

December 23, 2024

SENT VIA ELECTRONIC SUBMISSION

Planning & Development Department
City of Scottsdale
3939 N Drinkwater Blvd
Scottsdale, AZ 85251

**Re: Proposed Text Amendment to Scottsdale Zoning Ordinance Table 11.201A
Use Permissions; Adaptive Office Reuse**

Planning Department,

Bergin, Frakes, Smalley & Oberholtzer PLLC requests a Zoning Ordinance Text Amendment (“Amendment”) to modify the use permissions of **Table 11.201A** of the Scottsdale Zoning Ordinance (“Ordinance”) to permit the adaptive reuse of Internalized Community Storage (“Indoor Storage”) in the Commercial Office (“C-O”) zoning district with a Conditional Use Permit (“CU”) in accordance with Section 1.401 of the Ordinance.

The C-O District is intended to create an environment conducive for office and administrative uses adjacent to commercial areas with increased separation requirements to promote compatibility when nearby residential uses. Vacancies in the existing office inventory persist citywide due to low demand and trends indicate interest will remain low indefinitely. There are fewer by-right permissions within the C-O district in comparison to other commercial districts, as seen in **Table 11.201A**- and as a result, vacant offices have fewer re-development opportunities which has impacted the ability of C-O-zoned projects with high vacancies to respond to the market conditions and achieve an occupancy. Perpetually vacant offices pose a threat to the character of the area by creating “dead space” without activation, which contributes to blight and vandalism.

The proposed Amendment to permit Internalized Community Storage in the C-O district would encourage the adaptive reuse of vacant properties while keeping the office façade for storage uses. Conversion of buildings with previously approved Certificates of Occupancy for office uses into indoor storage facilities would not require extensive exterior modifications and would utilize existing parking areas where large fields are no longer necessary to serve the employee density originally permitted for the building. Storage facilities generate fewer trips than uses already permitted in C-O, reducing the need for expanded infrastructure or additional access points to accommodate traffic.

The proposed text amendment is narrowly tailored and would only apply to existing buildings with a maximum height of 36 feet. Additionally, to encourage the redevelopment and activation of parking fields, drive-up, non-conditioned units would also be permitted as accessory to the indoor storage use in addition to vehicle storage, provided vehicles are screened within a parking structure. Outdoor storage is not permitted.

We believe this amendment is structured to encourage the infusion of capital by encouraging reinvestment in office buildings in the face of a permanently altered market without changing the appearance of an office district. The use is supportive of businesses and nearby residents, and is low-traffic. The few C-O District uses that are not office-related include Day Cares, Places of Worship, Schools, and Residential Health Care Facilities. Adding Internalized Community Storage as a limited use permitted by a Conditional Use Permit will be no more intense than the non-office uses permitted in the same district that have the potential to generate more traffic and change the office character of an area. Given the required findings of Section 1.401 of the Ordinance for Conditional Use Permits are to be met prior to Council approval, Internalized Community Storage will be examined more closely for reasonable compatibility and held to a higher standard than by-right uses within the C-O district.

Sincerely,



Carolyn Oberholtzer

Enclosures (resulting legislative edit to Table 11.201A)

Sec. 11.201. Use regulations.

- A. *Permitted uses.* The uses allowed in certain zoning districts are shown in Table 11.201.A., subject to the limitations as listed. Buildings, structures, or premises shall be used and buildings and structures shall hereafter be erected, altered, or enlarged only for uses noted.
- B. *Uses permitted by conditional use permit.* The uses allowed by conditional use permit in certain zoning districts are shown in Table 11.201.A., subject to the limitations as listed, and any additional conditional use permit criteria.
- C. Drive-through and drive-in services are not permitted in the Downtown Area.
- D. Drive-through and drive-in services are not permitted in the Service Residential (S-R) zoning district.

