



PLANNING & ZONING COMMISSION

STAFF REPORT

Meeting Date: 11/14/2024

Agenda Item(s): 5R

TO: Planning and Zoning Commission
THROUGH: Chris M. Jacques, AICP, Planning Director
FROM: Lorie Dever, Deputy Director
SUBJECT: Code Amendment: Multifamily Adaptive Reuse (TA24-03)

PURPOSE

This is a city-initiated text amendment to the Zoning Ordinance regarding Sections 21-400 and 21-500 pertaining to adaptive reuse of commercial, office or mixed-use buildings for multi-family residential in response to the passage of House Bill HB2297. A summary of the purpose of the amendment is to modify the existing provisions to:

- Update existing definitions and provide new definitions specifically for “Adaptive Reuse” applications within Section 21-450;
- Insert new “Adaptive Reuse” regulations into Section 21-450 to 21-452; and
- Add “Multi-Family Residential Reuse” to regulations within Table 21-503, within Section 21-500 “*Non-Residential Districts*”.

If approved, staff believes these code modifications will bring the Zoning Ordinance in compliance with the regulatory requirements and provisions of House Bill HB2297.

BACKGROUND

The 56th Arizona state legislature passed a number of bills this session that have been signed into adoption by the Governor pertaining to municipal zoning, including House Bill HB 2297: Adaptive Reuse for Multifamily Development. More specifically, HB2297 requires that by January 1, 2025, municipalities with 150,000 or more persons must allow multifamily residential development or adaptive reuse of any commercial, office or mixed-use building on not more than 10% of existing inventory of existing buildings citywide. Additionally, a municipality cannot require discretionary review with conversion but can designate “commercial or employment hubs” where buildings are excluded from the inventory. Along with these provisions, the bill contains a number of modified development standards which are pre-defined within the bill. Given the scope of these mandated provisions, changes are being proposed within Sections 21-200, 21-400 and 21-500 of the Peoria Zoning Ordinance to address the regulatory requirements of HB2297.

PROPOSED REGULATIONS

HB2297 requires the City to establish ‘objective standards’ to allow multifamily residential or adaptive reuse on up to ten (10) percent of the existing commercial, office or mixed-use buildings without requiring a type of application that requires a public hearing. (Exhibit B) Secondly, the bill goes further by obligating municipalities to adopt specific provisions associated with parking, setbacks, building height, and density. As these specific development standards are mandated without allowance for deviation or exception, they were transmitted into the proposed Zoning Code revisions without alteration. Whereas the adopted legislation is prescriptive in most areas, there were four specific policy considerations when drafting the proposed code

CODE AMENDMENT: MULTIFAMILY ADAPTIVE REUSE (TA24-03)

changes. These were identified and discussed the various public meetings, with staff's final recommendation on the proposed code language noted below in *italics*.

1. City may designate commercial or employment hubs where existing buildings are excluded from the provisions of this section.

This provision was excluded given the anticipated limited use and overall impact on Peoria.

2. No more than ten (10) percent of the existing commercial, office, employment or mixed-use buildings within the City.

While a cap of ten (10) percent was included with the text, when analyzed in context with the other additional applicable criteria, the total number of eligible and likely "buildings" suitable for conversion would be very limited.

3. Exclude buildings within the *Vicinity of a Military Airport*, and those that are *Historic Registered Sites*.

A number of Peoria's "Historic Registered" sites are located within and near the original townsite area, which also dove tails with the VMA area. Thus, in keeping with the General Plan's goals and policies, staff is recommending these exclusions areas are added within the proposed text in order to help maintain and preserve the character of residential communities and businesses within this area.

4. Further clarify and expand upon the term "Economically or functionally obsolete", as defined within A.R.S. § 9-462.10 (H)(3).

