



15

Planning Commission Meeting

TO: PLANNING COMMISSION

FROM: VERONICA GONZALEZ, PRINCIPAL PLANNER *vg*
(480) 503-6720, VERONICA.GONZALEZ@GILBERTAZ.GOV

THROUGH: EVA CUTRO, AICP, PLANNING MANAGER *EC*
(480) 503-6782, EVA.CUTRO@GILBERTAZ.GOV

MEETING DATE: NOVEMBER 6, 2024

SUBJECT: Z24-09 LDC TEXT AMENDMENT: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, SECTION 2.0 TERMS, SECTION 3.0 BASE ZONING DISTRICTS AND USE REGULATIONS, SECTION 5.0 ADDITIONAL USE AND SITE REGULATIONS, AND SECTION 6.0 ADMINISTRATIONS. THE EFFECT OF THE AMENDMENT WILL BE TO CLARIFY THE CODE, ADDRESS ADAPTIVE REUSE, AND MAKE TECHNICAL AND CONFORMING CHANGES.

STRATEGIC INITIATIVE: Exceptional Built Environment

The proposed text amendment will make conforming changes to comply with House Bill 2297.

RECOMMENDED MOTION

For the reasons set forth in the staff report, move to recommend approval to the Town Council of Z24-09.

DISCUSSION

History

Date	Description
April 10, 2024	Arizona HB2297 was approved.
August 7, 2024	Planning Commission held a citizen review and initiated Z24-09 relating to HB2297
October 22, 2024	Town Council Study Session

On a continual basis, staff seek ways to improve the content and usefulness of the Land Development Code (LDC). This is often in response to customer needs, citizen expectations for a high-quality built environment, or recently adopted legislation.

House Bill 2297 was signed into law on April 10, 2024, and requires that municipalities with a population of 150,000 or more establish certain objective standards to allow multi-family residential development or adaptive reuse on up to 10% of existing commercial, office, or mixed-use buildings in the Town without a use permit, rezoning, or a public hearing.

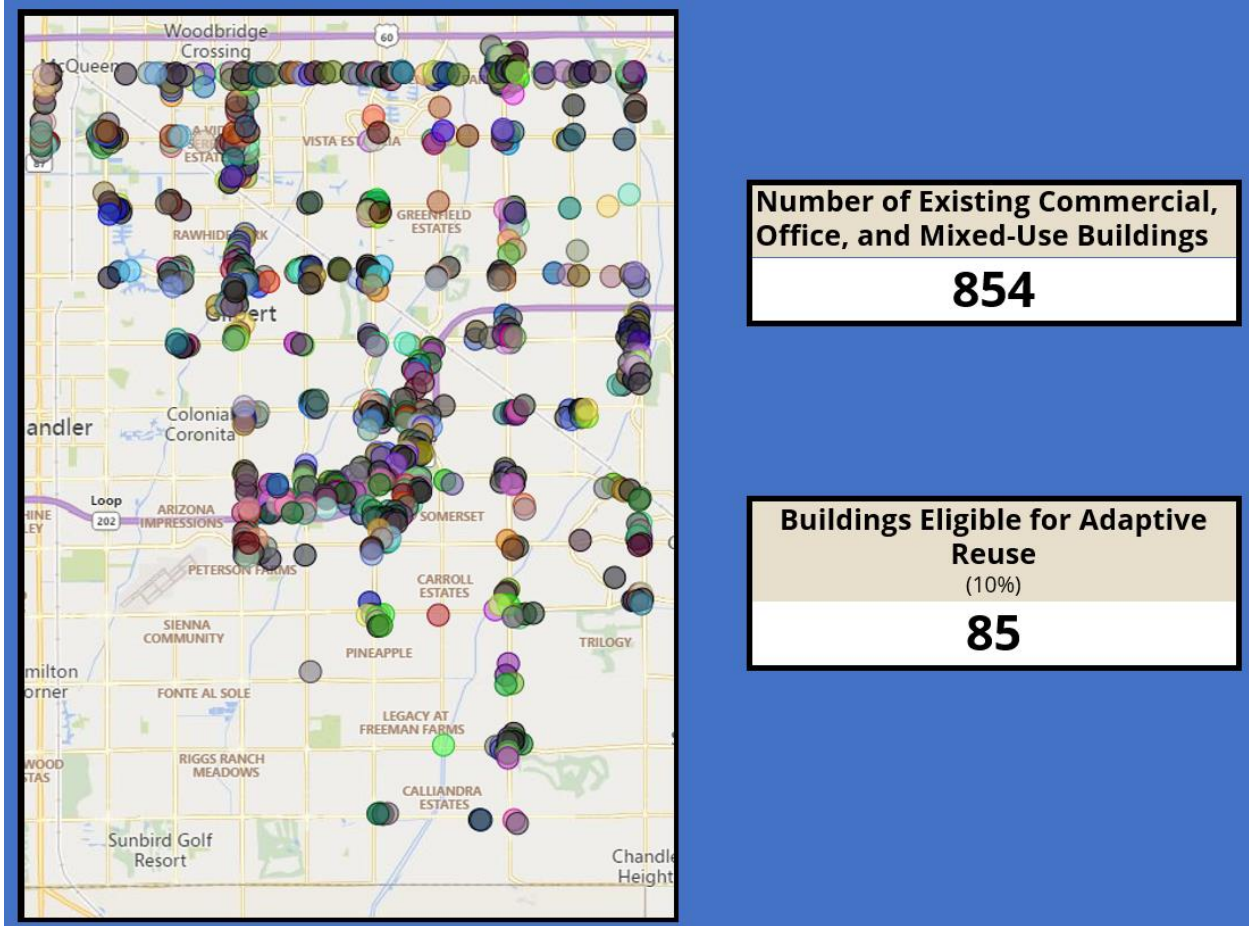
The objective standards according to HB2297 include the following:

