



DATE: September 23, 2024
TO: City Council
THROUGH: Nana Appiah, Development Services Director
Mary Kopaskie-Brown, Planning Director
Rachel Nettles, Assistant Planning Director
FROM: Sean Pesek, Senior Planner
SUBJECT: Mesa Zoning Ordinance text amendment (**Accessory Dwelling Units**)- Proposed amendments to Chapter 2, 5, 6, 7, 8, 10, 30, 31, 32, 34, 86, and 87 of Title 11 of the Mesa City Code.

RECOMMENDATION:

Staff recommends that the Mesa City Council adopt the proposed Mesa Zoning Ordinance (MZO) Accessory Dwelling Unit (ADU) text amendments and various clean up items.

On August 28, 2024, the Planning and Zoning Board voted to recommend (5-0) that City Council adopt the proposed Mesa Zoning Ordinance (MZO) Accessory Dwelling Unit (ADU) text amendments and various clean up items.

PURPOSE:

The proposed text amendments: (1) Modify the definition of Accessory Dwelling Unit; (2) Expand the number of permissible zoning districts for ADUs; (3) Increase the permissible size of ADUs; (4) Modify the height and setback requirements for ADUs and detached accessory buildings or structures; (5) Modify covered parking requirements when converting a garage or carport to an ADU; (6) Allow for nonconforming structures to be converted to an ADU; (7) Modify the accessory structure requirements for manufactured homes; and (8) Add Public Safety Facilities as a permitted use in residential zoning districts.

The proposed text amendments are intended to increase Mesa’s housing supply by encouraging a variety of equitable and attainable housing types that fit contextually within existing residential neighborhoods; thereby providing for the orderly, well-planned, and balanced growth of residential areas within the City.

BACKGROUND:

An ADU is an independent dwelling unit that is subordinate to the primary dwelling unit on the same lot that includes permanent provisions for living, sleeping, eating, and sanitation. The City has regulated ADUs since 1988 when it first created separate requirements for this type of housing.

The MZO currently regulates where ADUs are permitted and includes development standards that relate to height, setbacks, floor area, lot coverage, and building coverage – some of which vary based on the type of ADU (i.e., attached to the primary dwelling unit or detached).

City Staff was directed by City Council to review the City's current zoning regulations and research best practices and regulations from surrounding jurisdictions to see how the use of ADUs might be encouraged.

On May 21, 2024, Governor Hobbs signed House Bill 2720 (HB 2720) which allowed for and set standards for ADUs statewide. Based on research, public outreach, and requirements of HB 2720, staff is recommending certain text amendments to the MZO concerning ADUs. The proposed text amendments will continue to regulate all forms of ADUs within the City in conjunction with the proposed standards.

Details of the proposed text changes are attached in Exhibit 1 – ADU Ordinance and Exhibit 2 – Associated ADU Text Amendments, affected chapters are Chapters 2, 5, 6, 7, 8, 10, 30, 31, 32, 34, 86, and 87 of the MZO.

ADU STATE LEGISLATION

House Bill 2720, signed into law on May 21, 2024 amended Title 9, Chapter 4, Article 6, Arizona Revised Statutes, to include Section 9-461.18, A.R.S., relating to accessory dwelling units. The Bill requires municipalities to allow for ADUs and to adopt regulations by January 1, 2025 to address the following requirements:

1. At least one attached and one detached accessory dwelling unit are permitted on all lots or parcels where a single-family dwelling is allowed;
2. A minimum of one additional detached accessory dwelling unit allowed on a lot or parcel that is one acre or more in size, if at least one accessory dwelling unit on the lot or parcel is a restricted-affordable dwelling unit;
3. A municipality may not 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;
4. A municipality may not 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;
5. A municipality may not set rear or side setbacks for accessory dwelling units that are more than five feet from the property line; and
6. Provided a definition of gross floor area for ADUs.

SUMMARY OF THE AMENDMENTS AND EXPLANATION:

1) Modify the definition of Accessory Dwelling Unit.

An ADU is currently defined in Chapter 86 of the MZO as:

Accessory Dwelling Unit: *A secondary dwelling unit, attached or detached from the primary dwelling, located on a single residence lot when authorized as described in Article 2, with*

a cooking area equipped for appliances requiring a 220-volt electric service or natural gas, and may function independently of the primary dwelling by means of separate access.