Based on staff's assessment, the proposed definition within ARS does not adequately convey or transmit with clear understanding to all parties what is meant as an "economically or functionally obsolete" building. And without a specific prohibition against doing so, the legislative language appears to allow the city to further define the term. Given the feedback received at the October 17, 2024, Planning Commission meeting, staff is recommending the following enhancements to the definition in Section 21-450.B:

"Economically or functionally obsolete" has the definition found in A.R.S. § 9-462.10 (H)(3), as it may be amended, and as further defined below:

- *A state of disrepair shall mean the decline of the general condition or appearance of the building or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, or lack of maintenance.*
- *Vacancy shall mean the total leasable floor area of the building is vacant for a period of no less than twenty-four (24) consecutive months. For purposes of this section, rental payments, lease payments and taxes shall not be considered as a continued use.*

KEY FINDINGS

- Where regulations and provisions associated with Multifamily Adaptive Reuse in HB2297 are mandated, without allowance for deviation or exception, staff believes the proposed text changes are in conformance with the imposed legislative requirements.
- Where there is latitude or leniency allotted within the bill to enhance, expand upon, or include exclusionary provisions to better tailor the Multifamily Adaptive Reuse provisions to the individual

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community, staff is proposing only those provisions which seek to preserve the character of existing residential communities and businesses within culturally or historically significant areas, while still meeting the overall intent of the legislation.

COMMUNITY INVOLVEMENT

Public Meetings:

- Legislative Briefing to City Council on September 17, 2024.
- Legislative Briefing to Planning and Zoning Commission on October 3, 2024.
- Planning and Zoning Commission Study Session on October 17, 2024.

Public Noticing:

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes placing a legal ad in the Peoria Times at least 15 days prior to the Public Hearing.

Support / Opposition:

No opposition or support for this proposal was received.

POSSIBLE ACTIONS / OPTIONS

- A:** Approve as recommended by staff; or
- B:** Approve in part or with modifications; or
- C:** Deny; or
- D:** Continue action to a date certain or indefinitely.

RECOMMENDATION

Staff recommends that the Planning and Zoning Commission take the following action:

Recommend approval of Case TA24-03 to the City Council as proposed in Exhibit A.

STAFF CONTACT

Lorie Dever
Deputy Director
(623)773-5168
Lorie.Dever@peoriaaz.gov

Zoning Code Amendment

Adaptive Reuse

TA24-03

Applicable Sections of Chapter 21 Zoning Ordinance:

- 21-400 Residential Districts
- 21-500 Non-Residential Districts

Overview of Revisions:

1. Inserting new “Adaptive Reuse” regulations to Section 21-450 to 21-452
2. Add “Multi-Family Residential Reuse” regulations to the Table 21-503 Land Use Maxtrix within Section 21-500 Non-Residential Districts

HOW TO READ THIS DOCUMENT

Applicable Sections of the Zoning Ordinance are denoted by **highlighted bold text** for ease of readability during the drafting process.

Unless otherwise stated, provisions or regulations being deleted are shown in bold red strikethrough text or a line through the graphic, like this: ~~Provisions that are being deleted are shown with a bold red strikethroughs text~~. Graphics containing bold red strikethrough are intended to remove the graphic in its entirety as well as any text that is embedded in the graphic.

Provisions or regulations that are being added are shown in double-underlined bold blue text, like this: Provisions that are being added are shown in double-underlined bold blue text. Graphics containing a bold double blue box are intended to add the graphic in its entirety as well as any text that is embedded in the graphic.

Only those changes noted through the above methods for the specific sections and subsections of the code identified shall be made. When regulations, graphics or other text is omitted, or is shown unchanged in adjoining sections or subsections of the code, it shall remain unchanged.

Exhibit A - City Code Amendment

Amendment for Adoption to the Peoria City Code, Chapter 21

Section 1. *Amend Chapter 21 - Zoning, Section 21-400 Residential Districts, only as follows, leaving all other sections and subsections not specifically referenced unchanged:*

Sec. 21-447 – 21-449 Reserved

Sec. 21-450. Optional Redevelopment of Qualified Obsolete Commercial Buildings

A. Purpose and Applicability.

Sections 21-450 through 21-452, referred herein as “Adaptive Reuse Section”, describes application requirements, review procedures, and approval criteria utilized by the Zoning Administrator when reviewing an application for a “Multi-Family Residential Development Adaptive Reuse” of qualified obsolete commercial buildings pursuant to A.R.S. § 9-462.10. The regulations in this Section are in addition to other codes and requirements of the City of Peoria.