- Existing buildings must be located on parcels of at least one acre in size, but not more than 20 acres.
- Building must be in disrepair or have a 50% vacancy in the leasable square footage.
- Parking requirements may not exceed what is currently required under the existing Land Development Code.
- Existing height of the building may remain but shall be considered non-conforming if greater than the maximum height for the new proposed use.
- Existing setbacks of the building shall also be considered non-conforming if less than the minimum required for the new proposed use.
- Demolition of a portion of the building is allowed.

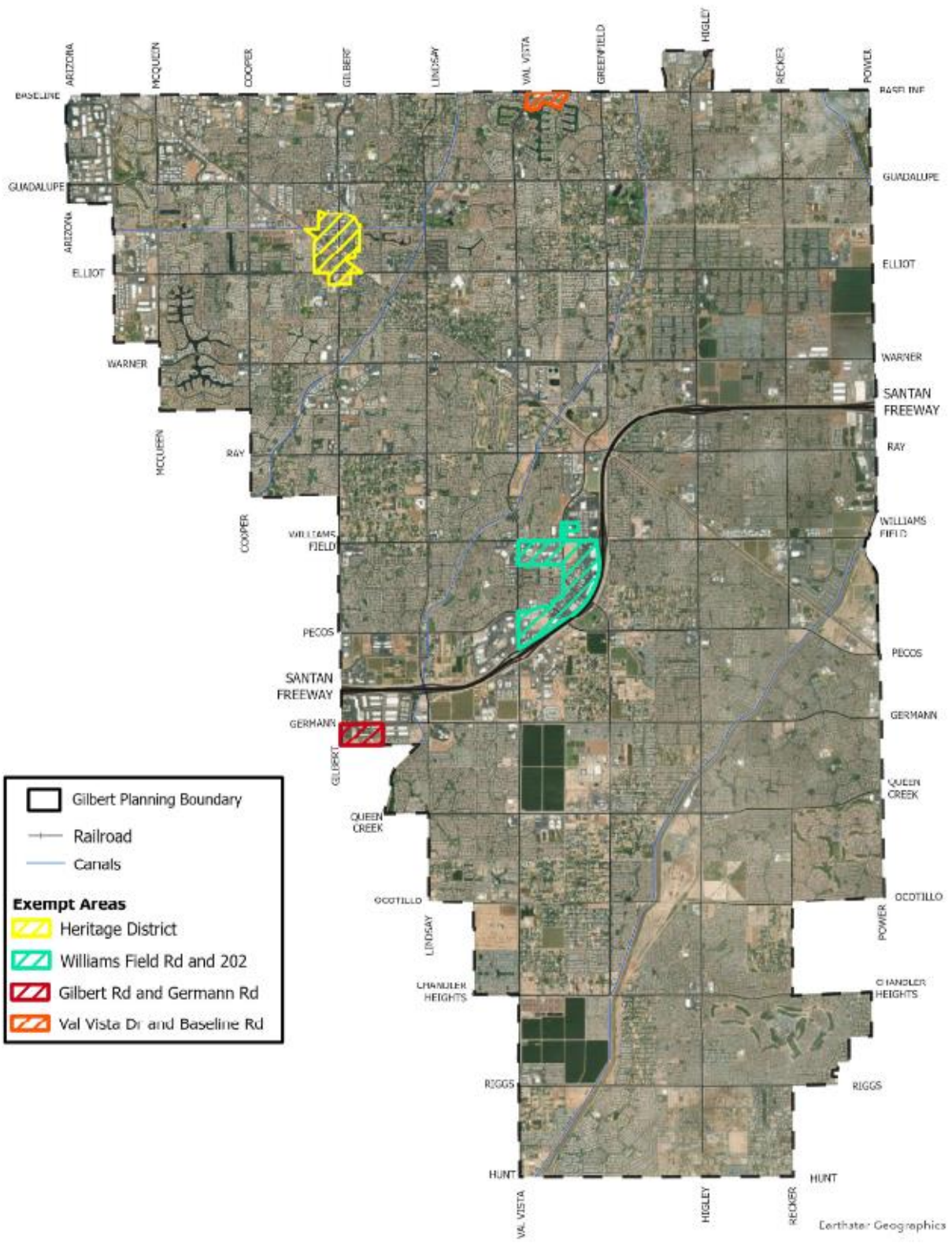
The objective standards for multi-family development includes all the standards noted above with the following additional requirements:

