

Senate Engrossed House Bill

~~administrative review; approvals; developments.~~  
(now: housing; zoning; regulation; preemption)

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HOUSE BILL 2536

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.18; AMENDING SECTIONS 9-462.01 AND 9-463.01, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-469; RELATING TO CITIES AND TOWNS.

(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, Arizona Revised Statutes,  
3 is amended by adding section 9-461.18, to read:

4 9-461.18. Residential housing; design standards; prohibition;  
5 applicability; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY MAY NOT ADOPT OR  
7 ENFORCE ANY ORDINANCE, CODE, STANDARD, REGULATION, GUIDELINE, AGREEMENT,  
8 STIPULATION OR OTHER LEGAL REQUIREMENT RELATED TO OR REGULATING  
9 RESIDENTIAL HOUSING DESIGN ELEMENTS. THE MUNICIPALITY MAY NOT WITHHOLD A  
10 BUILDING PERMIT OR OTHER APPROVAL THAT IS NECESSARY AS A CONDITION OF  
11 CONSTRUCTION FOR FAILING TO COMPLY WITH ANY ORDINANCE, CODE, STANDARD,  
12 REGULATION, GUIDELINE, AGREEMENT, STIPULATION OR OTHER LEGAL REQUIREMENT  
13 RELATED TO OR REGULATING RESIDENTIAL HOUSING DESIGN ELEMENTS. A  
14 MUNICIPALITY MAY:

15 1. LIMIT THE NUMBER OF TIMES AN ELEVATION CAN BE BUILT NEXT TO OR  
16 ACROSS FROM THE SAME ELEVATION.

17 2. REGULATE THE HEIGHT OF THE DWELLING PURSUANT TO SECTIONS  
18 9-462.01 AND 9-462.10.

19 3. REGULATE THE LOCATION AND SIZE OF OPEN SPACE TO THE EXTENT  
20 REQUIRED BY THE MUNICIPALITY SOLELY FOR STORMWATER RETENTION AS OF THE  
21 EFFECTIVE DATE OF THIS SECTION AND FOR WATER CONSERVATION.

22 B. ANY APPLICANT FOR AN APPROVAL THAT IS NECESSARY TO OBTAIN A  
23 BUILDING PERMIT TO CONSTRUCT A SINGLE-FAMILY, TWO-FAMILY OR MULTIFAMILY  
24 BUILDING OR ANY HOUSING ORGANIZATION MAY BRING AN ACTION IN SUPERIOR COURT  
25 TO ENFORCE THE REQUIREMENTS OF THIS SECTION.

26 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO ANY ORDINANCE,  
27 CODE, STANDARD, REGULATION, GUIDELINE, AGREEMENT, STIPULATION OR OTHER  
28 LEGAL REQUIREMENT THAT IS:

29 1. A REQUIREMENT OF AN ADOPTED MINIMUM STANDARD BUILDING CODE,  
30 INCLUDING ANY LOCAL AMENDMENTS THAT ARE LESS RESTRICTIVE THAN THE  
31 UNAMENDED MINIMUM STANDARD BUILDING CODE.

32 2. APPLICABLE SOLELY TO STRUCTURES LOCATED IN AN AREA DESIGNATED AS  
33 A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01,  
34 SUBSECTION A, PARAGRAPH 10 OR AN AREA DESIGNATED AS HISTORIC ON THE  
35 NATIONAL REGISTER OF HISTORIC PLACES.

36 3. APPLICABLE SOLELY TO STRUCTURES INDIVIDUALLY DESIGNATED AS  
37 LOCAL, STATE OR NATIONAL HISTORIC LANDMARKS.

38 4. APPLIED TO MANUFACTURED HOMES IN A MANNER CONSISTENT WITH TITLE  
39 41, CHAPTER 37, ARTICLE 3 OR APPLICABLE FEDERAL LAW.

40 5. REQUIRED AS A CONDITION OF PARTICIPATING IN THE NATIONAL FLOOD  
41 INSURANCE PROGRAM.

