

PROPOSED  
SENATE AMENDMENTS TO S.B. 1634  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 9-462.01, Arizona Revised Statutes, is amended  
3 to read:

4 9-462.01. Zoning regulations; public hearing; definitions

5 A. Pursuant to this article, the legislative body of any  
6 municipality by ordinance, in order to conserve and promote the public  
7 health, safety and general welfare, may:

8 1. Regulate the use of buildings, structures and land as between  
9 agriculture, residence, industry, business and other purposes.

10 2. Regulate signs and billboards.

11 3. Regulate the location, height, bulk, number of stories and size  
12 of buildings and structures, the size and use of lots, yards, courts and  
13 other open spaces, the percentage of a lot that may be occupied by a  
14 building or structure, access to incident solar energy and the intensity of  
15 land use.

16 4. Establish requirements for off-street parking and loading.

17 5. Establish and maintain building setback lines.

18 6. Create civic districts around civic centers, public parks, public  
19 buildings or public grounds and establish regulations for the civic  
20 districts.

21 7. Require as a condition of rezoning public dedication of  
22 rights-of-way as streets, alleys, public ways, drainage and public

1 utilities as are reasonably required by or related to the effect of the  
2 rezoning.

3 8. Establish floodplain zoning districts and regulations to protect  
4 life and property from the hazards of periodic inundation. Regulations may  
5 include variable lot sizes, special grading or drainage requirements, or  
6 other requirements deemed necessary for the public health, safety or  
7 general welfare.

8 9. Establish special zoning districts or regulations for certain  
9 lands characterized by adverse topography, adverse soils, subsidence of the  
10 earth, high water table, lack of water or other natural or man-made hazards  
11 to life or property. Regulations may include variable lot sizes, special  
12 grading or drainage requirements, or other requirements deemed necessary  
13 for the public health, safety or general welfare.

14 10. Establish districts of historical significance provided that:

15 (a) The ordinances may require that special permission be obtained  
16 for any development within the district if the legislative body has adopted  
17 a plan for the preservation of districts of historical significance that  
18 meets the requirements of subdivision (b) of this paragraph, and the  
19 criteria contained in the ordinance are consistent with the objectives set  
20 forth in the plan.

21 (b) A plan for the preservation of districts of historical  
22 significance shall identify districts of special historical significance,  
23 state the objectives to be sought concerning the development or  
24 preservation of sites, area and structures within the district, and  
25 formulate a program for public action, including providing public  
26 facilities and regulating private development and demolition necessary to  
27 realize these objectives.

28 (c) The ordinance establishing districts of historical significance  
29 shall set forth standards necessary to preserve the historical character of  
30 the area so designated.

31 (d) The ordinances may designate or authorize any committee,  
32 commission, department or person to designate structures or sites of

1 special historical significance in accordance with criteria contained in  
2 the ordinance, and no designation shall be made except after a public  
3 hearing on notice of the owners of record of the property designated of  
4 special historical significance. The ordinances may require that special  
5 permission be obtained for any development respecting the structures or  
6 sites.

7 11. Establish age-specific community zoning districts in which  
8 residency is restricted to a head of a household or spouse who must be of a  
9 specific age or older and in which minors are prohibited from living in the  
10 home. Age-specific community zoning districts shall not be overlaid over  
11 property without the permission of all owners of property included as part  
12 of the district unless all of the property in the district has been  
13 developed, advertised and sold or rented under specific age restrictions.  
14 The establishment of age-specific community zoning districts is subject to  
15 all of the public notice requirements and other procedures prescribed by  
16 this article.

17 12. Establish procedures, methods and standards for the transfer of  
18 development rights within its jurisdiction. Any proposed transfer of  
19 development rights from the sending property or to the receiving property  
20 shall be subject to the notice and hearing requirements of section 9-462.04  
21 and shall be subject to the approval and consent of the property owners of  
22 both the sending and receiving property. Before any transfer of  
23 development rights, a municipality shall adopt an ordinance providing for:

24 (a) The issuance and recordation of the instruments necessary to  
25 sever development rights from the sending property and to affix development  
26 rights to the receiving property. These instruments shall be executed by  
27 the affected property owners and lienholders.

28 (b) The preservation of the character of the sending property and  
29 assurance that the prohibitions against the use and development of the  
30 sending property shall bind the landowner and every successor in interest  
31 to the landowner.

1 (c) The severance of transferable development rights from the  
2 sending property and the delayed transfer of development rights to a  
3 receiving property.