- At least 10% of the total dwelling units shall be designated as low-income housing, moderate-income housing, or any combination for at least 20 years after initial occupation.
- The height and density shall be equal to the highest allowable height and density for a multi-family zoning district within one mile of the building to be redeveloped, with a maximum height of five stories or two stories if within 100 feet of a single family residential zoning district.
- Demolition of all or a portion of the building is allowed.

Staff performed an analysis of the number of existing commercial, office, and mixed-use buildings within the Town and 854 buildings were identified, which equates to 85 buildings being eligible for adaptive reuse under these standards. Every ten years, the Town Council may modify the percentage of eligible buildings.



It should be noted that HB2297 allows the Town the ability to identify or exclude areas where existing buildings would be exempt from the objective standards outlined earlier in this report. However, the number of buildings within these excluded areas may not exceed 10% of the existing commercial, office, or mixed-use buildings. The map shown below depicts those areas where buildings would be exempt from the requirements of the bill.



As noted earlier, multi-family development or adaptive reuse of existing commercial, office, or mixed-use buildings is allowed without a use permit, rezoning, or a public hearing if the buildings meet certain criteria. However, the House Bill does allow for a comprehensive site plan review and approval process by Town staff. As such, the proposed text amendment will include a provision for eligible buildings to be reviewed administratively by staff.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town and an official notice was posted in all the required public places within the Town of Gilbert limits. The notification requirements of LDC Section 6.2.6 have been satisfied.

A Citizen Review meeting was held at the August 7, 2024, Planning Commission meeting. No citizens spoke at this meeting regarding the proposed text amendment.

Staff has received no comment from the public at this time.

STAFF RECOMMENDATION

Recommend to the Town Council approval of Z24-06, a request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 2.0 Terms, Section 3.0 Base Zoning Districts and Use Regulations, Section 5.0 Additional Use and Site Regulations, and Section 6.0 Administrations related to adaptive reuse.

Respectfully submitted,



Veronica Gonzalez
Principal Planner

Attachments and Enclosures:

- 1) Notice of Public Hearing
- 2) Draft Ordinance
- 3) HB2297



NOTICE OF PUBLIC HEARING

PURSUANT TO ARS Sections 39-204 & 9-462.04, NOTICE IS HEREBY GIVEN OF PUBLIC HEARING in the Town of Gilbert, Arizona, relating to the following requests for changes in land use regulations:

Z24-05 LDC TEXT AMENDMENT: Request to amend the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 2.0 Terms, related to the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 5.2.3 Incidental Dwelling Unit.

