

ARIZONA STATE SENATE

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TO: MEMBERS OF THE SENATE
FINANCE AND COMMERCE COMMITTEE

DATE: March 14, 2024

SUBJECT: Strike everything amendment to H.B. 2297, relating to commercial buildings; adaptive reuse

Purpose

Requires certain municipalities to establish objective standards to allow multifamily residential development or adaptive reuse development on up to 10 percent of the total existing commercial, office or mixed use buildings.

Background

Statute authorizes municipalities to adopt zoning ordinances and codes to conserve and promote the public health, safety, convenience and general welfare. A municipality may: 1) regulate the use of buildings, structures and land between agriculture residence, industry and business; 2) regulate the location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts and other open spaces, the percentage of a lot that may be occupied by a building or structure, access to incident solar energy and the intensity of land use; 3) establish requirements for off-street parking and loading; 4) establish and maintain building setback lines; and 5) establish floodplain and age-specific community zoning districts and districts of historical significance. ([A.R.S. § 9-462.01](#)).

The governing body of a municipality must adopt by ordinance a citizen review process that applies to all rezoning and specific plan applications that require a public hearing. The citizen review process must include at least: 1) notifying adjacent landowners and other potentially affected citizens of the application; 2) informing adjacent landowners and other potentially affected citizens on the substance of the proposed rezoning; and 3) providing adjacent landowners and other potentially affected citizen an opportunity to express any issues or concerns regarding the rezoning. Any zoning ordinances that propose to change property from one zone to another, that imposes any regulation not previously imposed or that removes any such regulation previously imposed must be adopted following procedures in accordance with the citizen review process and in the manner set for public hearings ([A.R.S. § 9-462.03](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires, before January 2, 2025, the governing body of a municipality with a population of 150,000 or more persons to establish objective standards to allow multifamily residential development or adaptive reuse on not more than 10 percent of the total existing commercial, office or mixed use buildings within the municipality as of the most recent general plan without requiring:
 - a) a conditional use permit;
 - b) a planned unit development or rezoning application; or

- c) any other application that would require a public hearing.
2. Allows a municipality to designate commercial or employment hubs and other essential commercial or employment use areas where existing commercial, office, employment or mixed use buildings are excluded.
3. Specifies that the designations may not exceed ten percent of the existing commercial, office, employment or mixed use buildings within the municipality based on the most recently approved general plan.
4. Limits, for multifamily residential development or adaptive reuse, the objective standards established by a municipality to the following requirements:
 - a) a municipal site plan review and approval process requirement, including site plan review by any utility provider impacted by the proposed development;
 - b) adequate public sewer and water service for the entire proposed development;
 - c) compliance with all applicable building and fire codes;
 - d) that the existing buildings are economically or functionally obsolete;
 - e) that the existing buildings are located on a parcel or parcels that are at least 1 acre in size but not more than 20 acres in size; and
 - f) a set aside of 10 percent of the total dwelling units for either moderate-income housing or low-income housing or any combination of the two, or more than 10 percent at the developer's sole discretion.
5. Prohibits the objective standards from containing parking space requirements that exceed the parking requirements that apply to multifamily residential buildings or adaptive reuse buildings under the existing zoning code unless the proposed multifamily residential development or adaptive reuse also qualifies as a mixed use development.
6. Stipulates that for a multifamily residential development, the following apply:
 - a) the demolition of all or a portion of the existing commercial, office or mixed use buildings must be allowed;
 - b) setback requirements may not exceed what is required in the existing zoning code for multifamily residential buildings;
 - c) the maximum height and density must be equal to the highest allowable multifamily height and density for a multifamily zoning district in the municipality within one mile of the building to be redeveloped;
 - d) if there is no multifamily zoning district in the municipality within one mile of the building to be redeveloped, the maximum height and density must be equivalent to the next closest multifamily zoning district; and
 - e) the allowable height may not exceed five stories and a municipality may limit the height to two stories in the areas of a site within 100 feet of single-family residential zones.
7. Specifies that multifamily residential development that is constructed pursuant to the multifamily residential or adaptive reuse development requirements does not qualify as being within one mile of the building being redeveloped or the next closest multifamily building.
8. Stipulates that, for adaptive reuse, the following apply:
 - a) the demolition of a portion of the existing commercial, office or mixed use building or buildings must be allowed;

- b) the setback requirements for the proposed use must apply;
 - c) if the minimum setback requirement that applies to the existing commercial, office or mixed use building is less than the minimum setback requirement that applies to the proposed use, the existing building must be considered nonconforming for setback purposes unless easements, including public utility easements, are located within setback areas;
 - d) if the maximum allowable height that applies to the existing commercial, office or mixed use building exceeds the maximum allowable height for the proposed use, the existing height may remain and must be considered nonconforming for height purposes and the existing building may be expanded to the maximum allowable density for the proposed use; and
 - e) any rooftop appurtenances must be included within the height exemption.
9. Exempts, from the multifamily residential or adaptive reuse development requirements:
- a) land in an area that is designated as a district of historical significance;
 - b) land in an area that is designated historic by a local government;
 - c) land in an area that is designated as historic on the National Register of Historic Places;
 - d) land in the vicinity of a military airport or ancillary military facility;
 - e) land in the vicinity of a federal aviation administration commercially licensed airport or a general aviation or public airport; or
 - f) land in a municipality that is located on tribal land.
10. Defines *adaptive reuse* as converting an existing building from the use for which it was constructed to a new use by maintaining some or all of the elements of the building.
11. Defines *building code* as the construction codes that were in force at time of building construction, including plumbing and mechanical codes, electric codes, residential construction codes, energy conservation codes and existing building construction codes, and includes any property maintenance codes, neighborhood preservation codes, anti-bligh codes or other similar codes, however denominated.
12. Defines *economically or functionally obsolete* as the commercial, office or mixed use building is in a state of disrepair or has a 50 percent vacancy in the total leasable square footage.
13. Defines *low-income housing* as housing:
- a) for a person or persons whose household income does not exceed 80 percent of the area median income; and
 - b) for which the occupant pays not more than 30 percent of the occupant's gross income for the occupant's rent or mortgage, as determined by the Arizona Department of Housing and adjusted for household size based on the United States Department of Housing and Urban Development.
14. Defines *moderate-income housing* as housing:
- a) for a person or persons whose household income does not exceed 120 percent of the area median income; and
 - b) for which the occupant pays not more than 30 percent of the occupant's gross income for the occupant's rent or mortgage, as determined by the Arizona Department of Housing and adjusted for household size based on the United States Department of Housing and Urban Development.

15. Defines *multifamily residential development* as a building or buildings that are designed and used for residential purposes and that contain more than one apartment or dwelling unit for sale or for rent but that are not adaptive reuse.
16. Defines *nonconforming* as structures that have received building and zoning permits under the regulations in place at the time of construction.
17. Defines *rooftop appurtenances* as:
 - a) rooftop structures that principally house air conditioning equipment, solar panels, utilities, elevators, other energy production facilities and other nonhabitable structures;
 - b) including open space features, swimming pools, space for use by residents and landscaping; and
 - c) excluding enclosed areas, spires, bell towers, domes, cupolas, pediments, obelisks or monuments.
18. Becomes effective of the general effective date.