

House Engrossed

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

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2297

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-462.10; RELATING TO PLANNING AND 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; adaptive reuse; prohibition
5 on rezoning or municipal review; applicability;
6 definitions

7 A. ON OR BEFORE JANUARY 1, 2025, THE GOVERNING BODY OF A
8 MUNICIPALITY WITH A POPULATION OF ONE HUNDRED THOUSAND OR MORE PERSONS
9 SHALL ALLOW MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE
10 DEVELOPMENT OF ANY COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHOUT
11 REQUIRING A CONDITIONAL USE PERMIT, PLANNING UNIT DEVELOPMENT, REZONING
12 APPLICATION OR OTHER DISCRETIONARY MUNICIPAL REVIEW.

13 B. A DEVELOPMENT THAT IS DEVELOPED PURSUANT TO THIS SECTION IS
14 SUBJECT TO SITE PLAN REVIEW AND APPROVAL. THE SITE PLAN REVIEW AND
15 APPROVAL SHALL INCLUDE APPROVAL OF THE SITE PLAN BY ANY UTILITY PROVIDER
16 IMPACTED BY THE PROPOSED DEVELOPMENT.

17 C. TO BE ELIGIBLE FOR REDEVELOPMENT AS A MULTIFAMILY RESIDENTIAL
18 DEVELOPMENT OR ADAPTIVE REUSE, A BUILDING MUST HAVE ACCESS TO PUBLIC SEWER
19 AND WATER SERVICE FOR THE ENTIRE PROPOSED DEVELOPMENT AND SHALL COMPLY
20 WITH ALL APPLICABLE BUILDING AND FIRE CODES.

21 D. THE RESIDENTIAL DENSITY SHALL BE THE MAXIMUM RESIDENTIAL DENSITY
22 ALLOWED UNDER THE ZONING ORDINANCE.

23 E. THE MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE
24 DEVELOPMENT MAY NOT BE SUBJECT TO THE ENFORCEMENT OF ANY REGULATION THAT
25 EXCEEDS EXISTING ZONING ORDINANCE SETBACK REQUIREMENTS FOR MULTIFAMILY
26 RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE. FOR ADAPTIVE REUSE, THE
27 EXISTING SETBACKS MAY REMAIN. IF THE EXISTING ZONING ORDINANCE SETBACK
28 REQUIREMENT IS LESS THAN WHAT IS ALLOWED FOR MULTIFAMILY RESIDENTIAL
29 DEVELOPMENT OR ADAPTIVE REUSE, THE PROPERTY SHALL BE CONSIDERED
30 NONCONFORMING UNLESS EXISTING EASEMENTS, INCLUDING PUBLIC UTILITY
31 EASEMENTS, ARE WITHIN EXISTING SETBACK AREAS.

32 F. THE MULTIFAMILY RESIDENTIAL DEVELOPMENT MAY ALLOW FOR THE
33 DEMOLITION OF ALL OR A PORTION OF THE EXISTING BUILDING OR BUILDINGS.

34 G. FOR ADAPTIVE REUSE, IF THE HEIGHT OF THE EXISTING COMMERCIAL
35 OFFICE OR MIXED USE BUILDING EXCEEDS THE MAXIMUM HEIGHT IN THE ZONING
36 ORDINANCE, THE HEIGHT MAY REMAIN AND THE MAXIMUM DENSITY MAY BE EXCEEDED
37 AND SHALL BE CONSIDERED NONCONFORMING. ANY ROOFTOP CONSTRUCTION SHALL BE
38 INCLUDED WITHIN THE HEIGHT EXEMPTION.

39 H. THE MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE
40 DEVELOPMENT OF ANY COMMERCIAL OFFICE OR MIXED USE BUILDING SHALL PROVIDE A
41 MINIMUM SET ASIDE OF AT LEAST TEN PERCENT DESIGNATED FOR EITHER
42 MODERATE-INCOME HOUSING OR LOW-INCOME HOUSING OR ANY COMBINATION OF BOTH
43 MODERATE-INCOME HOUSING AND LOW-INCOME HOUSING.

44 I. THE MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE
45 DEVELOPMENT MAY NOT BE SUBJECT TO ENFORCEMENT OF ANY REGULATION THAT

1 EXCEEDS EXISTING PARKING SPACE REQUIREMENTS BEYOND WHAT IS REQUIRED IN THE
2 EXISTING ZONING ORDINANCE FOR MULTIFAMILY RESIDENTIAL DEVELOPMENT OR
3 ADAPTIVE REUSE DEVELOPMENT.

