

ORDINANCE NO. 5904

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 6, 7, 8, 81, AND 87 PERTAINING TO ADAPTIVE REUSE. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: ADDING CHAPTER 81: ADAPTIVE REUSE PERMIT; MODIFYING LAND USE TABLES TO PERMIT MULTIPLE RESIDENTIAL USE IN COMMERCIAL, INDUSTRIAL, AND DOWNTOWN DISTRICTS IF THEY QUALIFY FOR AN ADAPTIVE REUSE PERMIT; ADDING DEFINITIONS FOR ADAPTIVE REUSE, ADAPTIVE REUSE PERMIT, EXISTING COMMERCIAL, OFFICE, OR MIXED-USE BUILDING, LOW-INCOME HOUSING, MODERATE INCOME HOUSING, AND MULTIPLE RESIDENCE REUSE; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, on April 10, 2024, Governor Hobbs signed House Bill 2297 ("HB 2297") which amended Title 9, Chapter 4, Article 6.1, Arizona Revised Statutes ("A.R.S."), to include Section 9-462.10 relating to the creation of objective standards by municipalities to allow for additional housing units through the redevelopment of existing commercial, office, or mixed-use buildings into multifamily development and adaptive reuse.

WHEREAS, A.R.S. Section 9-462.10(A) requires, in pertinent part, that on or before January 1, 2025, municipalities with a population of 150,000 or more to "establish objective standards to allow multifamily residential development or adaptive reuse on not more than 10% of the total existing commercial, office, and mixed-use buildings within the municipality."

WHEREAS, the multiple residence reuse or adaptive reuse of existing commercial, office, or mixed-use buildings governed by A.R.S. Section 9-462.10 may not require a conditional use permit, planned unit development overlay, rezone application, or any other application that would require a public hearing.

WHEREAS, on November 25, 2024, the Planning and Zoning Board reviewed proposed amendments to the Mesa Zoning Ordinance related to the requirements in A.R.S. Section 9-462.10 for multi-family development and adaptive reuse and recommended that the City Council adopt the proposed amendments.

WHEREAS, the City Council desires to make changes to the Mesa Zoning Ordinance related to the requirements in A.R.S. Section 9-462.10 for multi-family development and adaptive reuse as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1:

Text written in **BOLD ALL CAPS** indicates additional or new language.

Text written in ~~striketrough~~ indicates deletions.

That Title 11, Chapter 6, Table 11-6-2: Commercial Districts is hereby amended as follows:

Table 11-6-2: Commercial Districts						
Proposed Use	NC (C-1)	LC (C-2)	GC (C-3)	OC (O-S)	MX	Additional Use Regulations
Residential Use Classifications						
Single Residence - Attached	CUP/P (19, 20)	CUP/P (19, 20)	CUP/P (19, 20)	—	CUP/P (16, 19, 20)	Section 11-31-31, Residential Uses in Commercial Districts AND CHAPTER 81, ADAPTIVE REUSE PERMIT
Multiple Residence	CUP/P (17,19, 22)	CUP/P (17, 19, 22)	CUP/P (17, 19, 22)	— P (17)	P (17, 21, 22)	
<div style="text-align: center;"> </div> <div> 17. Reserved USE PERMITTED WITH APPROVAL OF AN ADAPTIVE REUSE PERMIT. </div>						

Section 2:

Text written in **BOLD ALL CAPS** indicates additional or new language.

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That Title 11, Chapter 7, Table 11-7-2: Downtown Districts is hereby amended as follows:

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
Residential Use Classifications					

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
Correctional Transitional Housing Facility (CTHF)	—	CUP (10, 11)	CUP (10, 11)	—	Section 11-31-12, Correctional Transitional Housing Facilities
MULTIPLE RESIDENCE	P (3)	P (3)	P (3)	P (3)	CHAPTER 81, ADAPTIVE REUSE PERMIT
<div> <div>•</div> <div>•</div> <div>•</div> <div>•</div> <div>•</div> <div>•</div> <div>•</div> </div> <p>3. Reserved USE PERMITTED WITH APPROVAL OF AN ADAPTIVE REUSE PERMIT.</p>					

Section 3:

Text written in **BOLD ALL CAPS** indicates additional or new language.

Text written in ~~striethrough~~ indicates deletions.

That Title 11, Chapter 8, Table 11-8-3: Downtown Districts is hereby amended as follows:

Table 11-8-3: Downtown Districts							
Proposed Use	DR-1	DR-2	DR-3	DB-1	DB-2	DC	Additional Use Regulations
Residential Use Classifications							
Single Residence							
Detached	P	P	P	—	—	—	
Attached	—	P	P	P	CUP	—	

Table 11-8-3: Downtown Districts							
Proposed Use	DR-1	DR-2	DR-3	DB-1	DB-2	DC	Additional Use Regulations
Multiple Residence	— P (16)	P (16)	P (16)	P (16)	P/CUP (16)	P (1,16)	CHAPTER 81, ADAPTIVE REUSE PERMIT
<div style="text-align: center;"> . . . </div>							
16. USE PERMITTED WITH APPROVAL OF AN ADAPTIVE REUSE PERMIT.							

