

Senate Engrossed House Bill

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

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 COMMERCIALY 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.