Z24-13 LDC TEXT AMENDMENT – ZONING APPLICATIONS: Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 6.2 Common Procedures, and Section 6.7 Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map. The effect of the amendment will be to clarify the Code, address administrative completeness of zoning applications, timeframe to approve or deny zoning applications, protest procedures, and make technical and conforming changes.

Z24-09 LDC TEXT AMENDMENT: Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 3 Base Zoning Districts and Use Regulations, Section 2 Terms, Section 5 Additional Use and Site Regulations, and Section 6 Administrations. The effect of the amendment will be to clarify the Code, address adaptive reuse, and make technical and conforming changes.

The applications and project files may be viewed by the public Monday through Thursday, 7:00 am to 6:00 pm at the Town of Gilbert, Planning and Development Services office located at 90 East Civic Center Drive, Gilbert, AZ. Written comments may be sent to Town of Gilbert, Planning and Development Services, 90 East Civic Center Drive, Gilbert, AZ 85296. Written comments may also be submitted at the public hearing. Any interested person may appear and be heard at the following public hearing:

Planning Commission: Wednesday, November 6, 2024 at 5:00 p.m.

Gilbert Municipal Center, Council Chambers, 50 East Civic Center Drive, Gilbert, AZ

Chaveli Herrera, Town Clerk

**Z24-09: LDC Text Amendment - Adaptive Reuse
Exhibit 2 - Draft Ordinance**

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE LAND DEVELOPMENT CODE OF GILBERT, ARIZONA CHAPTER 1 ZONING REGULATIONS, SECTION 2 TERMS; SECTION 3.0 BASE ZONING DISTRICTS AND USE REGULATIONS, SECTION 3.1 USE REGULATIONS, SECTION 3.1.2 USE REGULATIONS, TABLE 3.1.2 USE REGULATIONS, SECTION 5.0 ADDITIONAL USE AND SITE REGULATIONS, SECTION 5.1 SUPPLEMENTAL USE REGULATIONS, SECTION 5.1.18 ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS; SECTION 6.0 ADMINISTRATIONS, SECTION 6.6 DESIGN REVIEW, SECTION 6.6.2 PROCEDURES AND RESPONSIBILITY, SUBSECTION 6.6.2.B ADMINISTRATIVE DESIGN REVIEW RELATED TO MULTI-FAMILY RESIDENTIAL DEVELOPMENT AND ADAPTIVE REUSE; AUTHORIZING MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF CERTAIN COMMERCIAL, OFFICE, AND MIXED USE BUILDINGS; SETTING FORTH DEFINITIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

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 multi-family 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; and

WHEREAS H.B. 2297 includes and authorizes various exceptions and limitations that the Town of Gilbert is implementing with this Ordinance; and

WHEREAS the Common Council of the Town of Gilbert 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 Town as of the date of adoption of this Ordinance;

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

WHEREAS Common Council of the Town of Gilbert has received a recommendation from the Town of Gilbert Planning Commission regarding the proposed Land Development Code text amendment;

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

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

The Land Development Code of Gilbert, Arizona, Chapter 1 Zoning Regulations, Section 2 Terms, is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

ADAPTIVE REUSE. AS DEFINED IN A.R.S. § 9-462.10(H)(1), AS IT MAY BE AMENDED.

DISREPAIR. UNFIT OR UNSAFE FOR HUMAN OCCUPANCY AND IS INSANITARY, VERMIN-INFESTED, OR LACKS ESSENTIAL EQUIPMENT.

ECONOMICALLY OR FUNCTIONALLY OBSOLETE. AS DEFINED IN A.R.S. § 9-462.10(H)(3), AS IT MAY BE AMENDED.

LOFT DWELLING UNIT – ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDING. A RESIDENTIAL DWELLING ABOVE A NON-RESIDENTIAL USE OR USES. FIRST FLOOR USES MAY INCLUDE MULTI-FAMILY RESIDENTIAL DEVELOPMENT AS DEFINED IN A.R.S § 9-462.10(H)(6), AS IT MAY BE AMENDED.

LOW-INCOME HOUSING. AS DEFINED IN A.R.S. § 9-462.10(H)(4), AS IT MAY BE AMENDED.

MODERATE-INCOME HOUSING. AS DEFINED IN A.R.S. § 9-462.10(H)(5), AS IT MAY BE AMENDED.

NONCONFORMING. AS DEFINED IN A.R.S. § 9-462.10(H)(7), AS IT MAY BE AMENDED.