4 (d) The purchase, sale, exchange or other conveyance of transferable  
5 development rights before the rights being affixed to a receiving property.

6 (e) A system for monitoring the severance, ownership, assignment and  
7 transfer of transferable development rights.

8 (f) The right of a municipality to purchase development rights and  
9 to hold them for resale.

10 (g) The right of a municipality at its discretion to enter into an  
11 intergovernmental agreement with another municipality or a county for the  
12 transfer of development rights between jurisdictions. The transfer shall  
13 comply with this paragraph, except that if the sending property is located  
14 in an unincorporated area of a county, the approval of the development  
15 rights to be sent to a municipality shall comply with section 11-817.

16 B. For the purposes of subsection A of this section, the legislative  
17 body may divide a municipality, or portion of a municipality, into zones of  
18 the number, shape and area it deems best suited to carry out the purpose of  
19 this article and articles 6, 6.2 and 6.3 of this chapter.

20 C. All zoning regulations shall be uniform for each class or kind of  
21 building or use of land throughout each zone, but the regulations in one  
22 type of zone may differ from those in other types of zones as follows:

23 1. Within individual zones, there may be uses permitted on a  
24 conditional basis under which additional requirements must be met,  
25 including requiring site plan review and approval by the planning agency.  
26 The conditional uses are generally characterized by any of the following:

- 27 (a) Infrequency of use.
- 28 (b) High degree of traffic generation.
- 29 (c) Requirement of large land area.

30 2. Within residential zones, the regulations may ~~permit~~ ALLOW  
31 modifications to minimum yard lot area and height requirements.

1           3. THE REGULATIONS MAY PROVIDE INCENTIVES TO PROMOTE THE  
2 CONSTRUCTION OF AFFORDABLE HOUSING AS PRESCRIBED IN SECTION 9-500.48.

3           D. To carry out the purposes of this article and articles 6 and 6.2  
4 of this chapter, the legislative body may adopt overlay zoning districts  
5 and regulations applicable to particular buildings, structures and land  
6 within individual zones. For the purposes of this subsection, "overlay  
7 zoning district" means a special zoning district that includes regulations  
8 that modify regulations in another zoning district with which the overlay  
9 zoning district is combined. Overlay zoning districts and regulations  
10 shall be adopted pursuant to section 9-462.04.

11           E. The legislative body may approve a change of zone conditioned on  
12 a schedule for development of the specific use or uses for which rezoning  
13 is requested. If, at the expiration of this period, the property has not  
14 been improved for the use for which it was conditionally approved, the  
15 legislative body, after notification by certified mail to the owner and  
16 applicant who requested the rezoning, shall schedule a public hearing to  
17 take administrative action to extend, remove or determine compliance with  
18 the schedule for development or take legislative action to cause the  
19 property to revert to its former zoning classification.

20           F. All zoning and rezoning ordinances or regulations adopted under  
21 this article shall be consistent with and conform to the adopted general  
22 plan of the municipality, if any, as adopted under article 6 of this  
23 chapter. In the case of uncertainty in construing or applying the  
24 conformity of any part of a proposed rezoning ordinance to the adopted  
25 general plan of the municipality, the ordinance shall be construed in a  
26 manner that will further the implementation of, and not be contrary to, the  
27 goals, policies and applicable elements of the general plan. A rezoning  
28 ordinance conforms with the land use element of the general plan if it  
29 proposes land uses, densities or intensities within the range of identified  
30 uses, densities and intensities of the land use element of the general  
31 plan.

1           G. A regulation or ordinance under this section may not prevent or  
2 restrict agricultural composting on farmland that is five or more  
3 contiguous acres and that meets the requirements of this subsection. An  
4 agricultural composting operation shall notify in writing the legislative  
5 body of the municipality and the nearest fire department of the location of  
6 the composting operation. If the nearest fire department is located in a  
7 different municipality from the agricultural composting operation, the  
8 agricultural composting operation shall also notify in writing the fire  
9 department of the municipality in which the operation is located.  
10 Agricultural composting is subject to sections 3-112 and 49-141.  
11 Agricultural composting may not be conducted within one thousand three  
12 hundred twenty feet of an existing residential use, unless the operations  
13 are conducted on farmland or land leased in association with farmland. Any  
14 disposal of manure shall comply with section 49-247. For the purposes of  
15 this subsection:

16           1. "Agricultural composting" means the controlled biological  
17 decomposition of organic solid waste under in-vessel anaerobic or aerobic  
18 conditions where all or part of the materials are generated on the farmland  
19 or will be used on the farmland associated with the agricultural composting  
20 operation.

