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**PLANNING COMMISSION PUBLIC HEARING**

**TO:** PLANNING COMMISSION/DESIGN REVIEW BOARD

**FROM:** EVA CUTRO, PLANNING MANAGER   
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**MEETING DATE:** MARCH 6, 2024

**SUBJECT:** Z23-10 B LDC TEXT AMENDMENT: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER I ZONING REGULATIONS, SECTION 2.0 TERMS, RELATED TO THE DEFINITIONS OF ACCESSORY STRUCTURE, DETACHED STRUCTURE, GUEST QUARTERS, INCIDENTAL DWELLING UNIT, PERMANENT STRUCTURE, STRUCTURE, SECONDARY DWELLING, AND SINGLE FAMILY; SECTION 3.1.2 USE REGULATIONS, USE TABLE; SECTION 3.2.4 SINGLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS, ACCESSORY STRUCTURE AND INCIDENTAL DWELLING UNIT TABLES; AND, SECTION 5.2.3 INCIDENTAL DWELLING UNIT.

**STRATEGIC INITIATIVE:** Exceptional Built Environment

The proposed text amendments will improve certain development standards and clarify how they are defined. The built environment is directly affected by the efficiency and effectiveness of the Land Development Code implementation.

**RECOMMENDED MOTION**

For the reasons set forth in the staff report, staff requests that Planning Commission move to recommend to the Town Council approval of Z23-10 B an LDC Text Amendment to the Town of Gilbert Land Development Code, Chapter I Zoning

Regulations, Section 2.0 Terms, related to the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 5.2.3 Incidental Dwelling Unit; and Section 5.3.6.B Off Street Parking Requirements, related to clarification and technical changes to Accessory Structures and Incidental Dwelling Units.

## DISCUSSION

On a continual basis, staff seeks ways to improve the content and usefulness of the Land Development Code (LDC). This is often in response to customer needs and citizen expectations for a high quality built environment. Recently Accessory Dwelling Units have been in the spotlight, with Phoenix and other neighboring municipalities updating their Codes. Gilbert currently allows Accessory Dwelling Units in the Single Family 6 to Single Family 43 residential categories and applications for Secondary Dwelling Units have increased over the years: doubling in number from 2021 to today.

With the increased desire for Secondary Dwelling Units and other Accessory Structures, staff became aware of Code language that could be clarified. In preparation for this amendment, Staff reviewed thirteen municipal zoning ordinances from neighboring communities, as well as municipalities with similar demographics in other states. This topic was also discussed at a Chamber of Commerce meeting and two previous Planning Commission study sessions. Based on this review of municipal ordinances, input from applicants and Gilbert staff, and feedback from the Chamber and Commission, staff recommends the amendments outlined in this report. The amendments do not change the number or types of structures currently allowed; they just clarify the Code and address specific applicant concerns.

### Section 2.0 Terms

Definitions pertaining to incidental dwellings include: Accessory Structure, Guest Quarters, Barn, Incidental Dwelling Unit, Secondary Dwelling, and Single Family. Some definitions should be amended, others could be eliminated. The LDC also references “ADUs” but does not define this term. Following **in red** are proposed changes to the LDC with the rationale **in blue**.

**Accessory Dwelling Unit (ADU) ~~Secondary Dwelling~~**. A second, subordinate dwelling unit located on the same lot as the primary dwelling unit.

**ADU is the standard term in the Planning industry.**

**Accessory Structure.** A detached subordinate and incidental structure on the same lot as the primary building, structure, or use. ~~Common accessory structures are detached garages, parking canopies, storage sheds, open air shade structures, workshops and cabanas.~~ Accessory Structures are NOT dwelling units and shall not include any rooms used for overnight accommodations. This definition excludes dwelling units, signs, walls, fences, and swimming pools.

The examples have caused confusion to applicants, are not defined terms, and are not all-inclusive.

