



**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 10/10/2023
Agenda Item: 6**

ACTION: Request for a Code Text Amendment, consisting of changes within Section 3-428, Vacation and Short Term Rentals, and Section 6-313, Security Plans, based on prior City Code changes, and a change to Section 4-204, Standards for building height in GID and HID District, from 35' to a maximum 65' height, for TEMPE ZONING AND DEVELOPMENT CODE. The City of Tempe is the applicant.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Approve

BACKGROUND INFORMATION: TEMPE ZONING AND DEVELOPMENT CODE (PL230295) consisting of changes regarding recent adopted City Code changes for Security Plans and Short-Term Rentals and Vacation Rentals. The changes to security plans intends to match the same land use changes that trigger requirement for a security plan. The City adopted a new ordinance (O2023.01) that now identifies new regulations for the enforcement and licensing of Short-Term Rentals and Vacation Rentals. Those regulations now existing in the Tempe City Code. And the ZDC is amended to remove original regulations and provide a cross reference to the new regulations. Based The request includes the following:

ZON230012 Zoning Ordinance Amendment, consisting of changes within the Zoning and Development Code for Section 3-428, 4-204, and 6-313.

ATTACHMENTS: Ordinance, Project File

STAFF CONTACT(S): Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Ryan Levesque, Deputy Director

Reviewed by: Mailen Pankiewicz, Principal Planner

COMMENTS:

The Community Development Department, Planning Division, have been working on few Code Text Amendments that are now being brought forward for consideration and action.

Item #1, Change in Industrial Districts (GID and HID) maximum allowed building heights, from 35' to 65'.

Pursuant to the City Council adopted Maker District Design Guidelines and the Smith Innovation Hub Design Guidelines, both adopted on June 23, 2022. Both design guideline plans focused on areas primarily of industrial use. And out of both of these plans provided recommendations to City regarding policy or regulation changes described as "Opportunities for City Engagement". Specifically, 2.3 f. *"Consider amending zoning text to increase building heights in the district to 65', and reduce parking requirements."* This text amendment request brings forth the request to increase the maximum allowed building heights. Parking requirements will be evaluated at another time. The industrial industry for manufacturing has changed and operations and equipment now require typically higher ceiling clearance requirements to operate the new warehouse and manufacturing sites. Most of Tempe's industrial built environment is "out-dated" and we have been seeing an influx of redevelopment for the newer industrial products. As a result, the City has already approved a couple variances to increase allowed height. And there are more projects expected. The recommendation out of the industrial hub design guidelines was affirmation that we needed to be thinking about allowing taller heights. The 65' height was recommended as most buildings were being proposed at an average of about 55' in height, and industry standards requiring interior ceiling clearances of 40 feet. Since our Code measures building heights from the midpoint of the street front of the property at the top of sidewalk curb, we need to account for variation in any grade change on the property.

Item #2, Removal of the Short-Term Rental regulations in the Zoning and Development Code. Section 3-428, Vacation and Short-Term Rentals, section was created which initially gave City's some control over issues related to the operations of a short term rental. Since that time, the State Legislators provided for even greater authority and even allowed City's the ability to require licenses from short term rental operators. In January of 2023, the City Council adopted a new section in the City Code, under Chapter 16A, Article X, Short-Term Rentals and Vacation Rentals.

Item #3, Amending Security Plan language based on changes approved in City Code, on May 26, 2022 (Ordinance No. O2022.12). These changes mostly consist of matching the revised business land use language of which uses require a security plan. Because the ZDC was not amended, we are following up with these changes for consistency in the amendment. Nothing further.

HISTORY & FACTS:

May 26, 2022	Ordinance No. O2022.12, adopted, amending the Tempe City Code with changes and updates to Security Plan requirements.
June 23, 2022	City Council adopted Resolution R2022.97 and R2022.98, approving the Smith Innovation Hub Design Guidelines and the Maker District Design Guidelines. Both plans recommended increasing the maximum building height in the industrial areas to 65 feet.
January 5, 2023	Ordinance No. O2023.01, adopted, amending the Tempe City Code and introducing new regulation and a license process for Short-Term Rentals and Vacation Rentals. The ordinance went into effect on March 6, 2023.
October 4, 2023	Memo to the Neighborhood Advisory Commission regarding the topics of the proposed amendments.