B. Definitions. Terms used in this Section shall have the following definitions:

“Adaptive reuse” has the definition found in A.R.S. § 9-462.10 (H)(1), as it may be amended.

“Building code” has the definition found in A.R.S. § 9-462.10 (H)(2), as it may be amended.

“Economically or functionally obsolete” has the definition found in A.R.S. § 9-462.10 (H)(3), as it may be amended, and as further defined below:

- A state of disrepair shall mean the decline of the general condition or appearance of the building or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, or lack of maintenance.
- Vacancy shall mean the total leasable floor area of the building is vacant for a period of no less than twenty-four (24) consecutive months. For purposes of this section, rental payments, lease payments and taxes shall not be considered as a continued use.

“Low-income housing” has the definition found in A.R.S. § 9-462.10 (H)(4), as it may be amended.

“Moderate-income housing” has the definition found in A.R.S. § 9-462.10 (H)(5), as it may be amended.

“Multi-Family Residential Development” has the definition found in A.R.S. § 9-462.10 (H)(6), as it may be amended.

“Nonconforming” has the definition found in A.R.S. § 9-462.10 (H)(7), as it may be amended.

A “Qualified Obsolete Commercial Building” is a building which is:

- Located on a parcel or parcels that are zoned for and/or that allows the building to be used for commercial, office, or mixed use; and
- Economically or functionally obsolete; and

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- Located on a parcel or parcels at least one (1) acre but not more than twenty (20) acres; and
- Not located in any of the following areas:
 - An area designated as a district of historical significance pursuant to A.R.S. §9- 462.01 (a)(10);
 - A site or building with Historic Preservation Overlay Zoning pursuant to Section 21-625;
 - A site or building listed on the National Register of Historic Places;
 - Land in the territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461; or
 - Land in the territory in the vicinity of a federal aviation administration commercially licensed airport or a general aviation or public airport as defined in A.R.S. § 28-8486.

“Roof^{top} appurtenances” has the definition found in A.R.S. § 9-462.10 (H)(8), as it may be amended.

Sec. 21-451. Obsolete Commercial Building Redevelopment

A. Application. An owner seeking “multi-family residential development adaptive reuse” of a *qualified obsolete commercial building* shall submit an application that includes all of the following:

1. A site plan application in conformance with Section 21-156 (“Site Plan”).
2. Evidence of Site Plan Review and approval by any utility provider impacted by the proposed development.
3. Evidence of adequate existing public sewer and water service for the entire proposed development.
4. Compliance with all applicable building and fire codes.
5. Evidence demonstrating that the existing building that is the subject of the application is economically or functionally obsolete; and
6. Evidence that the existing building that is the subject of the application is located on a parcel or parcels of at least one acre but not more than twenty acres.
7. Documentation satisfactory to the City of Peoria that the redevelopment will include a set aside of at least 10% of the total dwelling units for either “moderate-income housing” or “low-income housing” or any combination of the two, for at least twenty years after the initial occupation of the proposed development.

B. Development Standards and Requirements. “Multi-Family Residential Development Adaptive Reuse” of a *qualified obsolete commercial building* shall comply with the following standards and requirements:

1. **Parking.**
 - a. The development shall comply with parking space requirements applicable to multi-family residential units pursuant to Section 21-825 (“Parking Requirements”).

1. [The number of buildings redeveloped for multi-family residential development adaptive reuse under this Section; plus](#)
2. [The number of buildings with approved building permits for redevelopment under this Section but not yet completed; plus](#)
3. [The number of buildings with pending applications for redevelopment under this Section but not yet permitted.](#)

Section 2. Amend Chapter 21 - Zoning, Section 21-500 Non-Residential Districts, only as follows, leaving all other sections and subsections not specifically referenced unchanged:

Sec. 21-500 NON-RESIDENTIAL DISTRICTS

21-503 Land Use Matrix

~~The following Land Use Matrix (Table 21-503) indicates uses which are permitted outright, conditionally permitted, or prohibited in specific non-residential zoning districts in the City of Peoria. The Land Use Matrix is intended to serve as a guide for the convenience of the user of this Zoning Ordinance. Where the text of this Zoning Ordinance differs from the Land Use Matrix, the text shall prevail. In the event of a specific use not being identified on the matrix, the Community Development Director or designee(s) shall determine the closest associated use based on the provisions of this ordinance. The City will permit any accessory use customarily incidental to a permitted principal use in the same zoning district.~~

[Table 21-503 indicates land uses allowed within the base commercial and employment zoning districts. Specific uses are further defined in Section 21-200 \(“Definitions”\).](#)

A. Explanation of Table Abbreviations.

1. Permitted Uses.

- a. ["P" in a cell indicates that the use is allowed by right. Permitted uses are subject to all other applicable regulations of this Zoning Ordinance, including the use-specific standards in Section 21-505, along with compliance with the Peoria Community Design Guidelines.](#)
- b. [“PA” in a cell indicates that the use is allowed by right, unless it is located within two hundred \(200\) feet of a residential use, than it shall be deemed as a “Conditional Use” which shall be permitted upon receiving a Conditional Use Permit \(CUP\) as defined below.](#)

2. Conditional Uses.

- a. ["C" in a cell indicates that in the respective zoning district the use is allowed only if reviewed and approved in accordance with the procedures of Section 21-155, Conditional Use Permits. Conditional uses are subject to all other applicable regulations of this Zoning Ordinance, including the use-specific standards in Section 21-505, along with compliance with the Peoria Community Design Guidelines.](#)
- b. [The "C" designation in Table 21-503 does not constitute an authorization or an assurance that such use will be permitted. Rather, each conditional use permit application shall be evaluated as to its probable effect on adjacent properties and surrounding areas, among other factors, and may be approved or denied pursuant to the procedures in Section 21-155, Conditional Use Permits.](#)

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3. **Prohibited Uses.** “-” in a cell indicates that the use is prohibited in the respective zoning district.
4. **Use-Specific Standards.** Regardless of whether a use is allowed by right or as a conditional use, there may be additional standards that are applicable to the use. Use-specific standards are noted through a cross-reference in the last column of the table. Cross-references refer to Section 21-505 Use-Specific Standards and apply to all districts unless otherwise specified.

B. Table Organization.

In Table 21-503, land uses and activities are classified into general "use categories" and specific "use types" based on common functional, product, or physical characteristics such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within the categories. Certain uses may be listed in one category when they may reasonably have been listed in one or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

C. Use for Other Purposes Prohibited.

Approval of a use listed in Table 21-503, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in Table 21-503 is prohibited.

D. Classification of New and Unlisted Uses. When application is made for a use category or use type that is not specifically listed in Table 21-503, the following procedure shall be followed:

1. The Zoning Administrator shall provide an interpretation of the Ordinance in accordance with Section 21-112 as to the use category and/or use type into which such use should be placed. In making such interpretation, the Zoning Administrator shall consider its potential impacts, including but not limited to: the nature of the use; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
2. Appeal of the Zoning Administrator’s decision may be made to the Board of Adjustment following procedures under Section 21-162 of this Zoning Ordinance.

Table 21-503 Land Use Matrix

Land Use	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
Lodging and Adaptive Reuse												
Bed and Breakfast Inn #	-	-	-	-	-	C	-	-	-	-	-	-
Hotel or Motel #	-	-	-	P	P	P	P	P	P	-	-	-
<u>Multi-Family Residential Development Adaptive Reuse</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	=	=	=	=

Senate Engrossed House Bill

~~adaptive reuse; commercial buildings; zoning~~
~~(now: zoning; adaptive reuse; commercial buildings)~~
(now: commercial buildings; adaptive reuse)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

CHAPTER 141
HOUSE BILL 2297

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-462.10; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6.1, Arizona Revised
3 Statutes, is amended by adding section 9-462.10, to read:

4 9-462.10. Commercial buildings; multifamily development;
5 adaptive reuse; prohibition on rezoning or
6 municipal review; objective standards;
7 applicability; definitions