Section 4: That Title 11, Chapter 87: Definitions is hereby amended by adding the following definitions which are arranged in alphabetical order and include subcategories or related definition classifications arranged in alphabetical order. All the other definitions in Chapter 87 shall remain the same.

Adaptive Reuse. Conversion of an Existing Commercial, Office, or Mixed-Use Building from the use for which it was constructed to a new use by maintaining some or all of the elements of the building and which must include a residential use component.

Adaptive Reuse Permit. Permit issued for an Existing Commercial, Office, or Mixed-Use Building for the building to be redeveloped as a Multiple Residence Reuse or Adaptive Reuse.

Existing Commercial, Office, or Mixed-Use Building. A building whose primary use is a: (i) club or lodge, day care center, government office, hospital, clinic; (ii) Commercial land use listed in Section 11-86-4; or (iii) Mixed-use land use listed in Section 11-86-8 of this Ordinance.

Low-income Housing. A housing unit available for sale or rent, the cost of which does not exceed 30% of the household income for a person(s) whose income is 80% or less than the area median income.

Moderate-income Housing. A housing unit available for sale or rent, the cost of which does not exceed 30% of the household income for a person(s) whose income is 130% or less than the area median income.

Multiple Residence Reuse. Conversion of an Existing Commercial, Office, or Mixed-Use Building from the use for which it was constructed to a “multi-family residential development” as that term is defined in A.R.S. § 9-462.10(H).

Section 5: That Title 11 is hereby amended by adding Chapter 81: Adaptive Reuse Permit as follows:

11-81-2: -PURPOSE

The purpose of the Adaptive Reuse Permit is to promote and facilitate the development and redevelopment of underutilized or abandoned buildings in accordance with A.R.S. § 9-462.10.

It is in the public interest to maximize efficiency of public services, infrastructure, and facilities as a means to achieve focused growth and provide a cost-effective method of municipal service delivery. The intent of the Adaptive Reuse Permit is to:

- A. Provide relief from certain development standards as incentives to stimulate re-investment and reuse of existing buildings.

- B. Reduce, simplify, or eliminate the processes otherwise required to modify existing buildings, structures, and sites.
- C. Permit flexibility in the use of buildings to expand their economic options.

11-81-3: -APPLICABILITY

A. Multiple Residence Reuse.

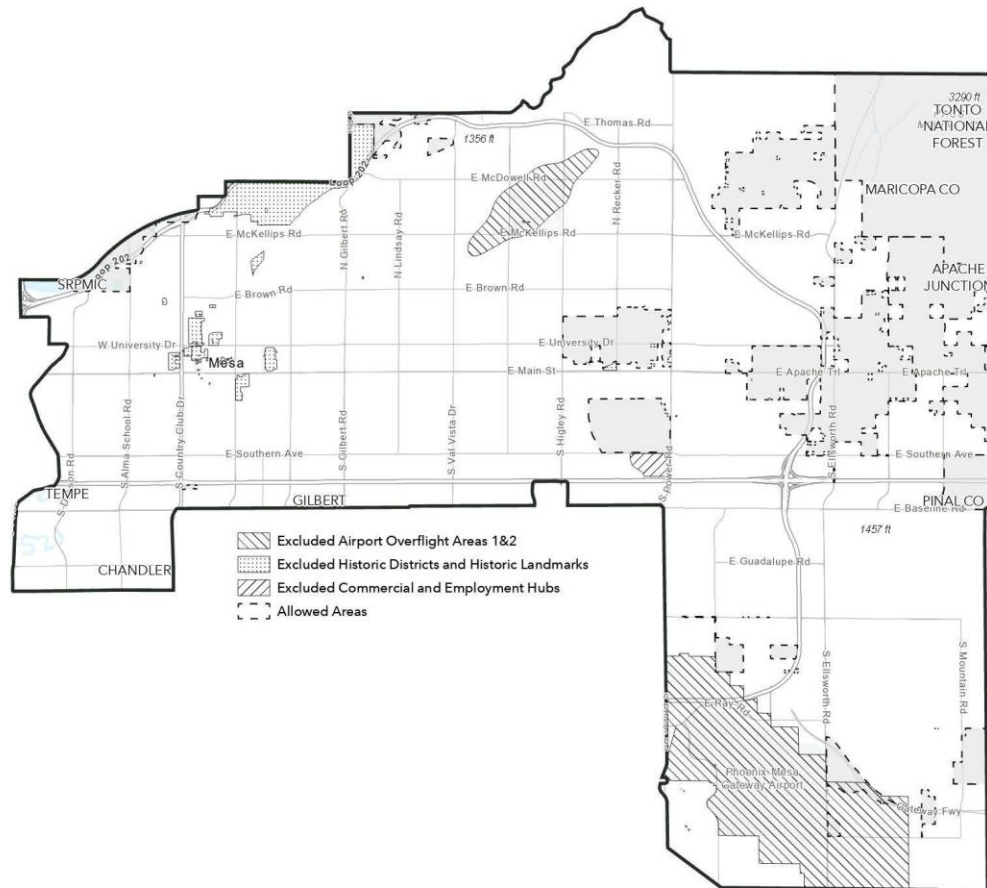
1. All or part of an Existing Commercial, Office, or Mixed-Use Building, as defined in Chapter 87 of this Ordinance, that meets the eligibility requirements in 11-81-3 below may receive an Adaptive Reuse Permit for the building to be reused to provide for Multiple Residence Reuse.
2. Allows for the partial or complete demolition or renovation of an Existing Commercial, Office, or Mixed-Use Building.