~~Non-Conforming Lot or Parcel.~~

Legal. A lot, the area, dimensions, or location of which was legal prior to the adoption, revision, or amendment of the zoning ordinance which no longer conforms to the development standards of the zoning district in which it is located.

Illegal. A lot, the area, dimensions, or location of which was not legally subdivided and does not conform to the development standards of the zoning district in which it is located.

~~Non-Conforming Sign. See Sign Types.~~

Legal. A sign that was legally constructed (permitted) prior to the adoption date of this Zoning Code, but which is not currently in compliance with the development standards for the district in which the sign is located.

Illegal. A sign that was not legally constructed (permitted) and is not currently in compliance with the development standards for the district in which the sign is located.

~~Non-Conforming Structure.-~~

Legal. A structure that was legally constructed (permitted) prior to the adoption date of this Zoning Code, but which is not currently in compliance with the development standards for

the district in which the structure is located. A change to the parking, loading, landscaping, or screening regulations in the district does not cause the structure to be non-conforming; provided however that the existing parking, loading, landscaping, or screening shall not become non-conforming as of the effective date of the change.

Illegal. A structure that was not legally constructed (permitted) prior to the adoption date of this Zoning Code and is not currently in compliance with the development standards for the district in which the structure is located.

~~Non-Conforming Use.~~

Legal. A use that is legally being conducted in a structure or on a lot or parcel on the effective date of the Zoning Code, or the effective date of amendments to the Zoning Code but does not conform with the current regulations for the district in which it is located.

Illegal. A use that was not legally conducted in a structure or on a lot or parcel on the effective date of the Zoning Code, or the effective date of amendments to the Zoning Code and does not conform with the current regulations for the district in which it is located.

QUALIFIED OBSOLETE BUILDING. IS A BUILDING WHICH IS:

- A. CURRENTLY ZONED FOR AND/OR PERMITTED TO BE USED FOR COMMERCIAL, OFFICE, OR MIXED USES; AND
- B. ECONOMICALLY OR FUNCTIONALLY OBSOLETE; AND
- C. LOCATED ON A PARCEL OR PARCELS OF LEAST ONE ACRE BUT NOT MORE THAN TWENTY ACRES; AND
- D. NOT LOCATED IN ANY OF THE FOLLOWING AREAS:
 1. THE AREA EXCLUDED PURSUANT TO SECTION 3. C BELOW;
 2. AN AREA DESIGNATED AS A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO A.R.S. § 9-462.01(A)(10);
 3. AN AREA DESIGNATED AS HISTORIC BY A LOCAL GOVERNMENT;
 4. AN AREA DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES;
 5. LAND IN THE TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN A.R.S. § 28-8461;
 6. LAND IN THE TERRITORY IN THE VICINITY OF A FEDERAL AVIATION ADMINISTRATION COMMERCIALY LICENSED AIRPORT OR A GENERAL AVIATION OR PUBLIC AIRPORT AS DEFINED IN A.R.S. § 28-8486; OR

7. ON TRIBAL LAND.

ROOFTOP APPURTENANCES. AS DEFINED IN A.R.S. § 9-462.10(H)(8), AS IT MAY BE AMENDED.

* * *

The Land Development Code of Gilbert, Arizona, Chapter 1, Zoning Regulations, Section 3.0 Base Zoning Districts and Use Regulations, Section 3.1 Use Regulations, Section 3.1.2 Use Regulations, Table 3.1.2 Use Regulations is hereby added to read as follows (additions underlined in ALL CAPS):

Table 3.1.2 Use Regulations															
Use Category	Mixed Use and Non-Residential														Additional Standards
	NC	CC	SC	GC	RC	HVC	NO	GO	BP	GVC	GBC	MU/S	MU/L	MU/R	
Specific Use Type															
Residential															
Household Living															
Residential															
<u>LOFT UNIT</u> = <u>ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS</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>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	See Terms <u>AND ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS</u>
Multi-Family	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u> L2 L6	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u> L2 L6	<u>P</u> L2 L6	<u>P</u> L2 L34	<u>P</u> L2 L34	<u>P</u> L2 L34	<u>SEE ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS</u>

* * *

The Land Development Code of Gilbert, Arizona, Chapter 1, Zoning Regulations, Section 5.0 Additional Use and Site Regulations, Section 5.1 Supplemental Use Regulations, Section 5.1.18 Adaptive Reuse of Qualified Obsolete Buildings is hereby added to read as follows (additions in ALL CAPS):

