adopted by the City.

(2) In the event the income status of the occupant of the restricted-affordable dwelling unit is altered so as to no longer meet the qualifications of this Section, said occupant shall be permitted to reside in the unit under the same terms and conditions of the unit lease, except that no extension of the lease term shall be granted.

(3) The restricted-affordable dwelling unit is subject to [Sec. \_\_\_ of the City/Town Code] regarding home-based occupations.

(4) [Add additional restrictions on occupancy such as no discrimination in the rental]<sup>32</sup>

(d) [add compliance with ADU regulations]

[Optional: **(e) Reporting Requirement.** The owner of restricted-affordable dwelling unit shall provide an annual report and proof to the [City/Town] to demonstrate compliance with the rental requirements set forth in this Section. The annual report shall be submitted to [the Director of XXX] between January 15 and January 30 of each year and shall cover the entire twelve (12) month period of the preceding calendar year. Said report shall contain, at a minimum:

(1) the period(s) the restricted-affordable dwelling unit was rented and the status by which its occupant(s) qualified under the deed restriction;

(2) the monthly rental price; and

(3) the taxes, special assessments, and homeowners' association and management fees, and any other fees or charges, including common utilities, assessed to each unit.

## **Section II. Penalties.**

[Add penalty clause].<sup>33</sup>

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<sup>32</sup> Optional: The restricted-affordable dwelling unit shall only be leased and occupied by residents who will utilize the unit as their principal place of residence. Cities should define principal place of residence for the purpose of this Chapter only. This sample definition that could be simplified and modified: For the purpose of this Chapter, a principal place of residence shall mean the dwelling in which one's habitation is fixed and to which a person, whenever absent, has a present intention of returning after a departure or absence therefrom. A principal place of residence may include a dwelling in which a full-time student resides to attend a college, university, or trade/technical school in the area.

<sup>33</sup> Note: A penalty clause cannot be adopted by reference. See A.R.S. §§ 9-802, 9-803. As a result, if a violation of the ordinance is subject to a penalty or civil sanction, the penalty or civil sanction must be fully described in the ordinance itself. In addition to any local requirements, an ordinance containing a penalty, fine, forfeiture or other punishment must be published after its enactment by posting it: (1) at city or town hall or in one public place within the city or town; (2) on the city's or town's website, and (3) any additional public notice as is reasonable and practicable. See A.R.S. § 9-813. Exhibits to the ordinance may be excluded from the postings if the city or town lists in the postings where the exhibits are available for public use and inspection. See A.R.S. § 9-813. Posting may be established by the affidavit of the person who posted the ordinance filed with the clerk. See A.R.S. § 9-813.

**Section III. Providing for Repeal of Conflicting Ordinances.**

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

**Section IV. Recitals.**

The recitals above are fully incorporated in this Ordinance by reference.

**Section V. Effective Date.**

The effective date of this Ordinance shall be [ ] days following adoption by the [City/Town] Council.

**Section VI. Preservation of Rights and Duties.**

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

**Section VII. Providing for Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the [City/Town] Council of [ ] this \_\_\_\_ day of \_\_\_\_\_, 202\_.

ATTEST:

CITY/TOWN OF [ ], an  
Arizona municipal corporation

\_\_\_\_\_  
[ ]  
City/Town Clerk

\_\_\_\_\_  
[ ]  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_  
City/Town Attorney

I, \_\_\_\_\_, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE [CITY/TOWN] OF \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_, WAS POSTED IN THREE PLACES ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_.