4 J. THIS SECTION DOES NOT APPLY TO ANY LAND IN AN AREA THAT IS
5 DESIGNATED AS A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION
6 9-462.01, SUBSECTION A, PARAGRAPH 10, IN AN AREA THAT IS DESIGNATED AS
7 HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES, IN THE IMMEDIATE
8 VICINITY OF A MUNICIPAL, FEDERAL AVIATION ADMINISTRATION COMMERCIAL
9 LICENSED, GENERAL AVIATION OR MILITARY AIRPORT OR ANCILLARY MILITARY
10 FACILITY AS DEFINED IN SECTION 28-8461 OR IN A MUNICIPALITY THAT IS
11 LOCATED ON TRIBAL LAND.

12 K. A MUNICIPALITY MAY DESIGNATE COMMERCIAL HUBS AND OTHER ESSENTIAL
13 COMMERCIAL USE AREAS WHERE COMMERCIAL, OFFICE AND MIXED USE BUILDINGS ARE
14 EXCLUDED FROM MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE
15 REDEVELOPMENT. THE DESIGNATIONS MAY NOT EXCEED TEN PERCENT OF THE
16 EXISTING COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHIN EACH
17 MUNICIPALITY.

18 L. MULTIFAMILY RESIDENTIAL DEVELOPMENTS OR ADAPTIVE REUSE
19 DEVELOPMENTS SHALL BE ALLOWED ON AT LEAST TEN PERCENT OF THE EXISTING
20 COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHIN EACH MUNICIPALITY THAT
21 MEET ALL OF THE FOLLOWING REQUIREMENTS:

22 1. THE COMMERCIAL, OFFICE OR MIXED USE BUILDINGS ARE ECONOMICALLY
23 OR FUNCTIONALLY OBSOLETE OR IN A STATE OF DISREPAIR OR HAVE AT LEAST A
24 FIFTY PERCENT VACANCY OF THE TOTAL LEASABLE SQUARE FOOTAGE, OR THE HIGHEST
25 AND BEST USE OF THE BUILDINGS IS IN CONVERSION TO A MULTIFAMILY
26 RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE AT THE TIME OF SITE PLAN
27 APPLICATION.

28 2. THE COMMERCIAL, OFFICE OR MIXED USE BUILDINGS ARE ON A PARCEL OR
29 PARCELS THAT ARE AT LEAST ONE ACRE BUT NOT MORE THAN THIRTY ACRES.

30 3. THE PROPERTY VALUE A YEAR AFTER A CERTIFICATE OF OCCUPANCY WILL
31 BE ISSUED IS ESTIMATED TO BE AT LEAST FIFTEEN PERCENT HIGHER THAN THE
32 PROPERTY VALUE AT THE TIME OF SITE PLAN APPLICATION.

33 M. FOR THE PURPOSES OF THIS SECTION:

34 1. "ADAPTIVE REUSE" MEANS CONVERTING AN EXISTING STRUCTURE FROM THE
35 USE FOR WHICH IT WAS CONSTRUCTED TO A NEW USE BY MAINTAINING SOME OR ALL
36 OF THE ELEMENTS OF THE STRUCTURE.

37 2. "BUILDING CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
38 9-1301.

39 3. "LOW-INCOME HOUSING" MEANS HOUSING:

40 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
41 EIGHTY PERCENT OF THE AREA MEDIAN INCOME.

42 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
43 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
44 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
45 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

1 4. "MAXIMUM RESIDENTIAL DENSITY" MEANS A RESIDENTIAL DENSITY
2 DEVELOPMENT THAT IS EQUAL TO THE MAXIMUM RESIDENTIAL DENSITY ALLOWED UNDER
3 THE LOCAL GENERAL PLAN OR MUNICIPAL ZONING ORDINANCES.

4 5. "MODERATE-INCOME HOUSING" MEANS HOUSING:

5 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
6 ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.

7 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
8 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
9 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
10 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

11 6. "MULTIFAMILY RESIDENTIAL DEVELOPMENT" MEANS A BUILDING OR
12 BUILDINGS THAT ARE DESIGNED AND USED FOR RESIDENTIAL PURPOSES AND THAT
13 CONTAIN MORE THAN ONE APARTMENT OR DWELLING UNIT FOR SALE OR FOR RENT.

14 7. "NONCONFORMING" MEANS STRUCTURES THAT HAVE RECEIVED BUILDING AND
15 ZONING PERMITS UNDER THE REGULATIONS IN PLACE AT THE TIME OF CONSTRUCTION.

16 8. "ROOFTOP CONSTRUCTION":

17 (a) MEANS ROOFTOP STRUCTURES THAT PRINCIPALLY HOUSE AIR
18 CONDITIONING EQUIPMENT, SOLAR PANELS AND OTHER ENERGY PRODUCTION
19 FACILITIES.

20 (b) INCLUDES OPEN SPACE FEATURES, SWIMMING POOLS, SPACE FOR USE BY
21 RESIDENTS AND LANDSCAPING.

22 (c) DOES NOT INCLUDE DECORATIVE FEATURES, SPIRES, BELL TOWERS,
23 DOMES, CUPOLAS, PEDIMENTS, OBELISKS OR MONUMENTS.