October 10, 2023 Development Review Commission recommendation hearing for this request.
October 26, 2023 City Council Introduction and First Public Hearing for this request.
November 30, 2023 City Council Second and Final Public Hearing for this request.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendment and Code Text Amendments

ORDINANCE NO. O2023.xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, SECTION 3-428, VACATION AND SHORT-TERM RENTALS; PART 4 – DEVELOPMENT STANDARDS, SECTION 4-204 DEVELOPMENT STANDARDS FOR OFFIC/INDUSTRIAL DISTRICTS; PART 6 – APPLICATION AND REVIEW PROCEDURES, SECTION 6-313, SECURITY PLANS.

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

Section 1. That Section 3-428 of the Zoning and Development Code, pertaining to vacation and short-term rentals, is hereby amended to read as follows:

Section 3-428 Vacation and Short-Term Rentals.

A. **Applicability.** As authorized by state statute, *vacation and short-term rentals* are permitted in land use categories within an existing *dwelling*, ~~subject to the provisions below.~~ FOR CITY OF TEMPE REGULATIONS REFER TO TEMPE CITY CODE, CHAPTER 16A, ARTICLE X, SHORT-TERM RENTALS AND VACATION RENTALS.

B. ~~Contact information required; information updates.~~

- ~~1. The owner of a *vacation rental or short term rental* shall provide the city with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by e-mail at any time of day before offering for rent or renting the vacation rental or short term rental within the city.~~
- ~~2. The owner of a *vacation rental or short term rental* shall provide to the city the name and contact information of a person designated as an emergency contact.~~
- ~~3. The owner shall notify the city, in writing, of all changes in the contact information required by this section, not less than ten (10) days prior to the effective date of the change.~~
- ~~4. The City Manager or designee shall develop the necessary forms and/or database necessary to implement this section.~~
- ~~5. The emergency contact information shall be posted in a prominent and visible location inside the *vacation or short term rental*.~~

C. ~~Compliance with laws.~~

- ~~1. A *vacation rental or short term rental* must at all times comply with all federal, state, and local laws, rules and regulations related to public health, safety, sanitation, solid waste, hazardous waste, tax privilege~~

licensing including advertising requirements, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

2. ~~No person, including an owner or operator, shall operate a vacation rental or short term rental in violation of this section.~~

D. ~~Non-residential use by vacation rentals or short term rentals prohibited.~~

1. ~~No vacation rental or short term rental may be used for any non-residential use or purpose including but not limited to any of the following:~~

- a. ~~Any commercial, industrial, manufacturing, or other non-residential purpose; or~~
- b. ~~Operating a retail business, restaurant, event center, banquet center or similar use; or~~
- c. ~~Housing sex offenders; or~~
- d. ~~Operating or maintaining a structured sober living home (Group Home); or~~
- e. ~~Selling liquor, controlled substances or pornography; or~~
- f. ~~Operating an adult oriented business.~~

2. ~~The non-residential use prohibitions shall be posted in a prominent and visible location inside the vacation or short term rental.~~

E. ~~Transaction privilege tax license.~~

1. ~~A vacation rental or short term rental operator may not offer a vacation rental or short term rental for rent without a current transaction privilege tax license.~~

(Ord. No. O2019.53 , 12-12-2019)

City Code reference — See TCC § 8, Article II, Section 310.4. Building permits required for change of occupancy. Contact the Community Development, Building Safety Division for processing.

Section 2. That Section 4-204 of the Zoning and Development Code, pertaining to building height in industrial districts, is hereby amended to read as follows:

Section 4-204 Development Standards for Office/Industrial Districts.

Table 4-204 provides the development standards for Tempe's office/industrial districts.

Standard	LID (2)	GID (3)	HID (4)	Use Permit Standard
Building Height (feet) [Exceptions, see Section 4-205(A)]				
Building Height Maximum	30 ft	35-65 ft	40 <u>65</u> ft	10%
Building Height Step-Back Required Adjacent to SF or MF District [Section 4-404, Building Height Step-Back]	Yes	Yes	Yes	NA
Maximum Lot Coverage (% of net site area)	40%	NS	NS	10%
Minimum Landscape Area (% of net site area)	10%	10%	10%	NA
Setbacks (feet) (a) [Exceptions, see Section 4-205(B)]				
Front	30 ft	25 ft	25 ft	25%
Parking	20 ft	20 ft	20 ft	10%

Side	10 ft	0 ft	0	NA
Rear	10 ft	0 ft	0	NA
Street Side	30 ft	25 ft	25 ft	20%
Parking	20 ft	20 ft	20 ft	10%

NS = No Standard.