21           2. "Farmland" has the same meaning prescribed in section 3-111 and  
22 is subject to regulation under section 49-247.

23           H. A municipality may not adopt a land use regulation or impose any  
24 condition for ~~issuance of~~ ISSUING a building or use permit or other  
25 approval that violates section 9-461.16.

26           I. In accordance with article II, sections 1 and 2, Constitution of  
27 Arizona, the legislative body of a municipality shall consider the  
28 individual property rights and personal liberties of the residents of the  
29 municipality before adopting any zoning ordinance.

30           J. Before adopting any zoning ordinance or zoning ordinance text  
31 amendment of general applicability, the legislative body of a municipality

1 shall consider the probable impact of the proposed zoning ordinance or text  
2 amendment on the cost to construct housing for sale or rent.

3 K. A municipality may not adopt or enforce a land use regulation  
4 that requires the property on which a nongovernmental primary or secondary  
5 school operates to be larger than one acre.

6 L. For the purposes of this section:

7 1. "Development rights" means the maximum development that would be  
8 allowed on the sending property under any general or specific plan and  
9 local zoning ordinance of a municipality in effect on the date the  
10 municipality adopts an ordinance pursuant to subsection A, paragraph 12 of  
11 this section respecting the permissible use, area, bulk or height of  
12 improvements made to the lot or parcel. Development rights may be  
13 calculated and allocated in accordance with factors including dwelling  
14 units, area, floor area, floor area ratio, height limitations, traffic  
15 generation or any other criteria that will quantify a value for the  
16 development rights in a manner that will carry out the objectives of this  
17 section.

18 2. "Receiving property" means a lot or parcel within which  
19 development rights are increased pursuant to a transfer of development  
20 rights. Receiving property shall be appropriate and suitable for  
21 development and shall be sufficient to accommodate the transferable  
22 development rights of the sending property without substantial adverse  
23 environmental, economic or social impact to the receiving property or to  
24 neighboring property.

25 3. "Sending property" means a lot or parcel with special  
26 characteristics, including farmland, woodland, desert land, mountain land,  
27 floodplain, natural habitats, recreation or parkland, including golf course  
28 area, or land that has unique aesthetic, architectural or historic value  
29 that a municipality desires to protect from future development.

30 4. "Transfer of development rights" means the process by which  
31 development rights from a sending property are affixed to one or more  
32 receiving properties.



1           11. ALLOW FOR THE USE OF MOBILE HOMES, MODULAR HOMES OR  
2 PREFABRICATED HOMES IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS.

3           12. ALLOW DUPLEXES AND TRIPLEXES IN SINGLE-FAMILY RESIDENTIAL ZONING  
4 DISTRICTS.

5           13. ALLOW PLANNED UNIT DEVELOPMENTS WITH INTEGRATED AFFORDABLE  
6 HOUSING UNITS.

7           14. FACILITATE PRESERVING OR REHABILITATING EXISTING AFFORDABLE  
8 HOUSING.

9           15. FACILITATE REHABILITATING EXISTING UNINHABITABLE HOUSING STOCK  
10 INTO AFFORDABLE HOUSING.

11           16. IMPLEMENT A VOLUNTARY DEED RESTRICTION PROGRAM TO MAINTAIN AND  
12 SUSTAIN AFFORDABLE HOUSING.

13           17. SUPPORT PROGRAMS TO ASSIST INDIVIDUALS EXPERIENCING  
14 HOMELESSNESS.

15           18. APPLY FOR, OR PARTNER WITH AN ENTITY TO APPLY FOR, STATE OR  
16 FEDERAL MONIES OR PROVIDE INCENTIVES THAT PROMOTE CONSTRUCTING AFFORDABLE  
17 HOUSING.

18           19. PARTICIPATE IN LAND DONATION, LAND ACQUISITION OR LAND TRUST  
19 PROGRAMS.

20           20. ESTABLISH AN AFFORDABLE HOUSING TASK FORCE TO EXPLORE AND  
21 RECOMMEND AFFORDABLE HOUSING SOLUTIONS AND GRANT OR PARTNERSHIP  
22 OPPORTUNITIES.

23           21. IMPLEMENT ADDITIONAL TOOLS THAT PROVIDE NOVEL, CREATIVE OR  
24 INNOVATIVE INCENTIVES FOR DEVELOPING AFFORDABLE HOUSING.

