



MAYOR & COUNCIL MEMORANDUM

June 18, 2024

Subject: Update on Recent State Legislation related to Municipal Zoning
(City Wide)

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Issue – The state legislature passed a number of bills this session related to municipal zoning. These bills are intended to facilitate greater housing affordability by increasing opportunities for diverse housing types and streamlining processes. Four of these bills require local municipalities to amend their zoning codes. The four bills are:

- House Bill 2720 – Accessory Dwelling Units
- House Bill 2297 – Adaptive Reuse for Multi-family Development
- Senate Bill 1162 – Timelines for Zoning Applications
- House Bill 2721 – Middle Housing

Of these bills, the first three listed above have a deadline of January 1, 2025 for municipalities to amend their ordinances to comply with the new state rules. The fourth listed - middle housing bill has a deadline of January 1, 2026 for local code adoption.

City Manager's Office Recommendation – The City Manager recommends that the Mayor and Council direct staff to begin the process of amending the Unified Development Code (UDC) to implement the three bills which require local adoption by January 1, 2025. Those are:

- House Bill 2720 – Accessory Dwelling Unit Regulations
- House Bill 2297 – Adaptive Reuse for Multi-family Development
- Senate Bill 1162 – Timelines for Zoning Applications

Staff will return to the Mayor and Council at a later date to provide additional analysis and options for implementation of the middle housing bill (House Bill 2721), which requires local adoption by January 1, 2026.

Background – The 56th Arizona state legislature recently passed a number of bills that have been signed into adoption by the Governor which relate to municipal zoning.

Present Consideration(s) – Three of the adopted bills require municipalities to amend zoning codes by January 1, 2025. The Middle Housing Bill (House Bill 2721) requires municipalities to amend zoning codes by January 1, 2026.

House Bill 2720 – Accessory Dwelling Unit Bill

Passed and signed into law by Governor Hobbs on May 21, 2024, this bill requires municipalities with a population of more than 75,000 to adopt regulations to allow Accessory Dwelling Units (ADUs) by January 1, 2025 (see Attachment A). The City of Tucson has allowed ADUs since the Mayor and Council adoption of an ordinance legalizing ADUs in December 2021. This state legislation would require some updates to our local ADU regulations. Below is a comparison of current ADU regulations in Tucson and the new state regulations to be adopted.

	Current Regulations in Tucson	Regulations per HB 2720
Number of ADUs allowed	1 per residential lot	2 per lot – one attached and one detached Third ADU allowed on sites of one acre or more, if one ADU is restricted affordable housing
Size	10% of lot size, up to 1,000 square feet, with a 650 square foot ADU allowed on any size lot	75% of the size of the primary structure, up to 1,000 square feet
Height	Limited to 12’, or, if the primary home is two-stories, the height of the primary residence	Height limit would follow that of a single-family home within the same zone – generally 25’
Parking	One parking space required, can be waived if site is ¼ mile from transit or bike facilities	No parking required
Setbacks	Setbacks follow the regulations of the zone – generally 6’ or 2/3 the height of the structure	Required rear and side setbacks cannot be more than be 5’ from the property line

Additionally, the bill prohibits any requirements that the ADU match the design of the primary structure and prohibits any restriction on ADUs more restrictive than regulations for single-family homes in the zone with regard to height, setbacks, lot coverage, or building frontage.

The bill allows local jurisdictions to require that the owner of a vacation rental or short-term rental reside on the property if the property contains an ADU. However, this does not apply to any property owner who has the right to build an ADU on their property before the effective date of this amendment, which would exclude all residential properties in Tucson which currently have the ability to build an ADU.

This bill does not supersede or prohibit restrictive covenants regarding ADUs. If a municipality fails to adopt development regulations by January 1, 2025, ADUs will be allowed on all lots zoned for residential use in the municipality without limits.

House Bill 2297 – Adaptive Reuse for Multi-family Development

Passed and signed into law by Governor Hobbs on May 10, 2024, this bill requires municipalities with a population of more than 150,000 to adopt regulations to allow multi-family residential development or adaptive reuse of at least 10% of all existing commercial, office or mixed-use buildings without requiring a special exception, rezoning application, or other discretionary municipal review by January 1, 2025 (see Attachment B). While this bill will likely require minor amendments to the UDC, major changes are not anticipated because current City zoning regulations already allow for multi-family residential in commercial, office and mixed-use zones. Some potential minor modifications to the City’s zoning code would be adjustments to building/site expansion requirements, change of use requirements, and building height in some situations.