42 6. A STIPULATION ON A RECORDED SUBDIVISION PLAT ADOPTED BY THE  
43 MUNICIPALITY BEFORE THE EFFECTIVE DATE OF THIS SECTION.

44 7. REQUIRED TO MEET THE SOUND ATTENUATION STANDARDS AS PRESCRIBED  
45 BY SECTION 28-8482.

1 D. THIS SECTION DOES NOT:  
2 1. AFFECT THE VALIDITY OR ENFORCEABILITY OF PRIVATE COVENANTS OR  
3 OTHER CONTRACTUAL ELEMENTS AMONG PROPERTY OWNERS RELATING TO DWELLING  
4 DESIGN ELEMENTS BY PARTIES OTHER THAN THE MUNICIPALITY.  
5 2. APPLY TO A MUNICIPALITY LOCATED ON TRIBAL LAND OR WITH A  
6 POPULATION OF LESS THAN THIRTY THOUSAND PERSONS.  
7 E. FOR THE PURPOSES OF THIS SECTION:  
8 1. "DESIGN ELEMENTS" MEANS:  
9 (a) THE NUMBER AND VARIATIONS OF FLOOR PLANS AND EXTERIOR  
10 ELEVATIONS, INCLUDING THE SELECTION OF THE FLOOR PLAN TO BE BUILT ON EACH  
11 LOT.  
12 (b) THE SIZE AND NUMBER OF STORIES OF THE DWELLING.  
13 (c) THE EXTERIOR BUILDING COLOR AND MATERIALS.  
14 (d) THE TYPE OF STYLE OF EXTERIOR CLADDING MATERIALS.  
15 (e) THE STYLE, MATERIALS, SHAPE, PITCH AND ARTICULATION OF THE ROOF  
16 STRUCTURE.  
17 (f) THE STYLE, MATERIALS, SIZE, SHAPE AND INCLUSION OF PORCHES AND  
18 PATIOS.  
19 (g) THE EXTERIOR NONSTRUCTURAL ARCHITECTURAL ORNAMENTATION.  
20 (h) THE LOCATION, ARCHITECTURAL STYLING, MATERIALS AND SIZES OF  
21 GARAGES, GARAGE DOORS AND DRIVEWAYS.  
22 (i) THE PLACEMENT AND ORIENTATION OF GARAGE DOORS RELATIVE TO THE  
23 FRONT FAÇADE OF THE LIVING SPACE.  
24 (j) THE INTERIOR LAYOUT AND SIZE OF ROOMS, INCLUDING THE INTERIOR  
25 OF THE GARAGE, HALLWAYS AND FLOOR PLANS.  
26 (k) THE LOCATION, SIZE AND DESIGN OF OPEN SPACE AND AMENITIES,  
27 INCLUDING AMENITIES IN COMMON AREAS MAINTAINED BY THE PROPERTY OWNER, AN  
28 ASSOCIATION OR THE MEMBERS OF AN ASSOCIATION.  
29 (l) SIDEWALK PLACEMENT AND DESIGN, INCLUDING REQUIRING DETACHED  
30 SIDEWALKS, EXCEPT AS REQUIRED BY TITLE 41, CHAPTER 9, ARTICLE 8 AND  
31 APPLICABLE FEDERAL LAW.  
32 (m) THE DESIGN, DECORATION AND LANDSCAPING OF THE REAR YARD, SIDE  
33 YARD AND ANY AREA THAT IS NOT VISIBLE OR ACCESSIBLE TO THE PUBLIC.  
34 (n) ANY OTHER ARCHITECTURAL OR AESTHETIC ELEMENT THAT DOES NOT  
35 DIRECTLY AFFECT AN OBJECTIVE AND IDENTIFIED HEALTH OR SAFETY CONDITION.  
36 2. "HOUSING ORGANIZATION" MEANS A TRADE OR INDUSTRY GROUP WHOSE  
37 MEMBERS ARE ENGAGED IN THE DEVELOPMENT OR CONSTRUCTION OF SINGLE-FAMILY,  
38 TWO-FAMILY OR MULTIFAMILY HOUSING UNITS.  
39 3. "MINIMUM STANDARD BUILDING CODE" MEANS AN UNAMENDED MODEL  
40 BUILDING CODE, INCLUDING THE INTERNATIONAL BUILDING CODE AND INTERNATIONAL  
41 RESIDENTIAL CODE, HOWEVER DENOMINATED.  
42 4. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT  
43 BY A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY  
44 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION THAT

