

DRAFT TEXT AMENDMENT (ZTA24-03)

35.3.204 Accessory Use Conditions

A. Accessory Dwelling Unit

- 1) An accessory dwelling unit (ADU) shall be subject to Zoning Clearance as described in [Section 35.6.210](#)
- 2) ACCESSORY DWELLING UNIT IS PERMITTED USE WHERE THE ZONING ALLOWS FOR A SINGLE-FAMILY DWELLING AND THE LOT OR PARCEL CONTAINS A PRIMARY DWELLING. AN ACCESSORY DWELLING UNIT IS NOT PERMITTED ON THE SAME LOT OR PARCEL AS A DUPLEX OR OTHER MULTIPLE FAMILY DEVELOPMENT REGARDLESS OF ZONING DISTRICT.
- 3) NO ACCESSORY DWELLING UNIT SHALL BE CONSTRUCTED PRIOR TO THE 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.
- 4) A MOBILE HOME, RECREATIONAL VEHICLE, OR OTHER MOVABLE HABITABLE SPACE SHALL NOT BE USED AS AN ACCESSORY DWELLING UNIT.
- 5) ACCESSORY DWELLING UNITS SHALL NOT BE SOLD OR OTHERWISE CONVEYED SEPARATELY FROM THE PRIMARY DWELLING ON THE SAME LOT OR PARCEL.

6) ACCESSORY DWELLING UNITS ARE PROHIBITED TO BE USED AS A GROUP HOME.

7) NO MORE THAN ONE ATTACHED ACCESSORY DWELLING UNIT AND ONE DETACHED ACCESSORY DWELLING UNIT PER SINGLE-FAMILY DWELLING LOT OR PARCEL.

8) NO MORE THAN ONE 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.

9) 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 THE FRONT YARD SETBACK ESTABLISHED BY THE ZONING DISTRICT FOR THE LOT OR PARCEL.

10) ACCESSORY DWELLING UNITS SHALL ADHERE TO ALLOWABLE BUILDING FRONTAGE, MAXIMUM LOT COVERAGE, AND MAXIMUM HEIGHT AS ESTABLISHED BY THE ZONING DISTRICT FOR THE LOT OR PARCEL.

~~2. An accessory dwelling unit may only be located on a lot that is 8,000 square feet or larger in area and contains one single-family detached dwelling unit.~~

~~3. Only one accessory dwelling unit shall be permitted per single-family dwelling unit.~~

11) ~~4.~~ If the accessory dwelling unit is attached (i.e. located within the same building as the principal dwelling), the principal dwelling shall not be altered so as to appear to contain more than one dwelling unit.

12) AN ACCESSORY DWELLING UNIT MAY HAVE A KITCHEN OR KITCHENETTE AS DEFINED WITHIN THE UDC (UNIFIED DEVELOPMENT CODE) OR OTHER CITY CODES.

13) ~~5.~~ An accessory dwelling unit shall not contain more than two bedrooms.

14) ~~6.~~ A manufactured home, mobile home or recreational vehicle shall not be used as an accessory dwelling unit. Any ADU that is constructed off-site is considered semi-permanent and must be placed on an approved foundation system.

15) ~~7. An accessory dwelling unit shall be constructed of similar materials, colors, and architectural style to the principal dwelling.~~ THE EXTERIOR DESIGN, ROOF PITCH, AND FINISHING

MATERIALS OF THE ACCESSORY DWELLING UNIT SHALL BE COMPLIMENTARY TO THE PRIMARY SINGLE FAMILY DWELLING, BUT THE EXTERIOR DESIGN, ROOF PITCH AND FINISHING MATERIALS ARE NOT REQUIRED TO MATCH THE PRIMARY SINGLE-FAMILY DWELLING ON THE SAME LOT.

~~16) 8. An accessory dwelling unit shall meet all size, lot coverage and height requirements for accessory buildings, including the total area of the ADU shall not exceed 50 percent of the total under-roof footprint of the principal dwelling.~~ THE TOTAL SQUARE FOOTAGE FOR AN ACCESSORY DWELLING UNIT SHALL NOT EXCEED THE LESSER OF SEVENTY-FIVE PERCENT OF THE GROSS FLOOR AREA OF THE EXISTING SINGLE-FAMILY DWELLING ON THE SAME LOT OR PARCEL; OR ONE THOUSAND SQUARE FEET OF THE INTERIOR HABITABLE AREA.

17) A NON-CONFORMING OR PERMITTED ACCESSORY STRUCTURE CONVERTED TO AN ACCESSORY DWELLING UNIT SHALL MEET ALL REQUIREMENTS FOR AN ACCESSORY DWELLING UNIT.