#### **Barn.**

~~**Enclosed.** A walled accessory structure upon a lot customarily used for the housing of livestock or for the storage of crops or machinery used in agricultural activities~~

~~**Pole.** A typically metal-clad structure most often utilizing poles and trusses for support with unfinished, uninsulated interiors. Such structures are normally used for agricultural purposes, for construction trade storage, or for general storage. Human habitation is not permitted.~~

The term “Barn” is not used elsewhere in the Land Development Code.

**Incidental Dwelling Unit.** A subordinate dwelling unit to the primary dwelling unit of the property. **Includes Guest Quarters, Accessory Dwelling Units, Temporary Single-Family Dwellings, Non-residential Zoning District Facility Manager Dwelling Units, and Temporary Non-residential Zoning District Dwelling Units.**

Additional language has been added for clarification.

**Single Family.** A dwelling unit located on one lot designed for occupancy by one household for living and sleeping purposes, having cooking and sanitary facilities. **Primary** principal single family dwelling units may be attached (commonly known as townhouses or duplexes) or detached from other **Primary** principal **D**welling **U**nits.

Primary Dwelling Unit is the defined term in the LDC. Principal is also used but not defined. All uses of “Principal” will be changed to “Primary”.

~~**Pool House.** An accessory structure used in association with a private residence’s swimming pool. Pool houses shall not be rented or used for overnight accommodations. See Homeowner Facilities for community pool houses.~~

The term “Pool House” is not used elsewhere in the LDC.

**Secondary Dwelling.** *A second, subordinate dwelling unit located on the same lot as the primary dwelling unit.*

Secondary Dwelling is renamed to Accessory Dwelling Unit and relocated to the first page of definitions.

Section 3.1.2 Use Regulations

This excerpt from the LDC Use Table illustrates that Incidental Dwelling Units require an Administrative Use Permit (A). Prior to the LDC refresh the Use Table only required an Administrative Use Permit for Accessory Dwelling Units. This was a scrivener’s error that is now being corrected.

Residential														
Loft Unit														
Single Family	P	P	P	P	P	P	P	P	P	P	L3			
Multi-Family											P	P	P	
<del>Incidental Dwelling Unit</del> Accessory Dwelling Unit	A	A	A	A	A	A	A	A			L34	L34	L34	

Section 3.2.4 Single Family Residential Development Standards

Each residential category contains tables like the one below:

**Table 3.2.4.D. 2 SF-10 Accessory Structures:**

<b>Accessory Structures (no Living Quarters)</b>	
Construction	During or after the primary structure/use construction
Number	Unlimited
Utilities	From the primary service
Location	Within the building envelope or Within a required side or rear building setback if within the rear 1/2 of the lot.
Lot Coverage	Sum of bldg. footprints counts toward the max. lot coverage
Required Setback	Same as primary structure unless located within the rear 1/2 of the lot then ≤ 10 ft in height, 5 ft setback > 10 ft in height, for each ft above 10 ft add one additional foot in setback
Max. Height (ft.)	20

**Table 3.2.4.D. 3 SF-10 Incidental Dwelling Unit**

	<a href="#">See Incidental Dwelling Unit (Living Quarters)</a>
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The tables differentiate between Accessory Structures and Incidental Dwelling Units based on whether Living Quarters are present. The Code does not define Living Quarters. It also does not specifically address unique structures (detached home offices, hobby rooms, etc....) that may not fit into either category. Staff is recommending that subordinate structures be regulated based on their size and location rather than the use they contain. The recommended changes are listed below:

“No Living Quarters” language shall be removed from chart. Accessory structures may have a single room that contains livable space and a 3/4 bathroom. There shall be no demising walls to break up the livable space. Accessory Structures shall not be used for overnight accommodation.

**Location**

- Over 600 sf in size- within the building envelope.
- Under 600 sf in size- within the building envelope or, if within the rear ½ of the lot, within a required side or rear building setback.
- Only decorative accessory structures may be located between the Primary Dwelling and the Front Yard. These accessory structures

shall not contain livable floor area. Common decorative accessory structures include fountains, arbors, and artwork.