In accordance with HB 2720, municipalities must allow ADUs to be built on lots or parcels where single-family dwellings are permitted. The City's current ADU definition contradicts this provision, because it only references single residence zoning. Additionally, the current definition's explicit reference to a 220-volt electric outlet excludes secondary dwelling units that may provide permanent provisions for living, sleeping, eating, cooking, and sanitation, but do not contain a 220-volt electrical outlet.

To address these inconsistencies and clarify the types of structures that constitute an ADU, staff is proposing the following definition:

Accessory Dwelling Unit: *An attached or detached 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.*

2) *Expand the number of permissible zoning districts for ADUs.*

The Zoning Ordinance currently allows ADUs in the Single Residence (RS), Multiple Residence (RM-2, RM-3, and RM-4), Agricultural (AG), and Downtown Residence (DR) zoning districts and prohibits them on lots zoned Small Lot Single Residence (RSL 2.5, RSL 3.0, RSL 4.0, and RSL 4.5), RM-5, and within any non-residential zoning district (e.g., NC, DC, LC, GC, LI, etc.).

In accordance with HB 2720, every lot or parcel where a single-family dwelling is permitted is allowed to have one attached and one detached ADU. HB 2720 also stipulates that one additional detached ADU may be constructed if the lot or parcel is one acre or more in size and if at least one of the ADUs meets the criteria for restricted affordable housing.

Staff is proposing an amendment to Table 11-5-2: Residential Districts – to permit ADUs in the RSL and RM-5 zones and to provide language in Section 11-31-3: Accessory Dwelling Units that ADUs are permitted on any lot containing an existing single residence dwelling, regardless of the zoning district.

3) *Increase the permissible size of ADUs.*

Currently, the maximum floor area for an ADU is limited to 30% of the gross floor area of the primary dwelling, unless the lot is located within an Infill District or Town Center Redevelopment Area – in which case the maximum gross floor area is 50% of the primary dwelling unit.

HB 2720 requires that all municipalities allow an ADU that is 75% of the gross floor area of the single-family dwelling on the lot or 1,000 square feet, whichever is less.

Staff recommends that the maximum permissible size of ADUs be increased from 30% to 75% of the gross floor area of the primary dwelling unit or 1,000 square feet, whichever is less.

4) *Modify the height and setback requirements for ADUs and detached accessory buildings or structures.*

The height and setback requirements for detached ADUs currently follows the standards for detached accessory buildings or structures outlined in Section 11-30-17 of the MZO. These standards specify the maximum height for an accessory building or structure (which includes a detached ADU), based on the proposed location in the backyard. Section 11-31-3 of the MZO specifies that attached ADUs must comply with the setback and height requirements for the primary dwelling unit.

Per HB 2720, municipalities cannot impose height, setback, lot size, or building frontage restrictions for ADUs that are more restrictive than those for single-family dwellings. In addition, municipalities can't impose greater than a five-foot side or rear setback for ADUs.

Staff recommends amending Section 11-31-3: Accessory Dwelling Unit to address setback and height requirements specific to ADUs. Section 11-31-3 of the MZO specifies that attached ADUs must comply with all setbacks of the primary dwelling unit. In compliance with HB 2720, the new regulations state the ADUs must: 1) adhere to the maximum building height of the base zoning district in which they're located; 2) adhere to the front and side street setbacks of the base zoning district in which they're located; and 3) may not be located closer than five feet to any rear or side property line.

Staff also recommends amending the height and setback requirements of Section 11-30-17: Detached Accessory Buildings. This section currently has 10 different scenarios under which an accessory structure can be built. Staff has heard from property owners that the requirements are difficult to understand and that it is challenging to plan improvements since the Code allows for a wide variety of scenarios.

Staff recommends simplifying these requirements into two categories; one for detached accessory buildings and/or structures with 200 square feet or less of gross floor area and one for detached accessory buildings and/or structures with more than 200 square feet of gross floor area.

Detached Accessory Building or Structures less than or equal to 200 square feet- As proposed, if a detached accessory building or structure is 200 square feet or less in gross floor area, there is no minimum setback along the rear, side, or side street property lines; however the building or structure may not exceed a maximum height of eight feet, encroach into a recorded public easement, or overhang onto a neighboring property.