1 IS AVAILABLE AND KNOWABLE BY BOTH AN APPLICANT OR PROPONENT AND A  
2 MUNICIPAL EMPLOYEE OR OFFICIAL.

3 5. "RESIDENTIAL HOUSING" MEANS A SINGLE-FAMILY, TWO-FAMILY OR  
4 MULTIFAMILY BUILDING DESIGNED FOR RESIDENTIAL USE AND COMMON AREAS AND  
5 IMPROVEMENTS THAT ARE OWNED OR MAINTAINED BY THE OWNER, A TENANT ON BEHALF  
6 OF THE OWNER, AN ASSOCIATION OR THE MEMBERS OF AN ASSOCIATION.

7 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to  
8 read:

9 9-462.01. Zoning regulations; public hearing; applicability;  
10 definitions

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

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

16 2. Regulate signs and billboards.

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

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

23 5. Establish and maintain building setback lines.

24 6. Create civic districts around civic centers, public parks,  
25 public buildings or public grounds and establish regulations for the civic  
26 districts.

27 7. Require as a condition of rezoning public dedication of  
28 rights-of-way as streets, alleys, public ways, drainage and public  
29 utilities as are reasonably required by or related to the effect of the  
30 rezoning.

31 8. Establish floodplain zoning districts and regulations to protect  
32 life and property from the hazards of periodic inundation. Regulations  
33 may include variable lot sizes, special grading or drainage requirements,  
34 or other requirements deemed necessary for the public health, safety or  
35 general welfare.

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

42 10. Establish districts of historical significance provided that:

43 (a) The ordinances may require that special permission be obtained  
44 for any development within the district if the legislative body has  
45 adopted a plan for the preservation of districts of historical

1 significance that meets the requirements of subdivision (b) of this  
2 paragraph, and the criteria contained in the ordinance are consistent with  
3 the objectives set forth in the plan.

4 (b) A plan for the preservation of districts of historical  
5 significance shall identify districts of special historical significance,  
6 state the objectives to be sought concerning the development or  
7 preservation of sites, area and structures within the district, and  
8 formulate a program for public action, including providing public  
9 facilities and regulating private development and demolition necessary to  
10 realize these objectives.

11 (c) The ordinance establishing districts of historical significance  
12 shall set forth standards necessary to preserve the historical character  
13 of the area so designated.

14 (d) The ordinances may designate or authorize any committee,  
15 commission, department or person to designate structures or sites of  
16 special historical significance in accordance with criteria contained in  
17 the ordinance, and no designation shall be made except after a public  
18 hearing on notice of the owners of record of the property designated of  
19 special historical significance. The ordinances may require that special  
20 permission be obtained for any development respecting the structures or  
21 sites.

22 11. Establish age-specific community zoning districts in which  
23 residency is restricted to a head of a household or spouse who must be of  
24 a specific age or older and in which minors are prohibited from living in  
25 the home. Age-specific community zoning districts shall not be overlaid  
26 over property without the permission of all owners of property included as  
27 part of the district unless all of the property in the district has been  
28 developed, advertised and sold or rented under specific age restrictions.  
29 The establishment of age-specific community zoning districts is subject to  
30 all of the public notice requirements and other procedures prescribed by  
31 this article. **OUTSIDE OF AN AGE-SPECIFIC COMMUNITY ZONING DISTRICT, A  
32 MUNICIPALITY WITH A POPULATION OF MORE THAN THIRTY THOUSAND PERSONS SHALL  
33 ALLOW A SINGLE-ROOM OCCUPANCY TO BE OCCUPIED BY A PERSON WHO IS FIFTY-FIVE  
34 YEARS OF AGE OR OLDER IN OTHER ZONING DISTRICTS AS DETERMINED BY THE  
35 MUNICIPALITY.**

