



# City of Phoenix

PLANNING DEPARTMENT

## Frequently Asked Zoning Questions

*This form is used to ensure compliance with the posting requirements for rezoning/special permit cases. For additional information, please call the Planning Department at 602-262-7131, option #6.*

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### 1) What is zoning?

**Zoning** provides the standards and regulations that apply to land and structures in the city. These standards and regulations help implement the **General Plan** of the City of Phoenix, which are the goals, policies and recommendations of how development in the city (long-term) is to be achieved. The City of Phoenix has numerous zoning classifications and each one has a list of permitted uses and standards for building setbacks, densities, etc. Please refer to the City of Phoenix Zoning Ordinance for details on each zoning classification.

### 2) What type of information can I get from the Planning Department, Zoning Information Division?

The Zoning Information Division of the Planning Department can provide information on the zoning and permitted uses of properties and development regulations (i.e. building setbacks and height restrictions) on all industrial, commercial, office and residential properties. This information is available only for those properties incorporated into the City of Phoenix. For properties in other jurisdictions, such as Scottsdale or Maricopa County, one must contact those jurisdictions. The Planning Department does not have information on building permits, specific information on current projects or construction, or where water and sewer lines exist on properties. This information can be obtained from the Development Services Department.

### 3) What's the process to rezone a property?

**Rezoning** is when City Council approves your request to change the zoning of a parcel in order to change the use of the property. In some cases, rezoning will allow you to increase the amount of dwelling units (or homes) than what the original zoning allowed. From the date of application to final City Council action on the matter, the rezoning process generally takes from 4-6 months. Application fees vary, depending on the requested zoning district and acreage of the site.

A formal pre-application meeting is required for all rezoning requests unless determined otherwise by senior staff. The purpose of this meeting is to review the rezoning procedures and submittal requirements and assist the applicant in filing complete applications. This meeting is free of charge and requires the submittal of a site plan, area map, aerial photo, and completed pre-application request form.

Please refer to the Rezoning and Special Permit Procedures Outline for detailed information on the rezoning process.

#### 4) What is the difference between a special permit, use permit and a temporary permit?

A **special permit** is similar to rezoning a property. For example, if you wanted to have a mini-storage in a C-2 zoned property, this use is permitted only when you obtain a special permit specifically for this use. Under a special permit, you can only conduct that use you have applied for. In our example, you may only have a mini-storage on the site. It takes approximately 3.5 to 6 months for a special permit process. There is usually a minimum of 3 public meetings, the final meeting with City Council. Please note that a special permit can be applied for only if it is listed in the Zoning Ordinance. Please refer to the City of Phoenix Zoning Ordinance, Section 647 for a list of special permits one may apply for as well as the underlying zoning you need in order to apply for the special permit. Please refer to the Rezoning and Special Permit procedures Outline for detailed information on the rezoning process

A **use permit** is a request to allow a use, which is permitted by the Zoning Ordinance, provided that the use will not cause an adverse or negative impact on properties in the area. Obtaining a use permit involves one public hearing before the Zoning Administrator. This hearing occurs approximately one month after the filing of an application. A use permit may be approved after the applicant proves that two conditions are satisfied: (1) The use will not cause an adverse impact on adjacent property or properties in the area and (2) the use will be in compliance with all provisions of the Zoning Ordinance and the laws of all other applicable jurisdictions. As an example, outdoor dining at a restaurant is permitted in the C-2 zoning district only after a use permit has been obtained. Once approved and any conditions are met, use permits stay with the land and do not expire unless stipulated otherwise. Please refer to Section 307 of the Zoning Ordinance for all criteria and full text on use permits.

A **temporary permit** is required for a use in any non-residential district in which such use is not otherwise allowed or regulated. As an example, if you wanted to have a two-day sidewalk sale on a C-1 zoned property, a temporary permit could be obtained. Temporary uses shall be accessory or secondary to the primary use on the lot and may be conducted either indoor or outdoor. Obtaining a temporary permit involves the submittal of a site plan and authorization of the property owner's approval of the temporary use. The use must meet several criteria, one of which is that the use shall not exceed a length of 5 days or occur more than 4 times per calendar year. If all criteria are met, and the submittal requirements are brought to the Zoning Division, the temporary permit may be issued over the counter. (See Description of Zoning Fee Schedule.)

For all criteria and full text on temporary permits, please refer to Section 708 of the Zoning Ordinance.