NA = Not Applicable.

(1) An *overlay district* may modify the above standards. See Part 5.

(2) LID district formerly known as IBD district.

(3) GID district formerly known as I-1 and I-2 districts.

(4) HID district formerly known as I-3 district.

(a) See also, Section 3-401 for *setbacks* applying to *accessory structures* and *buildings*.

Section 3. That Section 6-313 of the Zoning and Development Code, pertaining to security plans, is hereby amended to read as follows:

Section 6-313 Security Plan.

A. Purpose. The purpose of approving a security plan is to protect the public health, safety, and welfare through crime prevention measures that are tailored to proposed land uses.

B. Applicability and Procedure. Security plans are required for the following uses subject to the standards contained in Chapter 26, Article V, Security Plans, of the Tempe City Code:

1. Bars, cocktail lounges, taverns, discotheques, nightclubs and similar businesses;
2. Adult-oriented businesses;
3. Recreational or amusement businesses, including both indoor and outdoor activities, including pool halls and video arcades WITH A LIQUOR LICENSE;
4. Entertainment as ~~accessory to restaurant facilities, bars or similar establishments~~ A PRIMARY USE OF THE BUSINESS, OR AS AN ACCESSORY USE TO A BUSINESS WITH A LIQUOR LICENSE AND A PLANNED PRIMARY USE FOR THE SALE OR SERVICE OF SPIRITUOUS LIQUOR;
5. Hotels and motels;
6. ~~Convenience stores~~ TOBACCO RETAIL ESTABLISHMENTS WITH ONSITE CONSUMPTION;
7. Medical marijuana dispensary, marijuana establishment, marijuana testing facility, or cultivation facility; and
8. ~~Any other use determined by the Community Development Director or~~ UPON DETERMINATION BY the Chief of Police, BASED ON DOCUMENTED CALLS FOR SERVICE, REPORTED CRIMES, COMPLAINTS, OR ANY OTHER FACTUAL INFORMATION THAT DEMONSTRATES A DISREGARD FOR PUBLIC SAFETY. UPON A DETERMINATION MADE PURSUANT TO THIS SUBSECTION, THE PROPERTY OWNER OR DESIGNEE OF THE USE SUBJECT TO THE DETERMINATION SHALL SUBMIT A COMPLETE SECURITY PLAN APPLICATION WITHIN TEN (10) DAYS OF THE RECEIPT OF THE DETERMINATION IN ACCORDANCE WITH SUBSECTION (E) OF TEMPE CITY CODE SEC. 26-70. FAILURE TO SUBMIT A SECURITY PLAN APPLICATION WITHIN TEN (10) DAYS SHALL BE

A VIOLATION OF THIS ARTICLE AND PUNISHABLE AS SET FORTH IN SECTION 1-7 OF THE TEMPE CITY CODE;

9. MULTI-UNIT DWELLINGS AS DEFINED IN TEMPE CITY CODE, SEC. 26-70(A); OR

10. ANY STRUCTURE OR DEVELOPMENT WITH FIVE (5) OR MORE DWELLING UNITS WHERE DOCUMENTED CALLS FOR SERVICE, REPORTED CRIMES, COMPLAINTS, OR OTHER FACTUAL INFORMATION, HAS OCCURRED DEMONSTRATING A DISREGARD FOR PUBLIC SAFETY. THIS DETERMINATION SHALL BE MADE BY THE POLICE DEPARTMENT.

C. EXEMPTIONS. BUSINESSES WITH A SERIES 6 OR 7 LIQUOR LICENSE AND HAVING A PRIMARY USE OTHER THAN ENTERTAINMENT OR THE SALE, SERVICE, OR CONSUMPTION OF SPIRITUOUS LIQUOR, ARE EXEMPT FROM THIS REQUIREMENT, UNLESS DEEMED NECESSARY PER SUBSECTION (B)(8) OF THIS CODE.

Security plans for uses within the MU-Ed District shall be formulated in coordination with the Public University.

(Ord. No. 2011.01, 1-27-2011; Ord. No. O2021.09 , 2-11-2021)

Section 4. Pursuant to A.R.S. § 9-462.01(J), the City Council has considered the probable impact of this zoning ordinance on the cost to construct housing for sale or rent.

Section 5. 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 _____ day of _____, 20_____.

Corey D. Woods, Mayor

ATTEST:

Kara A. DeArrastia, Deputy City Clerk

APPROVED AS TO FORM:

Sonia M. Blain, City Attorney