~~9. A detached accessory dwelling unit shall meet setback requirements for accessory buildings. An attached accessory dwelling unit shall meet setback requirements for the principal dwelling.~~

18) ~~10.~~ An accessory dwelling unit shall have no separate water or utility meters.

19) ~~11.~~ An accessory dwelling unit shall have no separate address from the principal dwelling.

20) **THE ACCESSORY DWELLING UNIT SHALL NOT ENCROACH UPON AN EXISTING OR PLANNED PUBLIC UTILITY EASEMENT UNLESS THE PROPERTY OWNER OBTAINS A WRITTEN CONSENT FROM EACH EASEMENT HOLDER AND EACH AFFECTED UTILITY.**

21) ~~12.~~ **NO ADDITIONAL PARKING SPACE OR IN LIEU PARKING FEE SHALL BE REQUIRED TO ACCOMMODATE THE ACCESSORY DWELLING UNIT.** An accessory dwelling unit shall have no separate driveway or parking area from that of the principal dwelling as provided in [Section 35.4.006](#).

22. **ACCESSORY DWELLING UNITS MUST MEET ALL APPLICABLE RESIDENTIAL BUILDING CODES, FIRE CODES AND PUBLIC HEALTH AND SAFETY REGULATIONS.**

23)~~13.~~ Any ~~ADU~~ **ACCESSORY DWELLING UNIT** that is licensed as a travel vehicle by the State or any other State shall be considered nonpermanent housing and shall be allowed for uses similar to recreational vehicles as specified in this code.

24) ~~14.~~ If presented for rent, the property owner, which shall include title holders and contract purchasers, must occupy either the main dwelling or the ADU as their principal residence. The main dwelling or ADU that is not occupied by the property owner may then be rented for individual periods of more than or less than thirty consecutive days (i.e. long-term or short-term rental). If the main dwelling or ADU is not owner-

occupied, the ADU may not be leased, subleased, or rented separate and apart from the main dwelling for either long-term or short-term periods. **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. LONG-TERM RENTAL FOR ACCESSORY DWELLING UNITS SHALL MEAN RENTAL USE IN WHICH THE TENANT HOLDS A LEASE OF NINETY CONSECUTIVE DAYS OR LONGER OR ON A MONTH-BY-MONTH BASIS.**

25) 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 ALL CITY CODES AND ORDINANCES AS SUCH 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 CITY CODES AND ORDINANCES, INCLUDING PROVIDING SEPARATE UTILITY CONNECTIONS TO EACH DWELLING UNIT AND OBTAINING A NEW CERTIFICATION OF OCCUPANCY FOR EACH DWELLING UNIT AS REQUIRED BY THE BUILDING OFFICIAL PRIOR TO THE RECORDING THE SUBDIVISION OR LOT SPLIT OF THE PROPERTY. THE ACCESSORY DWELLING UNIT THAT REMAINS ON THE NEW LOT OR PARCEL

SHALL BE CONSIDERED AND RECORDED AS THE PRIMARY DWELLING, UNLESS A NEW PRIMARY DWELLING UNIT IS CONSTRUCTED ON THE NEW LOT OR PARCEL.

REGULATIONS FOR RESTRICTED AFFORDABLE ACCESSORY DWELLING UNIT

(A) DEED RESTRICTION

(1) THE OWNER OF A PROPOSED RESTRICTED-AFFORDABLE DWELLING UNIT THAT IS SUBJECT TO THIS SECTION SHALL EXECUTE AND DELIVER AN ORIGINAL RECORDED COPY OF A DEVELOPMENT AGREEMENT WITH THE CITY OR A COPY OF THE STANDARD FORM OF DEED RESTRICTION WITH MARICOPA COUNTY ASSESSOR OFFICE TO THE CITY 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.

(B) AFFORDABILITY

THE RENT OF THE RESTRICTED-AFFORDABLE DWELLING UNIT SHALL NOT EXCEED THE MAXIMUM RENTS ESTABLISHED ACCORDING TO HOUSEHOLDS EARNING UP TO EIGHTY PERCENT

OF AMI (AREA MEDIAN INCOME). 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) RENTAL SHALL BE IN COMPLIANCE WITH ALL FAIR HOUSING REGULATION

(E) REPORTING REQUIREMENT

THE OWNER OF THE RESTRICTED-AFFORDABLE DWELLING UNIT SHALL PROVIDE AN ANNUAL REPORT AND PROOF TO THE CITY TO DEMONSTRATE COMPLIANCE WITH THE RENTAL REQUIREMENTS SET FORTH IN THIS SECTION. THE ANNUAL REPORT SHALL BE SUBMITTED TO THE DIRECTOR OF COMMUNITY SERVICES OR DESIGNEE 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.