Additionally, the municipality may require that ten percent of the units are set aside for low- or moderate-income housing for at least 20 years.

Senate Bill 1162 – Timelines for Zoning Applications

Passed and signed into law by Governor Hobbs on April 23, 2024, this bill requires municipalities to adopt regulations by January 1, 2025 to set deadlines for the review and approval of zoning applications (see Attachment C). Administrative review of applications must be complete within 30 days of receiving an application. The municipality shall approve or deny the application within 180 days after determining the application is complete. Currently for rezoning cases, the UDC requires that the Zoning Examiner Public Hearing be held within 70 days of application submittal (180 days for concurrent plan amendment / rezoning applications) and does not include a deadline for Mayor and Council to approve or deny the application.

A second provision of this bill requires that municipalities complete a housing needs assessment every five years and submit an annual report to the Arizona Department of Housing. Compliance with this section does not require any amendments to codes.

House Bill 2721 – Middle Housing Bill

Passed and signed into law by Governor Hobbs on May 21, 2024, this bill requires municipalities with a population of more than 75,000 to adopt regulations to allow middle housing within a mile of the Central Business District and on at least 20% of any new development of more than 10 contiguous acres by January 1, 2026 (see Attachment D). Middle housing is defined in this bill as duplexes, triplexes, and fourplexes, or residential development consisting of 2-4 units. The implications of this bill on our existing regulations are more complex than those of the three bills described above. Some of the highlights of this bill that will likely need to be addressed are as follows:

- Requirements to allow a minimum Floor Area Ratio (FAR), a density calculation that is not currently used in the UDC (except under limited/specific circumstances in the AEZ), to regulate development and will need to be integrated in an understandable and implementable way.
- Analysis of how these requirements align with and impact current overlays in and around our Central Business District including the Downtown Infill Incentive District, Urban Overlay Districts, Neighborhood Preservation Zones and Historic Preservation Zones.
- Options regarding the geographic extent for the implementation of these regulations (state law requires at least one mile from Central Business District; boundaries for local adoption could follow existing zones, neighborhoods or other existing geographies).
- Prohibition on setting any restrictions, permitting or review processes that are more restrictive than those for single-family dwellings within the same zone
- Prohibition to require structures to comply with a commercial building code or to contain a fire sprinkler system.

If a municipality does not adopt regulations required by this bill by January 1, 2026, middle housing shall be allowed on all lots in the municipality zoned for single-family residential use without any limitations.

Implementation

As next steps, staff propose to:

- Begin amending the UDC to comply with the January 1, 2025 deadline of three bills (House Bill 2720, House Bill 2297, Senate Bill 1162). As part of the amendment process, staff will solicit input from a range of stakeholders and the public. Amendments to the UDC require review and Public Hearing by Planning Commission prior to review and Public Hearing by the Mayor and Council.
- Return to the Mayor and Council in late summer to present further analysis on the middle housing bill (House Bill 2721) as well as a timeline and options for implementation.

Plan Tucson Consideration(s) – This item is most closely related to the *Plan Tucson* Housing, Redevelopment & Revitalization, and Land Use, Transportation and Urban Design elements, specifically the following policies:

- *H6 – Take multiple approaches to reduce housing costs and increase affordability*
- *H9 – Promote safe, decent, and affordable housing and neighborhoods that support aging in place*
- *RR1 – Redevelop and revitalize in areas with the greatest potential for long-term economic development by focusing public resources, tools, and incentives to catalyze private investment.*
- *LT1 – Integrate land use, transportation, and urban design to achieve an urban form that supports more effective use of resources, mobility options, more aesthetically-pleasing and active public spaces, and sensitivity to historic and natural resources and neighborhood character.*

Financial Considerations – None

Operating Cost and Maintenance Input – None

Legal Considerations – The City Attorney’s Office has reviewed this Memorandum, and will assist and support the City Manager, PDSO and the Mayor and Council in preparing the local Code amendments that may be required to conform with the described changes to Arizona law.

Respectfully submitted,



Elizabeth Morales
Assistant City Manager

KS/KM
PDSO

Attachment(s): Attachment A – House Bill 2720
Attachment B – House Bill 2297
Attachment C – Senate Bill 1162
Attachment D – House Bill 2721