Table 11.201.A. Land Use Table

LAND USES	ZONING DISTRICTS - Permitted (P) or Conditional Use (CU)														
	S-R	C-S	C-1	C-2	C-3	C-4	S-S	C-O	PNC	PCC	PCoC	I-1	I-G	P-1	P-2
Adult uses				CU	CU										
Aeronautical use, except off-airport heliport or helipad												P ¹³			
Amusement and theme parks					CU	CU									
Animal and veterinary hospital								P ⁴							
Appliance sales						P									
Arts and craft production						P							P		
Auction sales					P							CU			
Bar		CU		CU	CU					CU					
Big box		P/CU ⁵		P/CU ⁵	P/CU ⁵	P/CU ⁵				P/CU ⁵					
Bowling alley		P		P	P										
Building material and garden sales						P ¹²	P ¹²								
Bus station, excluding overnight parking and storage of buses				CU	CU										
Carports															P
Carwash		CU	CU	CU	CU	CU			CU	CU	CU				
Civic and social organization				P ¹	P ¹			P ¹		P ¹					
Community buildings and recreational facilities not publicly owned			CU		CU				CU	CU					
Courier and messenger			P	P	P			P	P	P	P	P	P		
Cultural institution				P ¹	P ¹			P ¹		P ¹					

Created: 2023-10-27 10:52:11 [EST]

(Supp. No. 79)

Data processing, hosting and related service												P	P		
Day care center with drop off or outdoor play area farther than 100 feet from a residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹		P ¹	P ¹	P ¹	P ¹	P ¹	P ¹		
Day care center with drop off or outdoor play area within 100 feet of a residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.	CU ¹	CU ¹	CU ¹	CU ¹	CU ¹			CU ¹	CU ¹	CU ¹	CU ¹	CU ¹	CU ¹		
Dwelling	P ¹		P ¹ , 10	P ¹ , 10					P ¹ , 10	P ¹ , 10	P ¹ , 10				
Educational service, elementary and secondary school	P ^{1,2}	P ^{1,2}	P ^{1,2}	P ^{1,2}	P ^{1,2}	P ^{1,2}		P ^{1,2}	P ^{1,2}	P ^{1,2}		CU ^{1,2}	CU ^{1,2}		

Educational service, other than elementary and secondary school	P		P	P	P	P		P	P	P	P	P	P		
Electronic shopping and mail-order service												P	P		
Equipment storage												P			
Equipment sales, rental, and storage					CU	P	P								
Farm supply sales						P									
Financial institution	P	P	P	P	P			P	P	P		P/CU ^{6,14}			
Funeral home and funeral services				CU	CU			CU							
Furniture and home furnishing sales		P	P	P	P	P			P	P		P			
Game center		CU		CU	CU				CU						
Gas station		CU	CU	CU	CU	CU			CU	CU	CU				
General and specialty trade contractors						P	P								
Gun shop				P	P										
Health and fitness studio			P	P	P			P	P	P		P	P		
Hospital								CU ¹							
Industrial launderer												P			
Internalized community storage			P	P	P	P		CU ¹⁶	P	P		P			
Light manufacturing						P						P	P		
Live entertainment		CU	CU	CU	CU				CU	CU					
Marijuana use												CU			
Marijuana use, excluding marijuana cultivation								CU							
Medical and diagnostics laboratory	P	P		P	P			P		P		P	P		

Medical marijuana caregiver cultivation												CU			
Miniature golf course					CU										
Multimedia production with communication tower equal to or less than 100 feet in height						P						P			
Multimedia production with communication tower over 100 feet in height						CU						CU			
Multimedia production without communication tower			P	P	P	P		P	P	P		P	P		
Municipal use	P	P	P	P	P	P	P	P	P	P	P	P	P		
Off-airport heliport or helipad												CU			
Office	P	P	P	P	P			P	P	P	P	P	P		
Outdoor sales display area					CU	CU									
Parking structures															P
Pawnshop				P	P										
Permitted uses of Downtown Overlay (DO), Central Business (C-2), or Highway Commercial (C-3) zoning districts, in a building above ground-level parking															P
Personal care service		P	P	P	P				P	P	P	P ¹⁴			
Place of worship	P ^{1,3}	P ¹	P ¹	P ¹	P ¹			P ¹	P ¹	P ¹		P ¹	P ¹		
Plant nursery		P	P	P	P										
Pool hall				CU	CU										