36 12. Establish procedures, methods and standards for the transfer of  
37 development rights within its jurisdiction. Any proposed transfer of  
38 development rights from the sending property or to the receiving property  
39 shall be subject to the notice and hearing requirements of section  
40 9-462.04 and shall be subject to the approval and consent of the property  
41 owners of both the sending and receiving property. Before any transfer of  
42 development rights, a municipality shall adopt an ordinance providing for:

43 (a) The issuance and recordation of the instruments necessary to  
44 sever development rights from the sending property and to affix

1 development rights to the receiving property. These instruments shall be  
2 executed by the affected property owners and lienholders.

3 (b) The preservation of the character of the sending property and  
4 assurance that the prohibitions against the use and development of the  
5 sending property shall bind the landowner and every successor in interest  
6 to the landowner.

7 (c) The severance of transferable development rights from the  
8 sending property and the delayed transfer of development rights to a  
9 receiving property.

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

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

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

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

23 B. For the purposes of subsection A of this section, the  
24 legislative body may divide a municipality, or portion of a municipality,  
25 into zones of the number, shape and area:

26 1. It deems best suited to carry out the purpose of this article  
27 and articles 6, 6.2 and 6.3 of this chapter.

28 2. IN AN EFFORT TO ENSURE AN ADEQUATE SUPPLY OF LAND ZONED FOR  
29 HOUSING FOR THE MUNICIPALITY'S CURRENT AND FUTURE RESIDENTS.

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

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

37 (a) Infrequency of use.

38 (b) High degree of traffic generation.

39 (c) Requirement of large land area.

40 2. Within residential zones, the regulations may permit  
41 modifications to minimum yard lot area and height requirements.

42 3. WITHIN ZONES THAT ALLOW SINGLE-FAMILY RESIDENTIAL USES IN A  
43 MUNICIPALITY WITH A POPULATION OF MORE THAN THIRTY THOUSAND PERSONS, THE  
44 REGULATIONS SHALL ALLOW ONE ACCESSORY DWELLING UNIT PER LOT THAT MAY BE  
45 OCCUPIED BY A PERSON OTHER THAN THE OWNER. A MUNICIPALITY MAY ALLOW MORE

1 THAN ONE ACCESSORY DWELLING UNIT PER LOT AND MAY REQUIRE A LEASE FOR AN  
2 ACCESSORY DWELLING UNIT TO HAVE A DURATION OF AT LEAST THREE MONTHS. THIS  
3 PARAGRAPH DOES NOT APPLY TO AREAS DESIGNATED AS A DISTRICT OF HISTORICAL  
4 SIGNIFICANCE PURSUANT TO SUBSECTION A, PARAGRAPH 10 OF THIS SECTION OR AN  
5 AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC  
6 PLACES.

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

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

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

36 G. A regulation or ordinance under this section may not prevent or  
37 restrict agricultural composting on farmland that is five or more  
38 contiguous acres and that meets the requirements of this subsection. An  
39 agricultural composting operation shall notify in writing the legislative  
40 body of the municipality and the nearest fire department of the location  
41 of the composting operation. If the nearest fire department is located in  
42 a different municipality from the agricultural composting operation, the  
43 agricultural composting operation shall also notify in writing the fire  
44 department of the municipality in which the operation is located.  
45 Agricultural composting is subject to sections 3-112 and 49-141.

1 Agricultural composting may not be conducted within one thousand three  
2 hundred twenty feet of an existing residential use, unless the operations  
3 are conducted on farmland or land leased in association with farmland.  
4 Any disposal of manure shall comply with section 49-247. For the purposes  
5 of this subsection:

6 1. "Agricultural composting" means the controlled biological  
7 decomposition of organic solid waste under in-vessel anaerobic or aerobic  
8 conditions where all or part of the materials are generated on the  
9 farmland or will be used on the farmland associated with the agricultural  
10 composting operation.