Height –

- 30’ maximum (SF-43 and SF-35) 20’ maximum (SF-15 through SF-6) - if within the building envelope.
- 16’ maximum - if outside of the building setback

Exterior Walls of Accessory Structures longer than 15’ must break up the massing with doors, windows, or architectural features.

Stables are exempt from the size and location standards of Accessory Structures and keep the current 20’ setback from all property lines.

The standards listed in the Accessory Structure Table for Construction, Number, Utilities, Lot Coverage, and Required Setback shall remain unchanged.

Section 5.2.3 Incidental Dwelling Unit.

This LDC section contains the standards for Guest Quarters, Accessory Dwelling Units, Temporary Single-Family Dwellings, Non-residential Zoning District Facility Manager Dwelling Unit, and Temporary Non-residential Zoning District Dwelling Units. Staff have added language to assure these structures are truly subordinate to the primary residence on the lot. This includes additional height, setback, and floor area restrictions. Following **in red** are proposed changes to the LDC with the rationale **in blue**.

**5.2.3 Incidental Dwelling Unit**

- A. *Single Family Residential Guest Quarters*
  - 1. Establishment and Use
    - a. Guest Quarters shall not be constructed prior to construction of the dwelling unit.
  - 2. Number
    - a. One (1) per lot or parcel.
  - 3. Location
    - a. Guest Quarters shall be located within the building envelope.
    - b. **Guest Quarters shall not be closer to the front setback than the**

### Primary Dwelling Unit.

In a single-family zone, the primary residence should be the most prominent on the site. This is a common standard in comparable municipal codes.

#### 4. Design

- a. Guest Quarters may be attached to the principal dwelling.
- b. Guest Quarters shall use utility service provided to the principal dwelling.
- c. Ranges, ovens, and built-in cooking facilities are prohibited.
- d. Separate renting or leasing from the principal dwelling is prohibited.
- e. Guest Quarters shall be a single floor and not exceed the **height of the primary structure** ~~principal structure maximum height requirement of the base zoning district and may be located above an attached or detached garage.~~

**Walls longer than 15' must break up the massing with doors, windows, or architectural features.**

Simplifies this section and matches current language for ADUs.

- f. Design of Guest Quarters shall be compatible with the design of the ~~principal~~ **Primary dDwelling Unit** in materials, colors, and architectural style.
- g. **The livable square footage of any detached Guest Quarters shall not exceed 50% of the livable square footage of the Primary Dwelling Unit.**

Guest Quarters are intended to be subordinate to the Primary Dwelling Unit and should visibly appear as such. This is a common standard in comparable municipal codes.

#### B. **Single Family Residential Secondary Accessory Dwelling Units (ADUs)**

##### 1. Establishment and Use

- a. ~~Secondary Accessory Dwellings-Units~~ shall not be constructed prior to construction of the ~~Primary dDwelling uUnit~~.
- b. **The owner must occupy one of the dwellings on the lot. If not owner occupied, the entire property shall be rented as a whole.**

If either dwelling is rented, no portion shall be rented separate and apart from the whole dwelling.

This protects the single-family zoning classification by preventing a multi-family rental situation.

2. Number

- a. One (1) per lot or parcel.

3. Location

- a. ~~Except for Secondary Dwellings constructed over a detached garage, Secondary Dwellings~~ ADUs shall be located within the building envelope.
- b. ADUs ~~Secondary Dwelling constructed over a detached garage shall not exceed the height of the principal~~ Primary ~~Dwelling Unit.~~
- c. ADUs shall not be closer to the front setback than the Primary Dwelling Unit.

In a single-family zone, the primary residence should be the most prominent on the site. This is a common standard in comparable municipal codes.

4. Design

- a. ~~The entrance to the Secondary Dwelling~~ ADU shall not be visible from the public or private street on which the principal ~~Primary~~ ~~Dwelling Unit~~ fronts;

The front façade is often the most detailed portion of the home. This façade should be encouraged to face the street, not prohibited since it contains the front entrance.

