

ORDINANCE NO. O2024.58

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE TEMPE ZONING AND DEVELOPMENT CODE BY ADDING SECTION 6-315, ADAPTIVE REUSE OR REDEVELOPMENT FOR MULTI-FAMILY RESIDENTIAL; AUTHORIZING MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF CERTAIN COMMERCIAL BUILDINGS; AND AMENDING CHAPTER 35, ZONING AND DEVELOPMENT FEES, APPENDIX A – SCHEDULE OF FEES AND CHARGES, WITH THE TEMPE CITY CODE.

WHEREAS, Arizona Revised Statutes, Section 9-462.10 ("HB2297") requires the City to establish objective standards allowing multi-family residential development or adaptive reuse on not more than ten percent of the total existing commercial, office or mixed-use buildings without requiring a use permit, a planned unit development or rezoning application or any other application that would require a public hearing subject to modification every ten years; and

WHEREAS, HB2297 mandates that the City adopt a defined set of objective standards for multi-family residential development or adaptive reuse and prohibits any standards not included; and

WHEREAS, HB2297 also prohibits the City from requiring certain limits on parking, demolition and other specifically enumerated development standards; and

WHEREAS the City Council finds that the number of buildings redeveloped is less than 10% of the total number of existing eligible buildings; and

WHEREAS, HB2297 allows the City to designate certain areas that are excluded from the multi-family and adaptive reuse requirements subject to modification every ten years; and

WHEREAS, HB2297 defines certain terms for the statute, including "adaptive reuse," "multi-family residential development," "economically or functionally obsolete," "low-income housing" and "moderate-income housing."

WHEREAS, HB2297 excludes certain areas from its provisions, including land designated historic and land in the vicinity of an airport.

And WHEREAS, the City of Tempe finds that it necessary to adopt these regulations to conform with state law.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION 1. That a new Section 6-315 of the Tempe Zoning and Development Code is hereby added as follows:

SECTION 6-315 - ADAPTIVE REUSE OR REDVELOPMENT FOR MULTI-FAMILY RESIDENTIAL.

- A. Purpose.** This section describes application requirements, review procedures, and approval criteria utilized by the Community Development Director, or designee, when reviewing an application for multi-family residential development or adaptive reuse of qualified obsolete commercial buildings pursuant to A.R.S. Section 9-462.10. The regulations in this Section are in addition to other codes and requirements of the City of Tempe.
- B. Applicability.** Adaptive reuse or redevelopment for multi-family residential development may be requested in all commercial, office, or mixed-use buildings in any zoning district. The adaptive reuse process allows a multi-family residential project entitlement without requiring a use permit, a planned area development overlay, rezoning application, or any other application that would require a public hearing, subject to the provisions of this Section. As a result, General Plan land use conformity, pursuant to Section 6-302, and Zoning Map Amendments, pursuant to Section 6-304, are not applicable to this Section.
- C. Definitions.** Terms used in this Section have the following definitions:
1. *"Adaptive reuse"* means converting an existing building from the use for which it was constructed to a new use by maintaining some or all of the elements of the building.
 2. *"Economically or functionally obsolete"* means the commercial, office or mixed-use buildings is in a state of disrepair or has a fifty percent (50%) or more vacancy in the total leasable square footage. Vacancy shall mean the leasable floor area of the building is vacant for a period of one (1) year or more. Rental payments or lease payments and taxes shall not be considered as a continued use.
 3. *"Low-income housing"* means housing:
 - a. For a person or persons whose household income does not exceed eighty percent (80%) of the area median income; and
 - b. For which the occupant pays not more than thirty percent (30%) of the occupant's gross income for the occupant's rent or mortgage, as determined by the Arizona Department of Housing and adjusted for household size based on the United States Department of Housing and Urban Development.
 4. *"Moderate-income housing"* means housing:
 - a. For a person or persons whose household income does not exceed one hundred twenty (120%) of the area median income; and
 - b. For which the occupant pays not more than thirty percent (30%) of the occupant's gross income for the occupant's rent or mortgage, as determined by the Arizona Department of Housing and adjusted for household size based on the United States Department of Housing and Urban Development.
 5. *"Multi-family residential development"* means a building or buildings that are designed and used for residential purposes and that contain more than one (1) apartment or dwelling unit for sale or for rent but that are not adaptive reuse.