5.1.18 ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS

A. PURPOSE

THIS SECTION DESCRIBES APPLICATION REQUIREMENTS, REVIEW PROCEDURES, AND APPROVAL CRITERIA UTILIZED BY TOWN STAFF WHEN REVIEWING AN APPLICATION FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT, AS DEFINED IN A.R.S. § 9-462.10(H)(6) AND AS IT MAY BE AMENDED, OR ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS PURSUANT TO A.R.S. § 9-462.10. THE REGULATIONS IN THIS ARTICLE ARE IN ADDITION TO OTHER CODES AND REQUIREMENTS OF THE TOWN.

B. QUALIFIED OBSOLETE BUILDING REDEVELOPMENT

1. **APPLICATION.** AN OWNER SEEKING MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF A QUALIFIED OBSOLETE BUILDING SHALL SUBMIT AN APPLICATION THAT INCLUDES ALL OF THE FOLLOWING:
 - A. A SITE PLAN IN CONFORMANCE WITH SECTION 6.6.2.B ADMINISTRATIVE DESIGN REVIEW.
 - B. EVIDENCE OF SITE PLAN REVIEW AND APPROVAL BY ANY UTILITY PROVIDER IMPACTED BY THE PROPOSED DEVELOPMENT.
 - C. EVIDENCE OF ADEQUATE EXISTING PUBLIC SEWER AND WATER SERVICE FOR THE ENTIRE PROPOSED DEVELOPMENT.
 - D. COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODES.
 - E. EVIDENCE SATISFACTORY TO THE TOWN THAT THE EXISTING BUILDING THAT IS THE SUBJECT OF THE APPLICATION IS ECONOMICALLY OR FUNCTIONALLY OBSOLETE.
 - F. 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.
 - G. DOCUMENTATION SATISFACTORY TO THE TOWN 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.
2. **DEVELOPMENT STANDARDS AND REQUIREMENTS.** MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF A QUALIFIED OBSOLETE BUILDING SHALL COMPLY WITH THE FOLLOWING STANDARDS AND REQUIREMENTS:

A. PARKING.

- I. *GENERAL.* THE DEVELOPMENT SHALL COMPLY WITH PARKING SPACE REQUIREMENTS APPLICABLE TO MULTI-FAMILY RESIDENTIAL BUILDINGS OR THE PROPOSED USE FOR ADAPTIVE REUSE BUILDINGS UNDER SECTION 5.3 CIRCULATION, PARKING AND LOADING.

B. DEMOLITION PERMIT.

- I. *MULTI-FAMILY RESIDENTIAL DEVELOPMENT.* A PERMIT SHALL BE OBTAINED FOR THE DEMOLITION OF ALL OR A PORTION OF A QUALIFIED OBSOLETE BUILDING.
- II. *ADAPTIVE REUSE.* A PERMIT SHALL BE OBTAINED FOR THE DEMOLITION OF A PORTION OF A QUALIFIED OBSOLETE BUILDING.

- C. SETBACKS.** SETBACK REQUIREMENTS FOR THE REDEVELOPMENT SHALL BE THE LESSER OF THE EXISTING SETBACKS FOR MULTI-FAMILY RESIDENTIAL BUILDINGS IN SECTION 3.3 MULTI-FAMILY RESIDENTIAL DISTRICTS OR THE SETBACK REQUIREMENT THAT APPLIED TO THE EXISTING COMMERCIAL, OFFICE, OR MIXED-USE BUILDING.

- D. HEIGHT AND DENSITY.** MULTI-FAMILY 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:

A. FIVE STORIES; OR

B. THE HIGHEST ALLOWABLE MULTI-FAMILY HEIGHT AND DENSITY FOR A MULTI-FAMILY ZONING DISTRICT IN THE TOWN OF GILBERT LOCATED WITHIN ONE MILE OF THE BUILDING TO BE REDEVELOPED; OR

C. IF THERE IS NO MULTI-FAMILY ZONING DISTRICT WITHIN ONE MILE OF THE BUILDING TO BE REDEVELOPED, THE HEIGHT AND DENSITY OF THE MULTI-FAMILY ZONING DISTRICT LOCATED CLOSEST TO THE BUILDING TO BE REDEVELOPED.