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

13 H. A municipality may not adopt a land use regulation or impose any  
14 condition for issuance of a building or use permit or other approval that  
15 violates section 9-461.16.

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

20 J. Before adopting any zoning ordinance or zoning ordinance text  
21 amendment of general applicability, the legislative body of a municipality  
22 shall consider the probable impact of the proposed zoning ordinance or  
23 text amendment on the cost to construct housing for sale or rent.

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

27 L. For the purposes of this section:

28 1. "ACCESSORY DWELLING UNIT":

29 (a) MEANS A RESIDENTIAL LIVING UNIT THAT PROVIDES COMPLETE  
30 INDEPENDENT LIVING FACILITIES, WHICH MAY INCLUDE A KITCHEN WITH A RANGE,  
31 FOR ONE OR MORE PERSONS ON THE SAME PARCEL AS A SINGLE-FAMILY DWELLING AND  
32 THAT IS SMALLER IN TOTAL SQUARE FOOTAGE THAN THE PRIMARY DWELLING UNIT.

33 (b) INCLUDES EITHER OF THE FOLLOWING:

34 (i) A DETACHED UNIT IN THE REAR OR SIDE YARD OF THE LOT ON WHICH  
35 THE PRIMARY DWELLING UNIT IS LOCATED.

36 (ii) A UNIT THAT IS ATTACHED TO THE SINGLE-FAMILY UNIT ON THE SAME  
37 PARCEL.

38 ~~1.~~ 2. "Development rights" means the maximum development that  
39 would be allowed on the sending property under any general or specific  
40 plan and local zoning ordinance of a municipality in effect on the date  
41 the municipality adopts an ordinance pursuant to subsection A, paragraph  
42 12 of this section respecting the permissible use, area, bulk or height of  
43 improvements made to the lot or parcel. Development rights may be  
44 calculated and allocated in accordance with factors including dwelling  
45 units, area, floor area, floor area ratio, height limitations, traffic



1 generation or any other criteria that will quantify a value for the  
2 development rights in a manner that will carry out the objectives of this  
3 section.

4 ~~2.~~ 3. "Receiving property" means a lot or parcel within which  
5 development rights are increased pursuant to a transfer of development  
6 rights. Receiving property shall be appropriate and suitable for  
7 development and shall be sufficient to accommodate the transferable  
8 development rights of the sending property without substantial adverse  
9 environmental, economic or social impact to the receiving property or to  
10 neighboring property.

11 ~~3.~~ 4. "Sending property" means a lot or parcel with special  
12 characteristics, including farmland, woodland, desert land, mountain land,  
13 floodplain, natural habitats, recreation or parkland, including golf  
14 course area, or land that has unique aesthetic, architectural or historic  
15 value that a municipality desires to protect from future development.

16 5. "SINGLE-ROOM OCCUPANCY":

17 (a) MEANS A DWELLING UNIT IN WHICH A RESIDENT RENTS A PRIVATE  
18 BEDROOM WITH A SHARED KITCHEN AND BATHROOM FACILITY.

19 (b) DOES NOT INCLUDE A SOBER LIVING HOME AS DEFINED IN SECTION  
20 36-2061 OR AN ASSISTED LIVING FACILITY AS DEFINED IN SECTION 36-401.

21 ~~4.~~ 6. "Transfer of development rights" means the process by which  
22 development rights from a sending property are affixed to one or more  
23 receiving properties.

24 Sec. 3. Section 9-463.01, Arizona Revised Statutes, is amended to  
25 read:

26 9-463.01. Authority

27 A. Pursuant to this article, the legislative body of every  
28 municipality shall regulate the subdivision of all lands within its  
29 corporate limits.