25           22. WAIVE BUILDING PERMIT FEES ASSOCIATED WITH CONSTRUCTING,  
26 RENOVATING OR REHABILITATING AFFORDABLE HOUSING FOR 501(c)(3) NONPROFIT  
27 ORGANIZATIONS WITH A PRIMARY PURPOSE OF ASSISTING WITH PROVIDING AFFORDABLE  
28 HOUSING.

29           B. A MUNICIPALITY WITH A POPULATION OF ONE HUNDRED THOUSAND PERSONS  
30 OR LESS MAY IMPLEMENT THE INCENTIVES PRESCRIBED IN SUBSECTION A OF THIS  
31 SECTION TO INCENTIVIZE AFFORDABLE HOUSING.

1 C. THE GOVERNING BODY OF A MUNICIPALITY WITH A POPULATION OF MORE  
2 THAN ONE HUNDRED THOUSAND PERSONS SHALL ANNUALLY:

3 1. REVIEW THE EXECUTION OF AFFORDABLE HOUSING STRATEGIES BY THE  
4 MUNICIPALITY.

5 2. PREPARE A REPORT ON THE FINDINGS OF THE REVIEW PRESCRIBED IN  
6 PARAGRAPH 1 OF THIS SUBSECTION. THE REPORT SHALL INCLUDE:

7 (a) AN ESTIMATE OR REVISED ESTIMATE OF THE NEED FOR AFFORDABLE  
8 HOUSING IN THE MUNICIPALITY FOR THE NEXT FIVE YEARS.

9 (b) A DESCRIPTION OF PROGRESS MADE WITHIN THE MUNICIPALITY TO  
10 PROVIDE AFFORDABLE HOUSING, DEMONSTRATED BY ANALYZING AND PUBLISHING DATA  
11 ON THE NUMBER OF HOUSING UNITS IN THE MUNICIPALITY THAT ARE AT OR BELOW:

12 (i) EIGHTY PERCENT OF THE ADJUSTED MEDIAN FAMILY INCOME.

13 (ii) FIFTY PERCENT OF THE ADJUSTED MEDIAN FAMILY INCOME.

14 (iii) THIRTY PERCENT OF THE ADJUSTED MEDIAN FAMILY INCOME.

15 (c) A DESCRIPTION OF HOW THE MUNICIPALITY HAS IMPLEMENTED THE  
16 STRATEGIES RELATED TO AFFORDABLE HOUSING PRESCRIBED IN SUBSECTION A OF THIS  
17 SECTION.

18 3. SUBMIT THE REPORT PREPARED PURSUANT TO PARAGRAPH 2 OF THIS  
19 SUBSECTION TO THE ARIZONA DEPARTMENT OF HOUSING.

20 4. POST THE REPORT PREPARED PURSUANT TO PARAGRAPH 2 OF THIS  
21 SUBSECTION ON THE MUNICIPALITY'S WEBSITE.

22 D. FOR THE PURPOSES OF THIS SECTION:

23 1. "ACCESSORY DWELLING UNIT" MEANS A DISTINCT UNIT THAT IS CLEARLY  
24 INDEPENDENT OF A SINGLE-FAMILY RESIDENCE, THAT INCLUDES FACILITIES AND  
25 PROVISIONS FOR INDEPENDENT LIVING, SLEEPING, FOOD PREPARATION AND  
26 SANITATION AND THAT MEETS THE DIMENSIONAL, SAFETY AND INFRASTRUCTURE  
27 CAPACITY REQUIREMENTS OF THE MUNICIPALITY.

28 2. "AFFORDABLE HOUSING" MEANS EITHER OF THE FOLLOWING:

29 (a) OWNER-OCCUPIED HOUSING FOR WHICH THE TOTAL ANNUAL COST OF  
30 OWNERSHIP, INCLUDING PRINCIPAL, INTEREST, TAXES, INSURANCE AND HOMEOWNER  
31 ASSOCIATION FEES, DOES NOT EXCEED THIRTY PERCENT OF THE GROSS ANNUAL INCOME  
32 OF A HOUSEHOLD THAT IS AT EIGHTY PERCENT OF THE AREA MEDIAN INCOME.

1           (b) RENTAL HOUSING FOR WHICH THE TOTAL ANNUAL COST OF HOUSING,  
2           INCLUDING RENT, UTILITIES AND ASSOCIATION FEES, DOES NOT EXCEED THIRTY  
3           PERCENT OF THE GROSS ANNUAL INCOME OF A HOUSEHOLD THAT IS AT EIGHTY PERCENT  
4           OF THE AREA MEDIAN INCOME."  
5 Amend title to conform

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C: LAT