

Senate Engrossed House Bill

~~adaptive reuse; commercial buildings; zoning~~
~~(now: zoning; adaptive reuse; commercial buildings)~~
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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 COMMERCIALLY 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.