#### 5) How do I obtain a variance or a use permit?

A **variance** or a **use permit** is a public hearing process that takes approximately 4-6 weeks from the time you apply. We categorize these items as **Zoning Adjustments (ZAs)**. To apply for a variance or use permit, you need to supply 2 (two) copies of a site plan of your property, your assessor's parcel number (APN), approval from the property owner, two information forms within our ZA information package, and a filing fee (see Description of Zoning Fee Schedule). The fee you are charged for this hearing is non-refundable; therefore, if you are denied your request, you will not be refunded your fee. After filing, the applicant is also required to notify registered neighborhood associations and property owners within a 150-foot radius of the lot boundaries. Before or at the ZA hearing, the applicant must provide the Planning Department with a notarized affidavit (letter) confirming the notification. Next, you attend a public hearing and the Zoning Administrator will determine if your request is approved or denied as per the standards listed below for a variance or use permit.

A **variance** is a request to vary development standards (**not uses**) such as building setbacks in the Zoning Ordinance. At the hearing, you must prove: (1) there are special circumstances applying to the land, building, or use of the subject property that do not apply to other similar properties in the same zoning district, (2) the special circumstances were not created by the applicant, owner, or previous owner of the property, (3) approval of the variance is necessary for the enjoyment of reasonable and substantial property rights and, (4) the variance will not be detrimental to the surrounding properties. Once approved and any conditions are met, variances stay with the land and do not expire unless stipulated otherwise. Please refer to our Zoning Adjustment information packet as well as Section 307 of the Zoning Ordinance for more detailed information.

A **use permit** is a request to allow a use, which is permitted by the Zoning Ordinance, provided that the use will not cause an adverse or negative impact on properties in the area. Two conditions must be met for a use permit to be approved: (1) The use will not cause an adverse impact on adjacent property or properties in the area and (2) the use will be in compliance with all provisions of the Zoning Ordinance and the laws of all other applicable jurisdictions. As an example, outdoor dining at a restaurant is permitted in the C-2 zoning district only after a use permit has been obtained. Once approved and any conditions are met, use permits stay with the land and do not expire unless stipulated otherwise.

Please refer to our Zoning Adjustment information packet as well as Section 307 of the Zoning Ordinance for more detailed information.

## 6) May I have a home-based business?

Home-based businesses are termed “**home occupations**” in the Zoning Ordinance. Home occupations meeting certain criteria are permitted in any residential district. Home occupations do not allow outside employees, exterior signage, the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare beyond the boundary of the lot, business activity between the hours of 10 PM and 7 AM, mechanical equipment not normally used for domestic purposes, the use of more than 25% of the total area under roof for the business, or off-site parking incidental to the home occupation. A use permit may be required for home occupations that generate traffic, those that are conducted in accessory buildings or outside the home, or for official approval of the home occupation. Please see FAQ #4 above for information on use permits. Businesses specifically prohibited as home occupations are barber shops/salons, commercial stables/veterinary offices, dog grooming, massage parlors, restaurants, and parking incidental to the home occupation. A use permit may be required for home occupations that generate traffic, those that are conducted in accessory buildings or outside the home, or for official approval of the home occupation. Please see FAQ #4 above for information on use permits. Businesses specifically prohibited as home occupations are barber shops/salons, commercial stables/veterinary offices, dog grooming, massage parlors, restaurants, and veterinary hospitals/commercial kennels. For full text on home occupations, please refer to Section 605-608 and 649 of the Zoning Ordinance.

## 7) May I operate a daycare for children in my home?

Yes, with certain conditions. In the City of Phoenix Zoning Ordinance, this use is classified as a **dependent care facility**. In any residentially zoned property, you may have up to 6 children, not including any children under twelve that reside in the home. No children would be allowed overnight stays, with the exception of those children that live in the residence. A play area must be screened by a 6-foot wall/fence/hedge from adjacent properties, and if there is a pool, there must be screening (fencing) surrounding the pool. If you wish to have 7-12 children, you may do this, subject to obtaining a use permit. See the FAQ #5 for information on obtaining a use permit. Please refer to section 608 of the City of Phoenix Zoning Ordinance for full text and conditions for a daycare conducted inside a home.

If you wish to have more than 12 children, you may have this use only in properties zoned R-3, R-3A, R-4, R-4A or R-5 subject to obtaining a special permit. Please refer to Section 647 of the Zoning Ordinance for full text and conditions for this use and FAQ #3 above for information on obtaining a Special Permit.