B. Adaptive Reuse.

1. All or a part of an Existing Commercial, Office, or Mixed-Use Building, as defined in Chapter 87 of this Ordinance that meets the eligibility requirements in 11-81-3 below may receive an Adaptive Reuse Permit for the building to be reused to provide for Adaptive Reuse.
2. Allows for the partial, but not the complete, demolition of an Existing Commercial, Office, or Mixed-Use Building.

11-81-4: -ELIGIBILITY

To qualify for an Adaptive Reuse Permit, a building must meet all of the following criteria:

**MAP 11-81-3.A**

- B. **Parcel Size.** The building must be located on a parcel or parcels of land that are at least one (1) acre but no more than 20 acres in size.
- C. **Building Use.** The building must be an Existing Commercial, Office, or Mixed-Use Building, as defined in Chapter 87 of this Ordinance.
- D. **Building Condition and Vacancy.** The building must be in a state of disrepair or have 50% vacancy in the total leasable square footage.
- E. **Affordable Housing.** Ten percent (10%) or more of the total dwelling units must be set aside for moderate-income housing, low-income housing, or any combination thereof for a period of at least 20 years from the issuance of a certificate of occupancy for the building. For the purposes of calculating the 10%, the required number of dwelling units will be rounded up to the next whole number.

11-81-5: -APPLICATION CAP, TRACKING, AND REPORTING

- A. **Application Cap.** No more than 202 Existing Commercial, Office, or Mixed-Use Buildings may be redeveloped for Multiple Residence Reuse or Adaptive Reuse through an Adaptive Reuse Permit.
- B. **Tracking.** The City shall track the number of buildings redeveloped pursuant to this Chapter and shall stop accepting Adaptive Reuse Permit applications when the total number of the following equals 202 buildings:
 - 1. The number of buildings redeveloped using an Adaptive Reuse Permit; plus
 - 2. The number of buildings with approved Adaptive Reuse Permits that have not yet completed construction; plus
 - 3. The number of buildings with pending Adaptive Reuse Permit applications.
- C. **Affordable Housing Requirements and Reporting.**
 - 1. **Restrictions or Guarantees.** In order to ensure compliance with A.R.S. § 9-462.10, as a condition of final approval of an Adaptive Reuse Permit, the applicant shall provide to the City a deed restriction, restrictive covenant, or other restriction or guarantee that may be approved by the City, ensuring that 10% of the housing units shall be reserved for moderate-income housing, low-income housing, or any combination thereof for a period of at least 20 years from the issuance of a certificate of occupancy.
 - 2. **Annual report.** To ensure continued compliance with A.R.S. § 9-462.10, for a period of twenty years, the property owner of a parcel with an Adaptive Reuse Permit shall annually provide the City with a report demonstrating that 10% of the units are reserved for moderate-income housing, low-income housing, or a combination thereof.
 - 3. **Redevelopment.** In the event an Adaptive Reuse Permit building is approved for redevelopment to a different use through the City's normal processes and procedures, the requirements in this Subsection (C) shall no longer be applicable and the City shall, upon request of the property owner, acknowledge release of the restriction or guarantee required in Subsection (C)(1).

