

ORDINANCE # 2024-45

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE CODE OF SURPRISE, ARIZONA, BY AMENDING CHAPTER 111, ARTICLE I, SECTION 111-1.1, AND ADDING CHAPTER 111, ARTICLE II, SECTIONS 111-2.1 THROUGH 111-2.3, RELATING TO MULTIFAMILY RESIDENTIAL DEVELOPMENT AND ADAPTIVE REUSE; AUTHORIZING MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF CERTAIN COMMERCIAL BUILDINGS; INCORPORATING THE RECITALS BY REFERENCE; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Arizona Laws 2024 Chapter 141 (H.B. 2297) requires the governing body of a city or town with a population of 150,000 or more to establish objective standards to allow multifamily residential development or adaptive reuse on not more than ten percent of the total existing commercial, office or mixed-use buildings within its jurisdictional boundaries without requiring a public hearing;

WHEREAS, H.B. 2297 includes and authorizes various exceptions and limitations that the City is implementing with this Ordinance;

WHEREAS, the Council of the City of Surprise, Arizona, finds that the cap on the number of buildings permitted to be redeveloped pursuant to this Ordinance is less than 10% of the total number of existing commercial, office, and mixed-use buildings located in the City as of the date of adoption of this Ordinance;

WHEREAS, the City Council has considered the probable impact of this ordinance on the cost to construct housing for sale or rent; and

WHEREAS, this Ordinance was properly noticed for public hearing, and the necessary hearings and opportunity for public input were completed.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. Chapter 111, Article I, Section 111-1.1 and Chapter 111, Article II, Sections 111-2.1 through 111-2.3 of the Surprise Municipal Code are hereby amended and added as described on the attached Exhibit A, and incorporated herein by this reference.

Section 2. The recitals above are fully incorporated in this Ordinance by reference.

Section 3. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section 4. All ordinances, resolutions, or codes in conflict with the provisions of this Ordinance or Code adopted herein by reference are repealed.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any of these amendments to the Code adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 6. Pursuant to Surprise Municipal Code § 1-7, a person convicted of a violation of this Ordinance shall be guilty of a class 1 misdemeanor and subject to the punishment for a class 1 misdemeanor under state law.

Section 7. Emergency. The Council hereby finds, determines, and declares that an emergency exists, and that in order to preserve the peace, health, and safety of the City of Surprise, this Ordinance shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 17 day of December, 2024.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

I, KRISTI PASSARELLI, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF ORDINANCE # 2024-45 ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE ON THE 17th DAY OF December, 2024, WAS POSTED IN THREE PLACES ON THE _____ DAY OF _____, 2024.

Kristi Passarelli, City Clerk

EXHIBIT A

**FS24-1421- Zoning Text Amendment Adaptive Reuse
Legislative Edits**
(~~Strikethrough~~ indicates deletions; edits or additions are **highlighted**)

**Chapter 111 INFILL INCENTIVE DISTRICTS
ARTICLE I. IN GENERAL**

Sec. 111-1.1. Definitions

A. Terms used in this Article have the following definitions:

A

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

B

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

E

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

L

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

M

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

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

N

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

Q

Qualified obsolete commercial building is a building which is:

1. Currently zoned for and/or permitted to be used for commercial, office, or mixed uses; and
2. Economically or functionally obsolete; and
3. Located on a parcel or parcels of at least one acre but not more than twenty acres; and
4. Not located in any of the following areas:
 - a. An area designated as a district of historical significance pursuant to A.R.S. § 9-462.10(a)(10);
 - b. An area designated as historic by a local government;
 - c. An area designated as historic on the national register of historic places;
 - d. Land in the territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461;

- e. 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; or
- f. On tribal land.

R

Rooftop Appurtenances has the definition found in A.R.S. § 9-462.10(H)(8), as it may be amended.

Chapter 111 INFILL INCENTIVE DISTRICTS

**ARTICLE II. OPTIONAL REDEVELOPMENT OF QUALIFIED OBSOLETE
COMMERCIAL BUILDINGS**

Sec 111-2.1 Purpose. This Article describes application requirements, review procedures, and approval criteria utilized by City staff when reviewing an application for multifamily residential development or adaptive reuse of qualified obsolete commercial buildings pursuant to A.R.S. § 9-462.10. The regulations in this Article are in addition to other codes and requirements of the City.

Sec 111-2.2 Obsolete Commercial Building Redevelopment.

A. Application. An owner seeking multifamily residential development or adaptive reuse of qualified obsolete commercial building shall submit an application that includes all of the following:

1. A site plan in conformance with section 102-4.2.
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 satisfactory to the City Attorney that the existing building that is the subject of the application is economically or functionally obsolete.
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 Community Development Department and the City Attorney 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. Multifamily residential development or adaptive reuse of a qualified obsolete commercial building shall comply with the following standards and requirements:

1. Parking.

a. General. The development shall comply with parking space requirements applicable to multifamily residential buildings or adaptive reuse buildings under Chapter 107 Article IV, Parking and Loading Regulations.

C. Mixed-use development. If the development is a mixed-use development, parking consisting of the sum of the required parking for each individual proposed use shall be provided, determined in accordance with Chapter 107 Article IV, Parking and Loading Regulations.

1. Demolition permit. A permit shall be obtained for the demolition of any existing building or portion of a building.

2. Setbacks, Setback requirements for the redevelopment shall be the lesser of the existing setbacks for multifamily residential buildings Chapter 106 Article II, Residential Zoning Districts or the setback requirement that applied to the existing commercial, office, or mixed-use building.

3. Height and density. Multifamily residential height and density shall not exceed:

a. Two stories in the areas of a site within one hundred feet of single-family residential zones.

b. In all other areas, the lesser of:

i. Five stories; or

ii. The highest allowable multifamily height and density for a multifamily zoning district in the City of Surprise located within one mile of the building to be redeveloped; or

iii. If there is no multifamily zoning district in the City of Surprise within one mile of the building to be redeveloped, the height and density of the multifamily zoning district located in the City of Surprise located closest to the building to be redeveloped.

4. Height exemption. If the maximum allowable height applicable to the existing commercial, office, or mixed-use building exceeds the maximum allowable height for the proposed use, the existing height may remain and shall be considered nonconforming for height purposes and the existing building may be expanded to the maximum allowable density for the proposed use. Any rooftop appurtenances shall be included within the height exemption.

Sec 111-2.3 Multifamily Residential Development or Adaptive Reuse Cap, Tracking, and Area Exclusion.

A. Cap. Not more than 10% of the total actual or estimated number of existing commercial, office, or mixed-use buildings, without requiring a conditional use permit, a planned unit development, or rezoning application, or any other application that would require a public hearing, may be redeveloped for multifamily residential development or adaptive reuse under this Article.

B. Tracking. The City Community Development Department shall keep track of the number of buildings redeveloped under this Article, and shall stop accepting applications when the total number of the following equals the cap established in paragraph A above:

1. The number of buildings redeveloped for multifamily residential development or adaptive reuse under this Article; plus

2. The number of buildings with approved building permits for redevelopment under this Article but not yet completed; plus

3. The number of buildings with pending applications for redevelopment under this Article but not yet permitted.

C. Area exclusion. The following commercial or employment hubs and essential commercial or employment use areas are not eligible for multifamily residential development or adaptive reuse under this Article:

1. Those commercial and employment hubs and essential commercial or employment use areas that currently fall within the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461.