- 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 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.

3. MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE CAP, TRACKING, AND AREA EXCLUSION.

A. **CAP.** NOT MORE THAN 85 EXISTING COMMERCIAL, OFFICE, OR MIXED-USE BUILDINGS MAY BE REDEVELOPED FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE UNDER THIS ARTICLE.

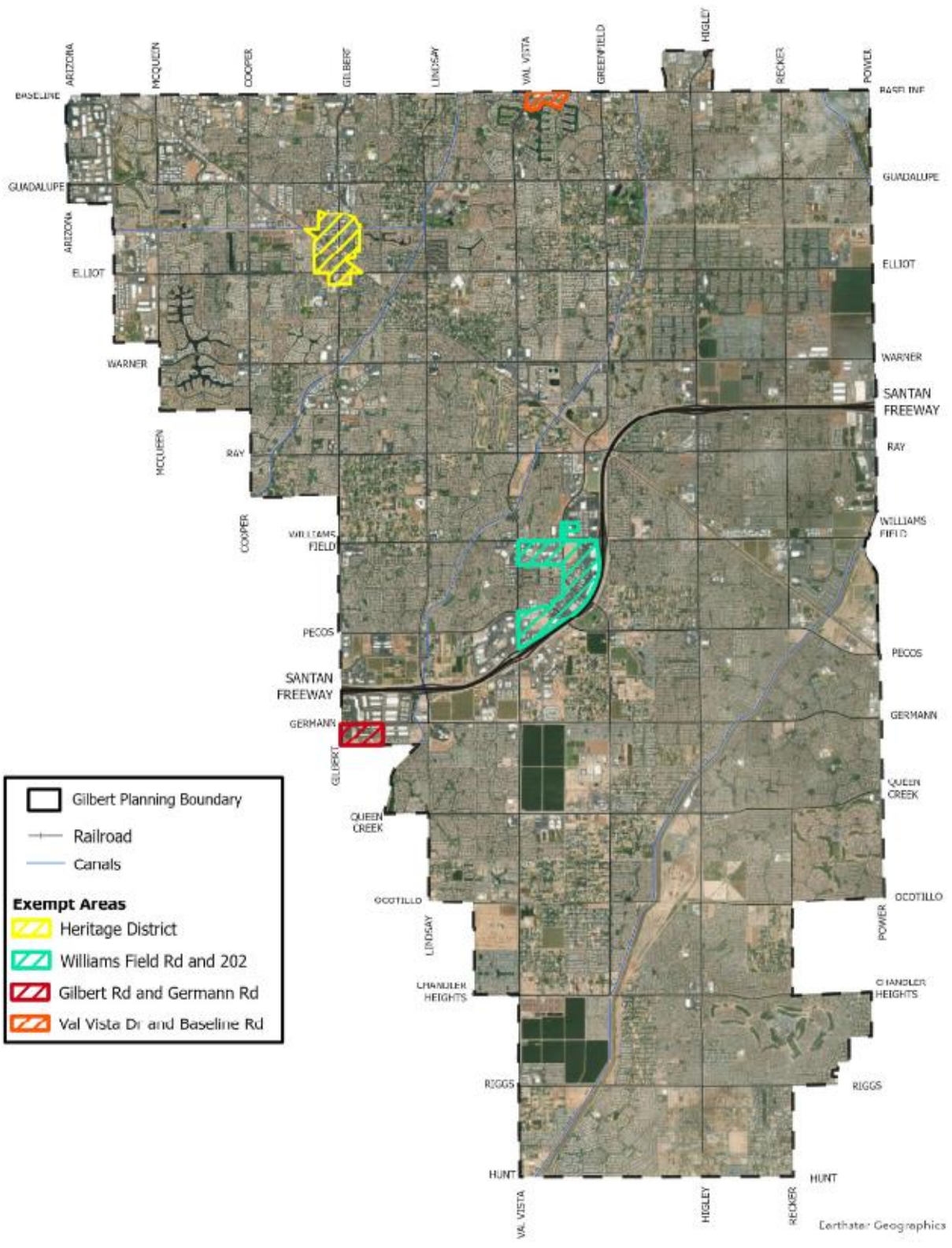
B. **TRACKING.** THE PLANNING DEPARTMENT SHALL KEEP TRACK OF THE NUMBER OF BUILDINGS REDEVELOPED UNDER THIS ARTICLE, AND SHALL STOP ACCEPTING APPLICATIONS WHEN THE TOTAL NUMBER OF THE FOLLOWING EQUALS THE CAP ESTABLISHED IN PARAGRAPH A ABOVE:

I. THE NUMBER OF BUILDINGS REDEVELOPED FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE UNDER THIS ARTICLE; PLUS

II. THE NUMBER OF BUILDINGS WITH APPROVED BUILDING PERMITS FOR REDEVELOPMENT UNDER THIS ARTICLE BUT NOT YET COMPLETED; PLUS

III. THE NUMBER OF BUILDINGS WITH PENDING APPLICATIONS FOR REDEVELOPMENT UNDER THIS ARTICLE BUT NOT YET PERMITTED.

C. **AREA EXCLUSION.** THE FOLLOWING AREAS ARE NOT ELIGIBLE FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE UNDER THIS ARTICLE:



* * *

The Land Development Code of Gilbert, Arizona, Chapter 1, Zoning Regulations, Section 6.0 Administrations, Section 6.6 Design Review, Section 6.6.2 Procedures and Responsibility, Subsection 6.6.2.B Administrative Design Review is hereby amended to read as follows (additions in ALL CAPS):

B. Administrative Design Review

Administrative design review shall be conducted by the Planning Manager. The Planning Manager may refer any application for administrative design review to the Design Review Board or, in the Heritage District Overlay Zoning District, to the Redevelopment Commission for action. THE FOREGOING SHALL NOT APPLY TO ANY APPLICATION FOR ADAPTIVE REUSE OF A QUALIFIED OBSOLETE BUILDING.

1. Scope of Administrative Design Review Authority

The Planning Manager may conduct administrative design review of applications for:

- a. New structures of 5,000 square feet or less and building additions of 5,000 square feet or less within a previously approved master site plan.
- b. For Employment zoning districts, additions to an existing or approved building within a previously approved site plan that are less than 50 percent of the gross floor area.
- c. Minor revisions to approved Design Review plans that meet the standards of the Zoning Code, that will not substantially change any approved site plan, landscape plan, or structure, and that are consistent with the intent of the original approval.
- d. Changes to colors and materials in an existing or approved project that do not substantially change the appearance of the site or its structure.
- e. The addition of two (2) residential standard plans to an approved Standard Plan application.
- f. Residential Standard Plan transfers in accordance with policies adopted by the Design Review Board.
- g. Locations of outdoor retail sales and merchandise displays not designated on an approved Design Review site plan.
- h. The addition of signs to an approved Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, Gateway Sign Plan, or Design Review.
- i. Minor amendments to a Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, or Gateway Sign Plan, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval.

- j. Comprehensive Sign Programs, Heritage Sign Plans, or Gateway Sign Plans.
- k. Signs.
- l. Open Space Plans for a subdivision less than 20 acres as part of the Preliminary Plat review.
- m. Model Home Complexes.
- n. Projects that do not require public notice yet require approval by the Design Review Board or the Redevelopment Commission may be approved administratively after the project is discussed by the Design Review Board or the Redevelopment Commission at a Study Session and final exhibits meet review comments for code requirements.
- o. Category 1 Wireless Communication Facilities as set forth in Wireless Communications Facilities.
- p. MULTI-FAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE OF QUALIFIED OBSOLETE BUILDINGS IN CONFORMANCE WITH SECTION 5.1.18 QUALIFIED OBSOLETE BUILDINGS.

* * *

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

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

Section IV. Providing for Penalties.

Any person found responsible for violating the provisions set forth in Exhibit 1 shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 6.12.6 and 6.12.7 of the Gilbert Land Development Code. Each day a violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Zoning Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.

Section V. Declaring an Emergency.

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety of the Town of Gilbert, and an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage, adoption and approval by the Common Council of the Town of Gilbert.

PASSED AND ADOPTED by the Common Council of Town of Gilbert, Arizona this ____ day of _____, 2024, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 20__.

Brigette Peterson, Mayor

ATTEST:

Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ____ DAY OF _____, 20__, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 20__.

Chaveli Herrera, Town Clerk

**Z24-09: LDC Text Amendment - Adaptive Reuse
Exhibit 3 - HB2297**

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.