Detached Accessory Building or Structures greater than 200 square feet- As proposed, if a detached accessory building or structure is greater than 200 square feet in gross floor area or has a height that is greater than 8 feet but less than or equal to 15 feet, the structure or building must be located at least five feet from rear, side, or side street property lines; however the building or structure may not encroach into a recorded public easement and in no instance may the accessory building or structure overhang or cause water to drain or shed onto a neighboring property.

If a detached accessory building or structure has a maximum height that is greater than 15 feet, it must adhere to the minimum primary building setbacks of the underlying zoning district and cannot exceed the maximum height of the primary dwelling or the maximum height of the underlying zoning district, whichever is less.

5) Modify covered parking requirements when converting a garage or carport to an ADU.

According to Section 11-32-3(D) of the MZO, a single residence dwelling unit shall provide two covered parking spaces. When a two-car garage or carport is converted into livable space, two covered parking spaces must be provided elsewhere on the property (or one covered parking space for single-car garages or carports).

In the case of a garage/carport conversions to an ADU, staff recommends that this requirement be waived and that the property owner not be required to provide the required covered parking elsewhere on site.

6) *Allow for nonconforming structures to be converted to an ADU.*

Chapter 36 of the MZO provides a set of regulations for the continuation, alteration, and expansion of nonconforming structures. Nonconforming status results from an inconsistency with current MZO requirements, such as maximum height, minimum setbacks, landscaping, screening, and parking. Currently, nonconforming structures that do not meet current setbacks can be altered and/or enlarged with approval of a Special Use Permit.

To encourage the reuse of nonconforming structures for ADUs, staff recommends waiving the requirement for a Special Use Permit as long as the conversion does not increase the nonconformity and extend further into the setback area.

7) *Modify the detached accessory structure requirements for manufactured homes.*

Chapter 34 of the MZO outlines development standards for Recreational Vehicles and Manufactured Homes in designated parks and subdivisions. MZO Sections 11-34-2(B) and 11-32-4(C) specify the permitted uses for manufactured home parks and subdivisions, which includes the allowance for accessory structures.

The current definition for manufactured home accessory structures, according to MZO Chapter 87, has caused confusion for the owners of manufactured homes who wish to construct additions to their residences. Currently, only Arizona rooms that comply with current Building Code requirements are permitted as accessory structures to manufactured homes.

Staff recommends a revision to the definition of manufactured home accessory structures as well as additional development standards for manufactured home accessory structures. These additional development standards will provide more flexibility for homeowners to construct accessory structures, such as livable rooms, that meet their needs.

8) *Add Public Safety Facilities as a permitted use in residential zoning districts.*

Currently, Public Safety Facilities is not a permitted use in residential zoning districts. However, one of the purposes of the residential zoning districts, per Section 11-5-1(5) of the MZO, is to provide for appropriate public and quasi-public uses where they are compatible with and preserve and/or improve the quality of life in residential neighborhoods. Staff recommends that Table 11-5-3: Residential Districts be amended to add Public Safety Facilities as a permitted use.

NEIGHBORHOOD PARTICIPATION PLAN AND PUBLIC COMMENTS:

City staff presented and discussed proposed ADU amendments at the November 30, 2023, City Council Study Session as well as the February 28, 2024, Planning and Zoning Board Study

Session. Public outreach events and efforts were also conducted during the creation of the proposed ADU text amendments and are summarized below.

Event	Date
City Council Study Session	November 30, 2023
Public Meeting #1 (virtual)	February 27, 2024
Planning and Zoning Board Study Session	February 28, 2024
Public Meeting #2 (Council District 3)	March 11, 2024
Public Meeting #3 (Council District 4)	March 19, 2024

At the public meetings, staff presented and discussed proposed amendments with stakeholders and received feedback that was considered throughout the process. Stakeholders were generally supportive of the City's efforts to simplify the development standards for detached accessory structures and to increase the maximum size for accessory dwelling units.

IMPLEMENTATION:

Staff recommends the ordinance approving the proposed text amendments become effective 30 days from the date of City Council approval. Building permits received on or after the effective date will be subject to the new regulations.

Exhibits:

- Exhibit 1 – Presentation
- Exhibit 2 - ADU Ordinance
- Exhibit 3 – Associated ADU Text Amendments
- Exhibit 4 – ADU Question Log and Responses
- Exhibit 5 - Minutes