8 A. ON OR BEFORE JANUARY 1, 2025, THE GOVERNING BODY OF A
9 MUNICIPALITY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR MORE
10 PERSONS SHALL ESTABLISH OBJECTIVE STANDARDS TO ALLOW MULTIFAMILY
11 RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE ON NOT MORE THAN TEN PERCENT OF
12 THE TOTAL EXISTING COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHIN THE
13 MUNICIPALITY WITHOUT REQUIRING A CONDITIONAL USE PERMIT, A PLANNED UNIT
14 DEVELOPMENT OR REZONING APPLICATION OR ANY OTHER APPLICATION THAT WOULD
15 REQUIRE A PUBLIC HEARING. THE GOVERNING BODY OF THE MUNICIPALITY MAY
16 MODIFY THE PERCENTAGE OF EXISTING COMMERCIAL, OFFICE OR MIXED USE
17 BUILDINGS WITHIN THE MUNICIPALITY AVAILABLE FOR MULTIFAMILY RESIDENTIAL
18 DEVELOPMENT OR ADAPTIVE REUSE EVERY TEN YEARS.

19 B. A MUNICIPALITY MAY DESIGNATE COMMERCIAL OR EMPLOYMENT HUBS AND
20 OTHER ESSENTIAL COMMERCIAL OR EMPLOYMENT USE AREAS WHERE EXISTING
21 COMMERCIAL, OFFICE, EMPLOYMENT OR MIXED USE BUILDINGS ARE EXCLUDED FROM
22 THE PROVISIONS OF THIS SECTION. THE DESIGNATIONS MADE PURSUANT TO THIS
23 SUBSECTION MAY NOT EXCEED TEN PERCENT OF THE EXISTING COMMERCIAL, OFFICE,
24 EMPLOYMENT OR MIXED USE BUILDINGS WITHIN THE MUNICIPALITY. A MUNICIPALITY
25 MAY MODIFY THE COMMERCIAL OR EMPLOYMENT HUBS THAT ARE EXCLUDED FROM THE
26 PROVISIONS OF THIS SECTION ONCE EVERY TEN YEARS.

27 C. FOR MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE, THE
28 OBJECTIVE STANDARDS ESTABLISHED BY A MUNICIPALITY SHALL REQUIRE BUT MAY
29 NOT REQUIRE MORE THAN THE FOLLOWING:

30 1. A MUNICIPAL SITE PLAN REVIEW AND APPROVAL PROCESS REQUIREMENT,
31 INCLUDING SITE PLAN REVIEW BY ANY UTILITY PROVIDER IMPACTED BY THE
32 PROPOSED DEVELOPMENT.

33 2. ADEQUATE PUBLIC SEWER AND WATER SERVICE FOR THE ENTIRE PROPOSED
34 DEVELOPMENT.

35 3. COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODES.

36 4. THAT THE EXISTING BUILDINGS ARE ECONOMICALLY OR FUNCTIONALLY
37 OBSOLETE.

38 5. THAT THE EXISTING BUILDINGS ARE LOCATED ON A PARCEL OR PARCELS
39 THAT ARE AT LEAST ONE ACRE IN SIZE BUT NOT MORE THAN TWENTY ACRES IN SIZE.

40 6. A SET ASIDE OF TEN PERCENT OF THE TOTAL DWELLING UNITS FOR
41 EITHER MODERATE-INCOME HOUSING OR LOW-INCOME HOUSING OR ANY COMBINATION OF
42 THE TWO FOR AT LEAST TWENTY YEARS AFTER THE INITIAL OCCUPATION OF THE
43 PROPOSED DEVELOPMENT. THE DEVELOPER MAY SET ASIDE MORE THAN TEN PERCENT
44 AT THE DEVELOPER'S SOLE DISCRETION.

1 D. THE OBJECTIVE STANDARDS MAY NOT CONTAIN PARKING SPACE
2 REQUIREMENTS THAT EXCEED THE PARKING REQUIREMENTS THAT APPLY TO
3 MULTIFAMILY RESIDENTIAL BUILDINGS OR ADAPTIVE REUSE BUILDINGS UNDER THE
4 EXISTING ZONING CODE UNLESS THE PROPOSED MULTIFAMILY RESIDENTIAL
5 DEVELOPMENT OR ADAPTIVE REUSE ALSO QUALIFIES AS A MIXED USE DEVELOPMENT.