30 B. The legislative body of a municipality shall exercise the  
31 authority granted in subsection A of this section by ordinance  
32 prescribing:

33 1. Procedures to be followed in the preparation, submission, review  
34 and approval or rejection of all final plats.

35 2. Standards governing the design of subdivision plats.

36 3. Minimum requirements and standards for the installation of  
37 subdivision streets, sewer and water utilities and improvements as a  
38 condition of final plat approval.

39 C. By ordinance, the legislative body of any municipality shall:

40 1. Require the preparation, submission and approval of a  
41 preliminary plat as a condition precedent to submission of a final plat.

42 2. Establish the procedures to be followed in the preparation,  
43 submission, review and approval of preliminary plats.

44 3. Make requirements as to the form and content of preliminary  
45 plats.

1           4. Either determine that certain lands may not be subdivided, by  
2 reason of adverse topography, periodic inundation, adverse soils,  
3 subsidence of the earth's surface, high water table, lack of water or  
4 other natural or man-made hazard to life or property, or control the lot  
5 size, establish special grading and drainage requirements and impose other  
6 regulations deemed reasonable and necessary for the public health, safety  
7 or general welfare on any lands to be subdivided affected by such  
8 characteristics.

9           5. Require payment of a proper and reasonable fee by the subdivider  
10 based upon the number of lots or parcels on the surface of the land to  
11 defray municipal costs of plat review and site inspection.

12           6. Require the dedication of public streets, sewer and water  
13 utility easements or rights-of-way, within the proposed subdivision.

14           7. Require the preparation and submission of acceptable engineering  
15 plans and specifications for the installation of required street, sewer,  
16 electric and water utilities, drainage, flood control, adequacy of water  
17 and improvements as a condition precedent to recordation of an approved  
18 final plat.

19           8. Require the posting of performance bonds, assurances or such  
20 other security as may be appropriate and necessary to assure the  
21 installation of required street, sewer, electric and water utilities,  
22 drainage, flood control and improvements meeting established minimum  
23 standards of design and construction.

24           D. The legislative body of any municipality may require by  
25 ordinance that land areas within a subdivision be reserved for parks,  
26 recreational facilities, school sites and fire stations subject to the  
27 following conditions:

28           1. The requirement may only be made ~~upon~~ ON preliminary plats filed  
29 at least thirty days after the adoption of a general or specific plan  
30 affecting the land area to be reserved.

31           2. The required reservations are in accordance with definite  
32 principles and standards adopted by the legislative body.

33           3. The land area reserved shall be of such a size and shape as to  
34 permit the remainder of the land area of the subdivision within which the  
35 reservation is located to develop in an orderly and efficient manner.

36           4. The land area reserved shall be in such multiples of streets and  
37 parcels as to permit an efficient division of the reserved area in the  
38 event that it is not acquired within the prescribed period.

39           E. The public agency for whose benefit an area has been reserved  
40 shall have a period of one year after recording the final subdivision plat  
41 to enter into an agreement to acquire such reserved land area. The  
42 purchase price shall be the fair market value of the reserved land area at  
43 the time of the filing of the preliminary subdivision plat plus the taxes  
44 against such reserved area from the date of the reservation and any other  
45 costs incurred by the subdivider in the maintenance of such reserved area,

1 including the interest cost incurred on any loan covering such reserved  
2 area.

3 F. If the public agency for whose benefit an area has been reserved  
4 does not exercise the reservation agreement set forth in subsection E of  
5 this section within such ~~one-year~~ ONE-YEAR period or such extended period  
6 as may be mutually agreed ~~upon~~ ON by such public agency and the  
7 subdivider, the reservation of such area shall terminate.

8 G. The legislative body of every municipality shall comply with  
9 this article and applicable state statutes pertaining to the hearing,  
10 approval or rejection, and recordation of:

11 1. Final subdivision plats.

12 2. Plats filed for the purpose of reverting to acreage of land  
13 previously subdivided.

14 3. Plats filed for the purpose of vacating streets or easements  
15 previously dedicated to the public.

