

ZTA24-03 – Accessory Use Conditions: Accessory Dwelling Unit

Brief Description

The purpose of the proposed Zoning Text Amendment, ZTA24-03, is to align section 35.3.204 of the Unified Development Code (UDC) with the Arizona Revised State (ARS) Statute House Bill (HB) 2720.

The ARS HB 2720 states, in its entirety:

- A. A municipality with a population of more than seventy-five thousand persons shall adopt regulations that allow on any lot or parcel where a single-family dwelling is allowed all of the following:
 1. At least one attached, detached or internal accessory dwelling unit as a permitted use.
 2. A minimum of one additional accessory dwelling unit as a permitted use for each accessory dwelling unit on the lot or parcel that is a restricted-affordable dwelling unit.
 3. An accessory dwelling unit that is seventy-five percent of the gross floor area of the single-family dwelling on the same lot or parcel or one thousand square feet, whichever is less.
- B. A municipality may not do any of the following:
 1. Prohibit the use or advertisement of either the single-family dwelling or any accessory dwelling unit located on the same lot or parcel as separately leased long-term rental housing.
 2. Require a familial, marital, employment or other preexisting relationship between the owner or occupant of a single-family dwelling and the occupant of an accessory dwelling unit located on the same lot or parcel.
 3. Prohibit or require kitchen facilities in an accessory dwelling unit.
 4. Require that a lot or parcel have additional parking to accommodate an accessory dwelling unit or require payment of fees instead of additional parking.
 5. Require that an accessory dwelling unit match the exterior design, roof pitch or finishing materials of the single-family dwelling that is located on the same lot as the accessory dwelling unit.
 6. Set restrictions for accessory dwelling units that are more restrictive than those for single-family dwellings within the same zoning area with regard to height, setbacks, lot size or coverage or building frontage.
 7. Set rear or side setbacks for accessory dwelling units that are more than five feet from the property line.

8. Require improvements to public streets as a condition of allowing an accessory dwelling unit, except as necessary to reconstruct or repair a public street that is disturbed as a result of the construction of the accessory dwelling unit.
 9. Require a restrictive covenant concerning an accessory dwelling unit on a lot or parcel zoned for residential use by a single-family dwelling.
- C. This section does not prohibit restrictive covenants concerning accessory dwelling units entered into between private parties. The municipality may not condition a permit, license or use of an accessory dwelling unit on adopting or implementing a restrictive covenant between private parties.
 - D. This section does not supersede applicable building codes, fire codes or public health and safety regulations, except that a municipality may not require an accessory dwelling unit to comply with a commercial building code or contain a fire sprinkler.
 - E. If a municipality fails to adopt development regulations as required by this section on or before January 1, 2025, accessory dwelling units shall be allowed on all lots or parcels zoned for residential use in the municipality without limits.
 - F. For the purposes of this section:
 1. "Accessory dwelling unit" 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 include its own kitchen facilities.
 2. "Gross floor area" means the interior habitable area of a single-family dwelling or an accessory dwelling unit.
 3. "long-term rental" means rental use in which the tenant holds a lease of ninety days or longer or on a month-by-month basis.
 4. "municipality" means a city or town that exercises zoning powers under this title.
 5. "Kitchen facilities" means a sink, refrigerator and a significant cooking appliance, including a range, stove, oven or microwave oven.
 6. "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.
 7. "Restricted-affordable dwelling unit" means a dwelling unit that, either through a deed restriction or a development agreement with the municipality, shall be rented or sold to households earning up to eighty percent of area median income.

The UDC was adopted on January 12, 2024, prior to HB 2720 being signed by the Arizona State Governor on May 21, 2024. The proposed amendment to the UDC brings the UDC into conformance with HB 2720.

The UDC is proposed to adopt the language above with modifications as noted below in red; text to be stricken is struck through. The draft text amendment language is as follows:

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. 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.~~
- ~~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.~~
- ~~5. An accessory dwelling unit shall not contain more than two bedrooms.~~
- ~~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.~~
- ~~7. An accessory dwelling unit shall be constructed of similar materials, colors, and architectural style to the principal dwelling.~~
- ~~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.~~
- ~~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.~~
- ~~10. An accessory dwelling unit shall have no separate water or utility meters;.~~