Public utility buildings, structures or appurtenances thereto for public service uses			CU							CU					
Recyclable material collection center						P								CU	
Refuse enclosures															P
Repair and maintenance					P	P									
Residential health care facility			P ^{1,9}	P ^{1,9}	P ^{1,9}			P ^{1,9}	P ^{1,9}	P ^{1,9}					
Restaurant, excluding drive-through restaurant and excluding drive-in restaurant		P	P	P	P				P	P	P	P			
Restaurant, including drive-through restaurant but excluding drive-in restaurant		P	P	P					P	P					
Restaurant, including drive-through restaurant and including drive-in restaurant		CU			P							CU ¹⁴			
Restoration service												P			
Retail		P	P	P	P				P	P	P				
Scenic and sightseeing transportation												P			
Scientific research and development						P		CU				P	P		
Seasonal art festival				CU	CU	CU				CU					
Sports arena					CU ¹										
Storage buildings															P ¹⁵
Surface parking lots														P	P

Swimming pool sales, including display pools only and including construction equipment storage yard						P									
Swimming pool sales, including display pools only, but excluding construction equipment storage yard					P	P									
Taxi and limousine service												P			
Teen dance center				CU	CU										
Theater		P ¹		P ¹	P ¹				P ¹	P ¹					
Towing service						CU	CU								
Travel accommodation				P ¹	P ¹					P ¹					
Utility service yard						P	P					CU			
Vehicle emissions testing facility						P						P			
Vehicle leasing, rental or sales with indoor or outdoor vehicle display and storage				CU		P				CU					
Vehicle leasing, rental or sales with indoor vehicle display and storage located in an enclosed building		P ⁷			P ⁷	P ⁷				CU ⁷					
Vehicle leasing, rental or sales with outdoor vehicle display and storage located more than 150 feet from a residential district shown on Table 4.100.A., or the residential portion of a		P			P										

Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., measured from the property boundary to the zoning district line all within the City limits															
Vehicle leasing, rental or sales with outdoor vehicle display and storage located 150 feet or less from a residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., measured from the property boundary to the zoning district line all within the City limits		CU			CU										
Vehicle repair				CU		P ⁸				CU					
Vehicle repair, located more than 150 feet from a residential district shown		P ⁸			P ⁸										

on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., measured from the property boundary to the zoning district line all within the City limits															
Vehicle repair, located 150 feet or less from a residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., measured from the property boundary to the zoning district line all within the City limits		CU			CU										
Vehicle storage adjacent to residential districts					CU ¹¹	P ¹¹						CU ¹¹			

Vehicle storage not adjacent to residential districts					CU ¹¹	P ¹¹						P ¹¹			
Veterinary and pet care service	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴			P ⁴	P ⁴	P ⁴				
Wholesale, warehouse and distribution					P	P						P	P		
Wireless communications facility, Type 1, 2, and 3	P	P	P	P	P	P	P	P	P	P	P	P	P		
Wireless communications facility, Type 4	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU		

Use Limitations:

- (1) Uses are allowed except in the AC-3 area as described in the City's procedures for development near the Scottsdale Airport and Chapter 5 of the Scottsdale Revised Code, as amended.
- (2) Educational services, elementary and secondary school, are subject to the following standards:
 - a. The facility shall be located not less than five hundred (500) feet from any adult use, except for a facility located within the S-R zoning district, which shall be located not less than 1,320 feet from any adult use.
 - b. Net lot area. Minimum: 43,000 square feet.
 - c. The facility shall not have outdoor speaker systems or bells.
 - d. Outdoor playgrounds and recreation areas shall be:
 - i. Located not less than 50 feet from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A;
 - ii. Located within the rear or side yard; and
 - iii. Enclosed and screened by a six-foot wall or fence.
 - e. All lighting adjacent to residential districts shall be set back a minimum of thirty (30) feet from the property line.
 - f. A minimum twenty-four (24) foot setback shall be provided and maintained where parking is adjacent to a residential district.
 - g. A drop-off area accommodating a minimum of five (5) vehicles shall be located along a sidewalk or landing area connected to the main entrance to the facility. This area shall not include internal site traffic aisles, parking spaces, or fire lanes.
 - h. Public trails or pedestrian connections shall link to the front door of the main building, subject to Development Review Board approval.
 - i. The circulation plan shall show minimal conflicts among the student drop-off area, any vehicle drop-off area, parking, access driveways, pedestrian and bicycle paths on site.
 - j. Facilities located in the AC-2 area, described in the City's procedures for development near the Scottsdale Airport and Chapter 5 of the Scottsdale Revised Code, as amended, shall be constructed with sound transmission requirements of the International Building Code (IBC). In the I-1 and I-G zoning districts, facilities shall be constructed with sound attenuation measures to reduce outdoor to indoor noise by a minimum of twenty-five (25) decibels. Compliance with the noise attenuation measures set forth in Appendix F to FAA Part 150 Noise Compatibility Study Section 4.00 is deemed compliance with this requirement.
- (3) Places of worship are subject to the following standards:
 - a. Net lot area. Minimum: 20,000 square feet.
 - b. Floor area ratio. Maximum: 0.2.
 - c. Building and structure height.
 - i. Building height including mechanical equipment (such equipment shall be screened). Maximum: 30 feet. However:

- (1) Non-habitable steeples, towers and spires that cover a maximum of ten (10) percent of the roof area, maximum: 45 feet.
 - (2) Non-habitable freestanding steeples, towers and spires. Maximum: 45 feet.
 - ii. Building height exceptions contained in Article VII shall not apply.
 - d. Required open space.
 - i. Minimum: 0.24 multiplied by the net lot area.
 - ii. Building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
 - iii. NAOS may be included in the required open space.
 - e. Lighting.
 - i. All pole mounted lighting shall be shielded, directed downward and a maximum of sixteen (16) feet in height.
 - ii. All lighting adjacent to residential districts shall be set back a minimum of thirty (30) feet from the property line.
 - iii. All lighting, other than security lighting, shall not be operated between 10:00 p.m. and 6:00 a.m.
 - f. Screening. Screening shall be as approved by the Development Review Board.
 - g. Access. All places of worship must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.
 - h. Operations.
 - i. No outdoor activities shall be permitted after 10:00 p.m.
 - ii. The use shall not have outdoor speakers.
- (4) Veterinary and pet care services are permitted if all facilities are within a soundproof building. However, outdoor activities are permitted if:
- a. An employee or pet owner shall accompany an animal at all times when the animal is outside the building.
 - b. The property owner and operator maintain all outdoor areas in a clean and sanitary condition, including immediate and proper disposal of animal waste.
 - c. The outdoor areas are set back at least 100 feet from any lot line abutting a residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., measured from the property boundary to the zoning district line all within the City limits.
 - d. There is no outdoor kennel boarding, except within the C-4 zoning district.
- (5) Big box retail sales are not allowed in the Environmentally Sensitive Lands Overlay District and are subject to a conditional use permit if:
- a. Primary access is from a local residential street, or

