
Community Development Department
Planning Division

June 6, 2025

RE: ADU REGULATIONS VS. ACCESSORY BUILDINGS
Zoning Administrator's Opinion

To Whom It May Concern:

This letter is intended to address previously reviewed or current proposed requests for Accessory Dwelling Units (ADUs) requiring review by the City of Tempe Community Development Department. After further review and consideration of evaluating Tempe's ADU regulations, the Zoning Administrator has determined that a Use Permit for height above the maximum height allowed for detached accessory buildings (15') is NOT required. Additionally, the setback provisions for accessory buildings should not apply to structures used a detached ADU. A brief explanation will follow.

The Tempe Zoning and Development Code ("ZDC") provides that "ADUs are subject to the same height regulations that apply to the zoning district with a single-family dwelling on the same lot." § 3-402(C)(6). ZDC § 3-402(C)(6) incorporates ZDC § 3-420 by reference which requires that "[a] use permit is required for any single story, single-family residence to add, expand, or rebuild for a second story." The ZDC also requires that "[t]o the extent any provision in this section conflicts with A.R.S. 9-461.18, the state law shall control." § 3-402(A)(1). A.R.S. § 9-461.18 allows for "[a]t least one attached and one detached accessory dwelling unit as a permitted use" without a Use Permit. Additionally, A.R.S. § 9-461.18 "B. A municipality may not do any of the following: 5. 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." The height limitations that trigger the need for a use permit and certain setback standards for accessory buildings are more restrictive than what is allowed for the single-family dwelling. Therefore, and from this point forward, the Community Development Department will no longer regulate detached ADUs under the regulations for accessory buildings (Tempe ZDC Sec. 3-401).

Future amendments to the Tempe Zoning and Development Code may be requested to incorporate this Zoning Administrator's Opinion, clarifying the intent of the Arizona Revised Statutes for ADUs and align Tempe's regulations with the requirements set forth by the State of Arizona. This requires an ordinance adoption by City Council.

The Zoning Administrator has determined that you are able to construct a single-story ADU on your parcel without a Use Permit. If you elect to construct a second-story ADU instead, the Zoning Administrator has determined that the requirement for a Use Permit under ZDC § 3-420 in this instance is consistent with A.R.S. § 9-461.18.

Your Appeal Rights

This determination by the Zoning Administrator may be appealed to the Tempe Board of Adjustment. If you choose to appeal, you must file an appeal with both the Zoning Administrator and the Board of Adjustment within a reasonable time and specify the grounds of the appeal. The ZDC designates that an appeal filed within 14 days of this decision or direction provided from staff is presumptively within a

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reasonable time. Please see Section 6-803 of the ZDC (Appeal Criteria) for details. After receipt of an appeal application, a public hearing for the appeal will be scheduled at the next regular meeting of the Board of Adjustment.

Appeals must be filed with the Community Development Department and an application filing using the Citizen Access Portal: <https://epermits.tempe.gov/CitizenAccess/Default.aspx>

Should you need further assistance or clarification on this matter, please contact staff at (480) 350-4311.

Sincerely,



Ryan Levesque, Zoning Administrator
Deputy Community Development Director – Planning
Community Development Department