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

~~12. 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](#).~~

~~13. Any ADU 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.~~

~~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.~~

A. ACCESSORY DWELLING UNIT (ADU)

1. ACCESSORY DWELLING UNIT AS DEFINED IN [SECTION 35.8.004](#) AS AN ANCILLARY OR SECONDARY LIVING UNIT TO A SINGLE-FAMILY DETACHED DWELLING UNIT THAT HAS KITCHENETTE OR KITCHEN, BATHROOM, AND SLEEPING AREA, AND IS INDEPENDENTLY ACCESSED FROM AND LOCATED ON THE SAME LOT AS A SINGLE-FAMILY DETACHED DWELLING UNIT, EITHER WITHIN THE SAME BUILDING AS THE SINGLE-FAMILY DWELLING UNIT OR IN A DETACHED BUILDING. FOR PURPOSES OF DETERMINING MAXIMUM DENSITY, AN ACCESSORY DWELLING UNIT SHALL NOT COUNT AS A DWELLING UNIT. A KITCHENETTE IS DEFINED IN [SECTION 35.8.004](#) AS AN AREA USED OR DESIGNED FOR THE PREPARATION OF FOOD AND CONTAINING A SINK, REFRIGERATOR AND AN ELECTRICAL OUTLET, WHICH MAY BE USED FOR A MICROWAVE OVEN BUT NO 220V OUTLET FOR A RANGE OR OVEN MAY BE PROVIDED.

2. AN ACCESSORY DWELLING UNIT SHALL BE SUBJECT TO ZONING CLEARANCE AS REQUIRED IN [SECTION 35.6.210](#)

3. 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.

4. 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.

5. A MOBILE HOME, RECREATIONAL VEHICLE, OR OTHER MOVABLE HABITABLE SPACE SHALL NOT BE USED AS AN ACCESSORY DWELLING UNIT.

6. ANY 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.

7. ACCESSORY DWELLING UNITS SHALL NOT BE SOLD OR OTHERWISE CONVEYED SEPARATELY FROM THE PRIMARY DWELLING ON THE SAME LOT OR PARCEL.

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

9. 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.

10. 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.

11. 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.

12. ANY ACCESSORY DWELLING UNIT THAT IS CONSTRUCTED OFF-SITE IS CONSIDERED SEMI-PERMANENT AND MUST BE PLACED ON AN APPROVED FOUNDATION SYSTEM.

13. ACCESSORY DWELLING UNITS SHALL HAVE, AT A MINIMUM, A KITCHENETTE AS DESCRIBED IN SECTION 35.8.004, SPECIFIC DEFINITIONS.

14. ACCESSORY DWELLING UNITS SHALL NOT CONFLICT WITH THE EXISTING ARCHITECTURAL CHARACTERISTICS OF THE DEVELOPED LOT OR PARCEL. THESE ARCHITECTURAL

CHARACTERISTICS DO NOT INCLUDE MATCHING THE EXTERIOR DESIGN, ROOF PITCH, AND FINISHING MATERIALS OF THE SINGLE-FAMILY DWELLING ON THE SAME LOT OR PARCEL.

15. 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.

16. A SINGLE-FAMILY RESIDENCE THAT DOES NOT MEET CURRENT SETBACK REQUIREMENTS AND IS LEGALLY NON-CONFORMING MAY CONSTRUCT AN ACCESSORY DWELLING UNIT THAT COMPLIES WITH ALL ACCESSORY DWELLING UNIT REQUIREMENTS.

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

18. AN ACCESSORY DWELLING UNIT SHALL HAVE NO SEPARATE ADDRESS FROM THE PRINCIPAL DWELLING.

19. 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.

20. 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 DESCRIBED IN SECTION 35.4.006, RESIDENTIAL OFF-STREET PARKING.

21. ACCESSORY DWELLING UNITS SHALL COMPLY WITH ALL APPLICABLE RESIDENTIAL BUILDING CODES, FIRE CODES AND PUBLIC HEALTH AND SAFETY REGULATIONS.

22. IF PRESENTED FOR RENT, THE PROPERTY OWNER, WHICH SHALL INCLUDE TITLE HOLDERS AND CONTRACT PURCHASERS, MUST OCCUPY EITHER THE MAIN DWELLING OR THE ACCESSORY DWELLING UNIT AS THEIR PRINCIPAL RESIDENCE. THE MAIN DWELLING OR ACCESSORY DWELLING UNIT 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).

23. IF THE MAIN DWELLING OR ACCESSORY DWELLING UNIT IS NOT OWNER-OCCUPIED, THE ACCESSORY DWELLING UNIT 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.

24. 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 REGULATIONS

(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.

35.8.004 Specific Definitions

Accessory Dwelling Unit: An ancillary or secondary living unit to a single-family detached dwelling unit that has a **KITCHENETTE OR** kitchen, bathroom, and sleeping area, and is independently accessed from and located on the same lot as a single-family detached dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. For purposes of determining maximum density, an accessory dwelling unit shall not count as a dwelling unit.