## 8) May I operate an elderly care home in a residential district?

Elderly care homes fall under the “**group home for the handicapped**” category in the Zoning Ordinance. “Handicapped” is defined as a person who has a physical or mental impairment, which substantially limits one or more major life activities, has a record of having such impairment, or is regarded as having such impairment. All such homes must be registered with the Planning Department. Handicapped group homes with a maximum of five residents are permitted in any residential zoning district. Homes with six to ten residents must meet a quarter-mile separation distance from any other registered handicapped group home. If this requirement is met, the applicant may reserve the site, and within 60 days must produce proof of logged in plans for fire inspection and pay a registration fee (see Description of Zoning Fee Schedule).

*Please note that zoning approval is only one part of the process for opening such a facility. One should also contact the City of Phoenix Development Services Department and the Arizona Health Services Department for additional regulations. Please see our one page handout or the Zoning Ordinance for more detailed information.*

## 9) Where can I build a fence on my residential property?

The Zoning Ordinance allows you to build a fence on your property line or any other place on your property. This does not assume that the sidewalk or curb is where your property line starts. To accurately determine where your property line is, the land needs to be surveyed.

The maximum height of a fence is 3-feet within the front yard setback. Beyond that point, towards the rear of your property, the height of the fence can be up to 6-feet in height. If you wish to vary any of these height requirements, you must apply for a variance (FAQ #5). There is an exception for lots on a corner. A visibility triangle for traffic safety purposes must be maintained. More information is available through the Planning Department and the Street Transportation Department.

There are other exceptions. In some cases, there may be a public utility easement (PUE) on your property for underground or overhead utilities. Please contact the Planning Department for more information.

Please refer to section 703 of the City of Phoenix Zoning Ordinance for full text on fences.

#### **10) What is the difference between a mobile home and a manufactured home? May I have either one on a residential property?**

A **mobile home** is something that can be easily moved from one place to another, is over 32-feet in length or over 8-feet wide. It can be towed on its own chassis and can be installed with or without a permanent foundation and use for living purposes.

A **manufactured home** also defined as an “**off-site constructed dwelling unit**” in the City of Phoenix Zoning Ordinance is a mobile home which has been built on or after June 15, 1976, according to the standards of the U.S. Department of Housing and Urban Development (HUD).

Mobile homes can only be located in mobile home parks. A manufactured home is allowed in a residential district when approved by the Planning Hearing Officer (PHO). Thus, in order to have a manufactured home in a residential district, a person must go through a public hearing process. The Planning Hearing Officer will determine if the proposed unit is compatible with other homes in the surrounding neighborhood. There is required documentation to apply for this hearing and the Planning Department has an application and information sheet available. Ordinarily, it will take up to 2 months from the time you apply for the hearing to the decision of the Planning Hearing Officer. Please keep in mind that you will need to obtain building permits from the Development Services Department after your approval from the PHO. For further information on this process, please refer to our PHO application package for off-site constructed dwelling units.

#### **11) Can I have a storage shed or garage that is not attached to my house on my property?**

Yes, with certain conditions. The Zoning Ordinance defines these types of buildings or structures as **accessory structures**. In most residentially, zoning districts, accessory structures can be located in the rear of your property, can be as close as 3 feet to the rear and side property lines, with a maximum height of 15 feet. The building must be 6 feet away from other structures. The maximum size (square footage) of the accessory structure you wish to build is dependent on the zoning of your property, which in turn determines your lot coverage. **Lot coverage** is the percentage of your property covered with buildings or structures (second story square footage is not included in lot coverage). For example, if you are in a R1-6 zoning district the maximum lot coverage is 40%. Therefore, as an example, if your lot is 100 square feet, and your house covers 30 square feet of the lot, then the maximum size of an accessory building you would be permitted to have is 10 square feet ( $30 \text{ sq. ft.} + 10 \text{ sq. ft.} = 40 \text{ sq. ft.}$ ;  $40 \div 100 = 40\%$ ). In this example, you would not be able to have any future additions or accessory structures because you have reached the maximum lot coverage.

If your structure is less than 120 square feet, you will not require a building permit.

Please refer to section 706 of the Zoning Ordinance for full text on accessory structures.

#### **12) How can group housing facilities for persons with disabilities be established?**

For information on establishing group housing facilities for persons with disabilities, please contact the Zoning Services staff during business hours at 602-262-7131.