6 E. A MUNICIPALITY MAY NOT WITHHOLD A DEMOLITION PERMIT IF A
7 MULTIFAMILY RESIDENTIAL DEVELOPMENT MEETS THE REQUIREMENTS OF THIS
8 SECTION. FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT, ALL OF THE FOLLOWING
9 APPLY:

10 1. THE DEMOLITION OF ALL OR A PORTION OF THE EXISTING COMMERCIAL,
11 OFFICE OR MIXED USE BUILDINGS SHALL BE ALLOWED.

12 2. SETBACK REQUIREMENTS MAY NOT EXCEED WHAT IS REQUIRED IN THE
13 EXISTING ZONING CODE FOR MULTIFAMILY RESIDENTIAL BUILDINGS.

14 3. NOTWITHSTANDING SECTION 9-462.01, SUBSECTION C, THE MAXIMUM
15 HEIGHT AND DENSITY SHALL BE EQUAL TO THE HIGHEST ALLOWABLE MULTIFAMILY
16 HEIGHT AND DENSITY FOR A MULTIFAMILY ZONING DISTRICT IN THE MUNICIPALITY
17 WITHIN ONE MILE OF THE BUILDING TO BE REDEVELOPED. IF THERE IS NO
18 MULTIFAMILY ZONING DISTRICT IN THE MUNICIPALITY WITHIN ONE MILE OF THE
19 BUILDING TO BE REDEVELOPED, THE MAXIMUM HEIGHT AND DENSITY SHALL BE
20 EQUIVALENT TO THE NEXT CLOSEST MULTIFAMILY ZONING DISTRICT.

21 4. THE ALLOWABLE HEIGHT MAY NOT EXCEED FIVE STORIES AND A
22 MUNICIPALITY MAY LIMIT THE HEIGHT TO TWO STORIES IN THE AREAS OF A SITE
23 WITHIN ONE HUNDRED FEET OF SINGLE-FAMILY RESIDENTIAL ZONES. MULTIFAMILY
24 RESIDENTIAL DEVELOPMENT THAT IS CONSTRUCTED PURSUANT TO THIS SECTION DOES
25 NOT QUALIFY AS BEING WITHIN ONE MILE OF THE BUILDING BEING REDEVELOPED OR
26 THE NEXT CLOSEST MULTIFAMILY BUILDING.

27 F. A MUNICIPALITY MAY NOT WITHHOLD A DEMOLITION PERMIT IF AN
28 ADAPTIVE REUSE PROJECT MEETS THE REQUIREMENTS OF THIS SECTION. FOR
29 ADAPTIVE REUSE, ALL OF THE FOLLOWING APPLY:

30 1. THE DEMOLITION OF A PORTION OF THE EXISTING COMMERCIAL, OFFICE
31 OR MIXED USE BUILDING OR BUILDINGS SHALL BE ALLOWED.

32 2. THE SETBACK REQUIREMENTS FOR THE PROPOSED USE SHALL APPLY. IF
33 THE MINIMUM SETBACK REQUIREMENT THAT APPLIES TO THE EXISTING COMMERCIAL,
34 OFFICE OR MIXED USE BUILDING IS LESS THAN THE MINIMUM SETBACK REQUIREMENT
35 THAT APPLIES TO THE PROPOSED USE, THE EXISTING BUILDING SHALL BE
36 CONSIDERED NONCONFORMING FOR SETBACK PURPOSES UNLESS EASEMENTS, INCLUDING
37 PUBLIC UTILITY EASEMENTS, ARE LOCATED WITHIN SETBACK AREAS.

38 3. IF THE MAXIMUM ALLOWABLE HEIGHT THAT APPLIES TO THE EXISTING
39 COMMERCIAL, OFFICE OR MIXED USE BUILDING EXCEEDS THE MAXIMUM ALLOWABLE
40 HEIGHT FOR THE PROPOSED USE, THE EXISTING HEIGHT MAY REMAIN AND SHALL BE
41 CONSIDERED NONCONFORMING FOR HEIGHT PURPOSES AND THE EXISTING BUILDING MAY
42 BE EXPANDED TO THE MAXIMUM ALLOWABLE DENSITY FOR THE PROPOSED USE. ANY
43 ROOFTOP APPURTENANCES SHALL BE INCLUDED WITHIN THE HEIGHT EXEMPTION.