- b. ~~The Secondary Dwelling~~ ADU shall use utility service provided to the principal ~~Primary~~ ~~Dwelling Unit.~~
- c. ~~The Secondary Dwelling~~ ADU shall provide one additional off-street parking space in conformance with [Circulation, Parking and Loading](#) regulations.
- d. ~~The Secondary Dwelling~~ ADU shall not have internal access to the



~~principal~~ **Primary Dwelling Unit.**

- e. Rentals of ~~Secondary Dwellings~~ **ADUs** are permitted.
- f. A full kitchen is permitted in an **ADU** ~~Secondary Dwelling~~.
- g. The design of the **ADU** ~~Secondary Dwelling~~ unit shall be compatible with the design of the ~~principal~~ **Primary** ~~Dwelling Unit~~ **Unit** in materials, colors, and architectural style.

**Walls longer than 15' must break up the massing with doors, windows, or architectural features.**

This is a common standard in comparable municipal codes.

- h. **The livable square footage of the ADU shall not exceed 50% of the livable square footage of the Primary Dwelling Unit.**

ADUs are intended to be subordinate to the Primary Dwelling Unit and should visibly appear as such. This is a common standard in comparable municipal codes.

- j. **A single common access drive shall serve all dwellings on a lot.**

Shared access eliminates unnecessary curb cuts and breaks in the streetscape.

Lastly, a search of the LDC revealed one more use of “Secondary Dwelling” to be changed to “Accessory Dwelling Unit”.

5.3.6.B Off-Street Parking Requirements	
<i>Use Classification</i>	<i>Requirement (Gross Floor Area)</i>
<del>Secondary Dwelling</del> <b>Accessory Dwelling Unit</b>	1 additional space

### PLANNING COMMISSION INPUT

On October 4, 2023, the Planning Commission held a Study Session to discuss Incidental Dwelling Units and Accessory Structures. On November 1, 2023, the Planning Commission initiated an LDC text amendment and conducted a citizen review.

## **PUBLIC NOTIFICATION AND INPUT**

A notice of hearing was advertised and published in The Arizona Republic newspaper, and an official notice was posted in four public places within the Town of Gilbert limits at Greenfield Public Library, Chamber of Commerce, Perry Public Library, and Civic Center Municipal Building II. The notification requirements of LDC Section 6.2.6 have been satisfied. Staff has received no comment from the public at this time.

## **STAFF RECOMMENDATION**

For the reasons set forth in the staff report, staff requests that Planning Commission move to recommend to the Town Council approval of Z23-10 B an LDC Text Amendment to the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 2.0 Terms, related to the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 5.2.3 Incidental Dwelling Unit; and Section 5.3.6.B Off Street Parking Requirements related to clarification and technical changes to Accessory Structures and Incidental Dwelling Units.

Respectfully submitted,



Eva Cutro, AICP  
Planning Manager

### **Attachments and Enclosures:**

- 1) Notice of Public Hearing



## NOTICE OF PUBLIC HEARING

PURSUANT TO ARS Sections 39-204 & 9-462.04, NOTICE IS HEREBY GIVEN OF PUBLIC HEARING in the Town of Gilbert, Arizona, relating to the following requests for changes in land use regulations:

Z23-10 B LDC TEXT AMENDMENT: Request to amend the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 2.0 Terms, related to the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 5.2.3 Incidental Dwelling Unit; and, Section 6.7.2 Initiation of Amendments. The effect of the amendment will be to clarify the Code, address specific applicant concerns, and review the Use Permit requirements.

**The applications and project files may be viewed by the public Monday through Thursday, 7:00 am to 6:00 pm at the Town of Gilbert, Planning and Development Services office located at 90 East Civic Center Drive, Gilbert, AZ. Written comments may be sent to Town of Gilbert, Planning and Development Services, 90 East Civic Center Drive, Gilbert, AZ 85296. Written comments may also be submitted at the public hearing. Any interested person may appear and be heard at the following public hearing:**

**Planning Commission: Wednesday, March 6, 2024 at 6:00 p.m.**

**Gilbert Municipal Center, Council Chambers, 50 East Civic Center Drive, Gilbert, AZ**

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Chaveli Herrera, Town Clerk