C. Obsolete Commercial, Office and Mixed-Use Buildings.

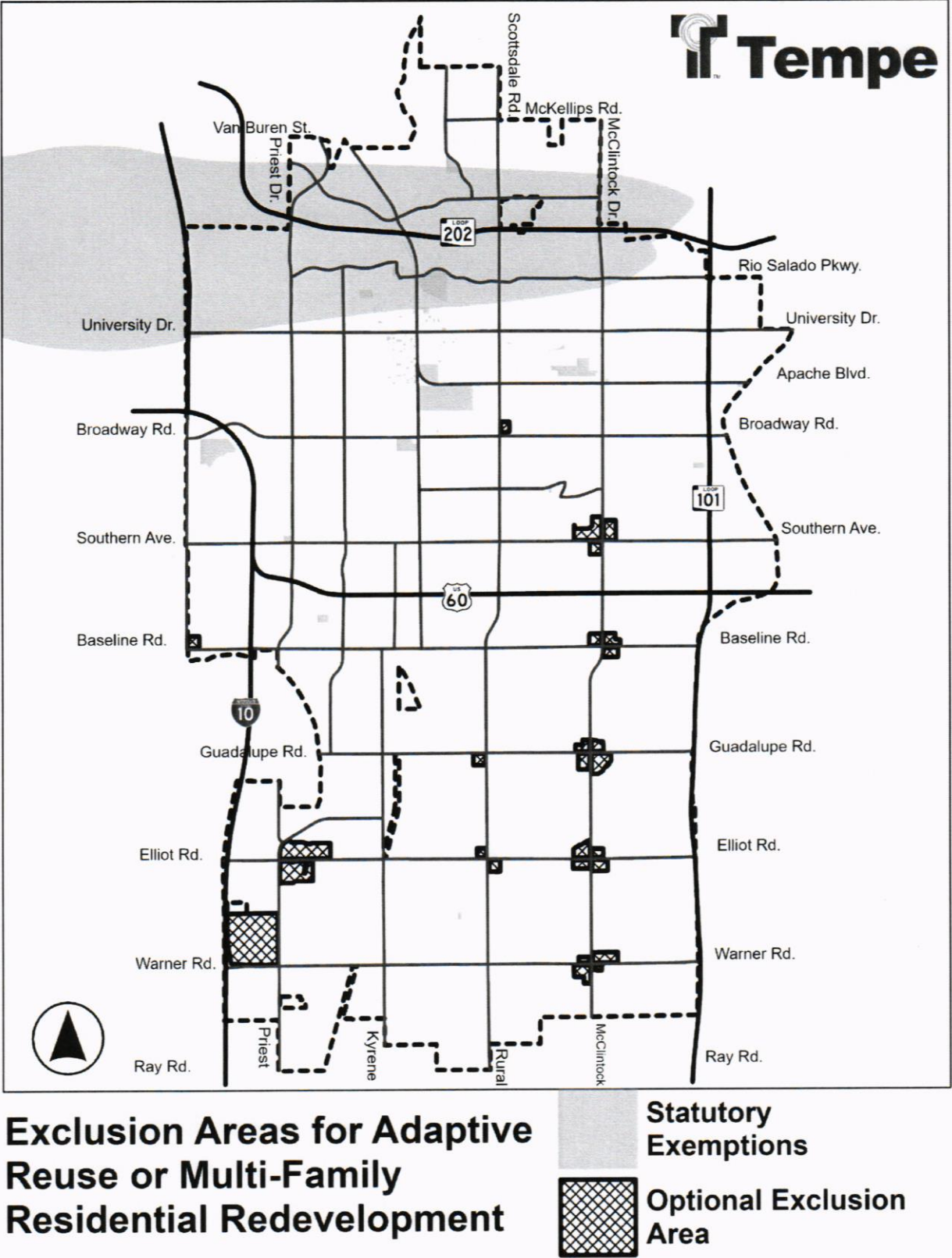
1. Verification. A property seeking adaptive reuse or multi-family residential development shall demonstrate the following qualifications. Applications shall be reviewed as an Administrative Application pursuant to Section 6-204.
 - a. Justification satisfactory to the Economic Development Director, or designee, that the existing building that is the subject of the application is economically or functionally obsolete.
 - b. The existing building is located on a parcel or parcels of at least one (1) acre but not more than twenty (20) acres.
 - c. The existing building is not located in one of the designated statutory exempted areas or exclusion areas as set forth in Section 6-315(D)(2).
 - d. Documentation satisfactory to the Community Development Department and the City Attorney's Office 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 (20) years after the initial occupation of the proposed development.
2. Qualified Obsolete Building. A property that has been verified as a qualified obsolete commercial, office or mixed-use building by the Community Development Director, or designee, shall submit the remaining application steps that include the following:
 - a. Provide a site plan in conformance with City of Tempe site plan review and approval process, and in compliance with all applicable building and fire codes, pursuant to the application requirements of Section 6-306, Development Plan Review.
 - b. Provide proof of site plan review and approval by any utility provider impacted by the proposed development.
 - c. Provide verification from the Water Utilities Division of adequate existing public sewer and water service for the entire proposed development.
2. Development standards and requirements. Multi-family residential development or adaptive reuse of a qualified obsolete commercial, office and/or mixed-use buildings shall comply with the following standards and requirements:
 - a. Parking. The development shall comply with parking space requirements applicable to multi-family residential buildings pursuant to Part 4, Chapter 6 – Parking or Part 5, Chapter 6 - Transportation Overlay District, if applicable.
 - b. Mixed-use development. If the development or adaptive reuse 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 the provisions of Part 4, Chapter 6 – Parking or Transportation Overlay District Part 5, Chapter 6, if applicable.
 - c. Setbacks. Setback requirements for the redevelopment shall be the existing setbacks for multi-family residential buildings based on the density of the proposed development, pursuant to Section 4-202, Table 4-202B or the setback requirements that apply to the existing commercial, office, or mixed-use building for an adaptive reuse development.
 - d. Height and density. Multi-family residential height and density shall not exceed:
 1. Two (2) stories in the areas of a site within one hundred (100) feet of a single-family residential district.
 2. In all other areas, the lesser of:

- i. Five (5) stories; or
 - ii. The highest allowable multi-family height and density for a multi-family zoning district in the City of Tempe located within one-mile of the lot line of the site to be redeveloped; or
 - iii. If there is no multi-family zoning district in the City of Tempe within one-mile of the lot line of the site to be redeveloped, the maximum height and density of the multi-family shall be equivalent to what is allowed in the next closest multi-family zoning district located in the City of Tempe.
- e. 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 *legal nonconforming* for height purposes and the existing building may be expanded to the maximum allowable density for the proposed use.

D. Multi-family Residential Development or Adaptive Reuse Limit and Area Exclusion.

- 1. Limit. Not more than two hundred fifty-two (252) of the existing commercial, office, or mixed-use buildings may be redeveloped for multifamily residential development or adaptive reuse under this Section. This limit is established to confine the adaptive reuse on no more than 10% of the total number of qualified buildings in the City of Tempe.
- 2. Area exclusion. The following commercial/employment hubs and essential commercial/employment use areas, including areas exempted pursuant to A.R.S. Section 9-462.10 and other areas as excluded by the City of Tempe, as shown on Figure 6-315, are not eligible for multi-family residential development or adaptive reuse under this Section:
 - a. Land in an area designated as a district of historical significance;
 - b. Land in an area designated as historic on the Tempe Historic Property Register;
 - c. Land in 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. Section 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 A.R.S. Section 28-8486 ; or
 - f. Land located in the City that is located on tribal land.

Figure 6-315. Exclusion Areas for Adaptive Reuse or Multi-Family Residential Redevelopment




SECTION 2. That Chapter 35 Zoning and Development Fees, Appendix A – Schedule of Fees and Charges, within the Tempe City Code, is hereby amended by adding a line item for "Adaptive Reuse or Redevelopment for Multi-Family Residential" under category (b) "Administrative Applications:" and setting the initial fee for such review at \$553.00.

SECTION 3. Pursuant to A.R.S. § 9-462.01(J), the City Council has considered a housing impact statement regarding the impact of the zoning ordinance text amendment.

SECTION 4. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

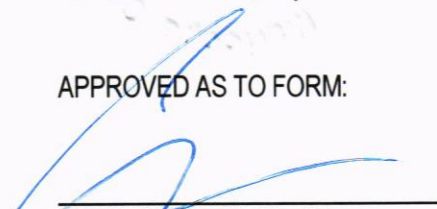
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 19th day of December, 2024.