- 1 G. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:
- 2 1. LAND IN AN AREA THAT IS DESIGNATED AS A DISTRICT OF HISTORICAL
- 3 SIGNIFICANCE PURSUANT TO SECTION 9-462.01, SUBSECTION A, PARAGRAPH 10.
- 4 2. LAND IN AN AREA THAT IS DESIGNATED HISTORIC BY A LOCAL
- 5 GOVERNMENT.
- 6 3. LAND IN AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL
- 7 REGISTER OF HISTORIC PLACES.
- 8 4. LAND IN THE TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR
- 9 ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461.
- 10 5. LAND IN THE TERRITORY IN THE VICINITY OF A FEDERAL AVIATION
- 11 ADMINISTRATION COMMERCIALY LICENSED AIRPORT OR A GENERAL AVIATION OR
- 12 PUBLIC AIRPORT AS DEFINED IN SECTION 28-8486.
- 13 6. LAND IN A MUNICIPALITY THAT IS LOCATED ON TRIBAL LAND.
- 14 H. FOR THE PURPOSES OF THIS SECTION:
- 15 1. "ADAPTIVE REUSE" MEANS CONVERTING AN EXISTING BUILDING FROM THE
- 16 USE FOR WHICH IT WAS CONSTRUCTED TO A NEW USE BY MAINTAINING SOME OR ALL
- 17 OF THE ELEMENTS OF THE BUILDING.
- 18 2. "BUILDING CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
- 19 9-1301.
- 20 3. "ECONOMICALLY OR FUNCTIONALLY OBSOLETE" MEANS THE COMMERCIAL,
- 21 OFFICE OR MIXED USE BUILDING IS IN A STATE OF DISREPAIR OR HAS A FIFTY
- 22 PERCENT VACANCY IN THE TOTAL LEASABLE SQUARE FOOTAGE.
- 23 4. "LOW-INCOME HOUSING" MEANS HOUSING:
- 24 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
- 25 EIGHTY PERCENT OF THE AREA MEDIAN INCOME.
- 26 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
- 27 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
- 28 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
- 29 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
- 30 5. "MODERATE-INCOME HOUSING" MEANS HOUSING:
- 31 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
- 32 ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.
- 33 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
- 34 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
- 35 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
- 36 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
- 37 6. "MULTIFAMILY RESIDENTIAL DEVELOPMENT" MEANS A BUILDING OR
- 38 BUILDINGS THAT ARE DESIGNED AND USED FOR RESIDENTIAL PURPOSES AND THAT
- 39 CONTAIN MORE THAN ONE APARTMENT OR DWELLING UNIT FOR SALE OR FOR RENT BUT
- 40 THAT ARE NOT ADAPTIVE REUSE.
- 41 7. "NONCONFORMING" MEANS STRUCTURES THAT HAVE RECEIVED BUILDING AND
- 42 ZONING PERMITS UNDER THE REGULATIONS IN PLACE AT THE TIME OF CONSTRUCTION.

- 1 8. "ROOFTOP APPURTENANCES":
2 (a) MEANS ROOFTOP STRUCTURES THAT PRINCIPALLY HOUSE AIR
3 CONDITIONING EQUIPMENT, SOLAR PANELS, UTILITIES, ELEVATORS, OTHER ENERGY
4 PRODUCTION FACILITIES AND OTHER NONHABITABLE STRUCTURES.
5 (b) INCLUDES OPEN SPACE FEATURES, SWIMMING POOLS, SPACE FOR USE BY
6 RESIDENTS AND LANDSCAPING.
7 (c) DOES NOT INCLUDE ENCLOSED AREAS, SPIRES, BELL TOWERS, DOMES,
8 CUPOLAS, PEDIMENTS, OBELISKS OR MONUMENTS.

APPROVED BY THE GOVERNOR APRIL 10, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2024.