- b. Residential property is located within 1,300 feet of the big box property line, except where the residential property is developed with nonresidential uses or separated from the big box by the Loop 101 Pima Freeway.
- (6) Drive-through and drive-in service subject to Conditional Use Permit in I-1 zoning district.
- (7) Vehicle leasing, rental or sales with indoor vehicle display and storage located in an enclosed building is subject to the following standards:
 - a. Required parking shall not be used for vehicle storage or display.
 - b. None of the above criteria shall prohibit the Development Review Board from considering an application to reconstruct or remodel an existing vehicle leasing, rental or sales with indoor vehicle display and storage located in an enclosed building facility.
- (8) The vehicle repair use is subject to the following standards:
 - a. All repairs shall be performed within an enclosed building, except vehicle repair facilities located in the C-4 zoning district.
 - b. Vehicles may only enter the rear of the building, except vehicles may enter the side of the building if the lot is:
 - i. A corner lot,
 - ii. A lot abutting a residential district shown on Table 4.100.A.,
 - iii. A lot abutting the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., or
 - iv. Separated by an alley from one (1) of the districts set forth in subsection b.ii. or b.iii. above.
 - c. If the lots meets any requirement of subsection b. above, and side entry bays are proposed, the side entry repair bays shall be screened from street views by solid masonry walls, and the landscape plan shall demonstrate to the Development Review Board's satisfaction, that the proposed screening does not impact the streetscape by exposing repair bays, unassembled vehicles, vehicle repair activities, or vehicle parts.
 - d. All vehicles awaiting repair shall be screened from view by a masonry wall or landscape screen.
 - e. Required parking shall not be used for vehicle storage.
 - f. None of the above criteria shall prohibit the Development Review Board from considering an application to reconstruct or remodel an existing vehicle repair facility.
- (9) Residential health care facilities are permitted subject to the following:
 - a. Within the PNC zoning district: site size shall not exceed forty (40) percent of the Development Plan.
 - b. Within the PCC zoning district: site size shall not exceed thirty-five (35) percent of the Development Plan.
 - c. Specialized residential health care facilities.
 - i. The number of beds shall not exceed eighty (80) per acre of gross lot area.
 - d. Minimal residential health care facilities.
 - i. The gross lot area shall not be less than one (1) acre.

- ii. The number of units shall not exceed forty (40) dwelling units per acre of gross lot area.
 - e. Required open space.
 - i. Minimum open space: 0.24 multiplied by the net lot area distributed as follows.
 - (1) Frontage open space minimum: 0.50 multiplied by the total open space, except as follows:
 - (a) Minimum: Twenty (20) square feet per one (1) linear foot of public street frontage.
 - (b) Not required to exceed fifty (50) square feet per one (1) linear foot of public street frontage.
 - (2) The remainder of the minimum open space, less the frontage open space, shall be provided as common open space.
 - f. The site shall be designed, to the maximum extent feasible, so that on-site parking is oriented to the building(s) to provide convenient pedestrian access for residents, guests, and visitors.
 - (10) Dwelling units permitted subject to the following:
 - a. Dwelling units shall be physically integrated with commercial establishments.
 - b. Limited to one (1) dwelling unit per each business establishment. The dwelling unit limitation of one (1) dwelling unit per each business establishment does not apply to property in the PNC zoning district, the PCC zoning district, or the Downtown Area.
 - (11) Vehicle storage facilities may include an apartment/office for on-site supervision but no vehicle shall be used as a dwelling, even temporarily.
 - (12) Excludes concrete mixing/manufacturing.
 - (13) Aeronautical uses are subject to Chapter 5 of the Scottsdale Revised Code.
 - (14) Uses that are not accessory uses shall front on a major collector or higher street classification.
 - (15) Subject to Zoning Administrator's approval and if the storage building meets the following requirements:
 - a. Is smaller than five hundred (500) square feet, and
 - b. Occupies an area unusable as a parking space.
 - (16) Internalized Community Storage uses permitted within buildings previously issued a certificate of occupancy for an office use are subject to the Section 4.100 Conditional Use Permit process and the following requirements:
 - a. Net lot area. Maximum: No more than 10 acres
 - b. Height. Buildings shall be no more than 36' in height
 - c. Non-conditioned, drive-up units shall be limited to a maximum of 30% compared to the permitted floor area of the office building
 - b. Vehicle storage is permitted as accessory provided passenger vehicles are screened within a parking structure
- (Ord. No. 4404, § 1(Res. No. 11515, § 1(Exh. A, § 3)), 6-25-19; Ord. No. 4503, § 1(Res. No. 12191, § 1, Exh. 1), 6-8-21)