Corey D. Woods, Mayor

ATTEST:


Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:


Eric C. Anderson, City Attorney

~~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)

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

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

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

A. ON OR BEFORE JANUARY 1, 2025, THE GOVERNING BODY OF A MUNICIPALITY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR MORE PERSONS SHALL 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 THE MUNICIPALITY WITHOUT REQUIRING A CONDITIONAL USE PERMIT, A PLANNED UNIT DEVELOPMENT OR REZONING APPLICATION OR ANY OTHER APPLICATION THAT WOULD REQUIRE A PUBLIC HEARING. THE GOVERNING BODY OF THE MUNICIPALITY MAY MODIFY THE PERCENTAGE OF EXISTING COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHIN THE MUNICIPALITY AVAILABLE FOR MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE EVERY TEN YEARS.

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

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

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

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

3. COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODES.

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

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

6. A SET ASIDE OF TEN PERCENT 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. THE DEVELOPER MAY SET ASIDE MORE THAN TEN PERCENT AT THE DEVELOPER'S SOLE DISCRETION.

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

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

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

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

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

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

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

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

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

3. IF THE MAXIMUM ALLOWABLE HEIGHT THAT APPLIES 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.

G. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1. LAND IN AN AREA THAT IS DESIGNATED AS A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01, SUBSECTION A, PARAGRAPH 10.

2. LAND IN AN AREA THAT IS DESIGNATED HISTORIC BY A LOCAL GOVERNMENT.

3. LAND IN AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES.

4. LAND IN THE TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461.

5. 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 SECTION 28-8486.

6. LAND IN A MUNICIPALITY THAT IS LOCATED ON TRIBAL LAND.

H. FOR THE PURPOSES OF THIS SECTION:

1. "ADAPTIVE REUSE" MEANS CONVERTING AN EXISTING BUILDING FROM THE USE FOR WHICH IT WAS CONSTRUCTED TO A NEW USE BY MAINTAINING SOME OR ALL OF THE ELEMENTS OF THE BUILDING.

2. "BUILDING CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION 9-1301.

3. "ECONOMICALLY OR FUNCTIONALLY OBSOLETE" MEANS THE COMMERCIAL, OFFICE OR MIXED USE BUILDING IS IN A STATE OF DISREPAIR OR HAS A FIFTY PERCENT VACANCY IN THE TOTAL LEASABLE SQUARE FOOTAGE.

4. "LOW-INCOME HOUSING" MEANS HOUSING:

(a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED EIGHTY PERCENT OF THE AREA MEDIAN INCOME.

(b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

5. "MODERATE-INCOME HOUSING" MEANS HOUSING:

(a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.

(b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

6. "MULTIFAMILY RESIDENTIAL DEVELOPMENT" MEANS A BUILDING OR BUILDINGS THAT ARE DESIGNED AND USED FOR RESIDENTIAL PURPOSES AND THAT CONTAIN MORE THAN ONE APARTMENT OR DWELLING UNIT FOR SALE OR FOR RENT BUT THAT ARE NOT ADAPTIVE REUSE.

7. "NONCONFORMING" MEANS STRUCTURES THAT HAVE RECEIVED BUILDING AND ZONING PERMITS UNDER THE REGULATIONS IN PLACE AT THE TIME OF CONSTRUCTION.

8. "ROOFTOP APPURTENANCES":

(a) MEANS ROOFTOP STRUCTURES THAT PRINCIPALLY HOUSE AIR CONDITIONING EQUIPMENT, SOLAR PANELS, UTILITIES, ELEVATORS, OTHER ENERGY PRODUCTION FACILITIES AND OTHER NONHABITABLE STRUCTURES.

(b) INCLUDES OPEN SPACE FEATURES, SWIMMING POOLS, SPACE FOR USE BY RESIDENTS AND LANDSCAPING.

(c) DOES NOT INCLUDE ENCLOSED AREAS, SPIRES, BELL TOWERS, DOMES, CUPOLAS, PEDIMENTS, OBELISKS OR MONUMENTS.

APPROVED BY THE GOVERNOR APRIL 10, 2024.

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