11-81-6: -LAND USE REGULATIONS

- A. **Multiple Residence Reuse.** Multiple Residence Reuse does not have to comply with Section 11-31-31 (Residential Uses in Commercial Districts), shall be allowed in all zoning districts, and is not subject to any public hearing.
- B. **Adaptive Reuse: Permitted, Conditional, and Prohibited Land Uses.** Adaptive Reuse buildings are mixed-use buildings with non-residential and residential components. The permitted, conditional, and prohibited land uses for the non-residential component of an Adaptive Reuse building shall be based on the zoning district in which the building is located. The residential component of an Adaptive Reuse building:
 - 1. Does not have to comply with Section 11-31-31 (Residential Uses in Commercial Districts),
 - 2. Shall be allowed in all zoning districts, and
 - 3. Is not subject to any public hearing.

11-81-7: -DEVELOPMENT STANDARDS FOR AN ADAPTIVE REUSE PERMIT

- A. **Multiple Residence Reuse Development Standards.**
 - 1. Development standards for Multiple Residence Reuses shall be based on the development standards for the highest density Multiple Residence Base Zoning District in the City of Mesa within one (1) mile of the project site in accordance with Article 2 and Article 4 of this Ordinance.

2. If there are no Multiple Residence Base Zoning Districts in the City of Mesa within one (1) mile of the building being redeveloped, the development standards shall be based on the development standards for the geographically closest Multiple Residence Base Zoning District in the City of Mesa in accordance with Article 2 and Article 4 of this Ordinance.

3. ***Specific Height Restrictions.***

- a. Except as allowed by Subsection (C) below, the maximum building height for a Multiple Residence Reuse building shall not exceed five stories; and
- b. Multiple Residence Reuse projects, or portions of multiple residence projects, located within 100 feet of a single residence use or zoning district are limited to two (2) stories in height.

B. **Adaptive Reuse Development Standards.** The development standards for Adaptive Reuses shall be based on the development standards for the underlying zoning district in accordance with Article 2 and Article 4 of this Ordinance.

C. **Non-Conforming Structures – Multiple Residence Reuse and Adaptive Reuse.**

1. ***Non-conforming Building Height.*** Existing buildings that exceed the maximum building height and receive an Adaptive Reuse Permit may remain at their existing height and the existing building may be expanded to the maximum allowable density for the proposed use.
2. ***Non-conforming Yards.*** Existing buildings with a yard setback less than the minimum required yard for the proposed use may remain unless easements are located within the setback areas.

11-81-8: -APPEALS; EXPIRATION AND EXTENSIONS; MODIFICATIONS

- A. **Appeals.** Adaptive Reuse Permits are subject to the appeal provisions of Chapter 77, Appeals, in this Ordinance.
- B. **Expiration and Extensions.** An Adaptive Reuse Permit is not subject to the expiration and extension requirements of Section 11-76-9 of this Ordinance
- C. **Modifications to an Approved Adaptive Reuse Permit.** Proposed modifications to an approved Adaptive Reuse Permit, including change of use or modifications to approved plans, shall be submitted to the Planning Division for review to ensure conformance with the eligibility criteria in this Chapter and required processes.

Section 6: RECITALS. The recitals above are fully incorporated in this Ordinance by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 7: AMENDED LANGUAGE. In the sections of this Ordinance that modify the current language of the Mesa Zoning Ordinance (i.e., Sections 1, 2, and 3), new language is shown in **BOLD ALL CAPS** and deleted language is shown in ~~strike through~~.

Section 8: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect suits pending, rights and duties that matured or were existing, or penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 9: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 10: SEVERABILITY. If any term, provision, section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid, unenforceable, or unconstitutional by the decision of a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

Section 11: PENALTY. Penalties for a violation are set forth in the Mesa Zoning Ordinance Sections 11-79-4 and 11-79-5 which are as follows:

11-79-4 CIVIL PENALTIES:

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this Ordinance, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than \$150 or more than \$1,500, per citation. A second finding of responsibility within 24 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$250 or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) Schedule of Fees and Charges and may be ordered to pay any other applicable fees and charges.
- B. The 36-month provision of subsection (A) of this Section shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within 36 months of the commission of another violation for which the owner or responsible party was convicted or was otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.
- C. Each day in which a violation of this Ordinance continues, or the failure to perform any act or duty required by this Ordinance or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

11-79-5 HABITUAL OFFENDER:

- A. A person who commits a violation of this Ordinance after previously having been found responsible for committing 3 or more civil violations of this Ordinance within a 24-month period — whether by admission, by payment of the fine, by default, or by judgment after hearing — shall be guilty of a class 1 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal class 1 complaint in the Mesa City Court against habitual offenders. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence or incarceration not to exceed 6 months in jail; or a fine not to exceed \$2,500, exclusive of penalty assessments prescribed by law; or both. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than \$500 for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by Subsection except on the condition that the person pay the mandatory minimum fines as provided in this Subsection.

- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 9th day of December 2024.

APPROVED:



John Gh
Mayor

ATTEST:

Holly Moseley
City Clerk