16 4. Plats filed for the purpose of vacating or redescribing lot or  
17 parcel boundaries previously recorded.

18 H. Approval of every preliminary and final plat ~~by a legislative~~  
19 ~~body~~ is conditioned ~~upon~~ ON compliance by the subdivider with:

20 1. Rules as may be established by the department of transportation  
21 relating to provisions for the safety of entrance ~~upon~~ ON and departure  
22 from abutting state primary highways.

23 2. Rules as may be established by a county flood control district  
24 relating to the construction or prevention of construction of streets in  
25 land established as being subject to periodic inundation.

26 3. Rules as may be established by the department of health services  
27 or a county health department relating to the provision of domestic water  
28 supply and sanitary sewage disposal.

29 I. If the subdivision is ~~comprised~~ COMPOSED of subdivided lands, as  
30 defined in section 32-2101, and is within an active management area, as  
31 defined in section 45-402, the final plat shall not be approved unless it  
32 is accompanied by a certificate of assured water supply issued by the  
33 director of water resources, or unless the subdivider has obtained a  
34 written commitment of water service for the subdivision from a city, town  
35 or private water company designated as having an assured water supply by  
36 the director of water resources pursuant to section 45-576 or is exempt  
37 from the requirement pursuant to section 45-576. The ~~legislative body of~~  
38 ~~the~~ municipality shall note on the face of the final plat that a  
39 certificate of assured water supply has been submitted with the plat or  
40 that the subdivider has obtained a written commitment of water service for  
41 the proposed subdivision from a city, town or private water company  
42 designated as having an assured water supply, pursuant to section 45-576,  
43 or is exempt from the requirement pursuant to section 45-576.

44 J. Except as provided in subsections K and P of this section, if  
45 the subdivision is composed of subdivided lands as defined in section

1 32-2101 outside of an active management area and the director of water  
2 resources has given written notice to the municipality pursuant to section  
3 45-108, subsection H, the final plat shall not be approved unless one of  
4 the following applies:

5 1. The director of water resources has determined that there is an  
6 adequate water supply for the subdivision pursuant to section 45-108 and  
7 the subdivider has included the report with the plat.

8 2. The subdivider has obtained a written commitment of water  
9 service for the subdivision from a city, town or private water company  
10 designated as having an adequate water supply by the director of water  
11 resources pursuant to section 45-108.

12 K. ~~The legislative body of~~ A municipality that has received written  
13 notice from the director of water resources pursuant to section 45-108,  
14 subsection H or that has adopted an ordinance pursuant to subsection O of  
15 this section may provide by ordinance an exemption from the requirement in  
16 subsection J or O of this section for a subdivision that the director of  
17 water resources has determined will have an inadequate water supply  
18 because the water supply will be transported to the subdivision by motor  
19 vehicle or train if all of the following apply:

20 1. The legislative body determines that there is no feasible  
21 alternative water supply for the subdivision and that the transportation  
22 of water to the subdivision will not constitute a significant risk to the  
23 health and safety of the residents of the subdivision.

24 2. If the water to be transported to the subdivision will be  
25 withdrawn or diverted in the service area of a municipal provider as  
26 defined in section 45-561, the municipal provider has consented to the  
27 withdrawal or diversion.

28 3. If the water to be transported is groundwater, the  
29 transportation complies with the provisions governing the transportation  
30 of groundwater in title 45, chapter 2, article 8.

31 4. The transportation of water to the subdivision meets any  
32 additional conditions imposed by the legislative body.

33 L. A municipality that adopts the exemption authorized by  
34 subsection K of this section shall give written notice of the adoption of  
35 the exemption, including a certified copy of the ordinance containing the  
36 exemption, to the director of water resources, the director of  
37 environmental quality and the state real estate commissioner. If the  
38 municipality later rescinds the exemption, the municipality shall give  
39 written notice of the rescission to the director of water resources, the  
40 director of environmental quality and the state real estate  
41 commissioner. A municipality that rescinds an exemption adopted pursuant  
42 to subsection K of this section shall not readopt the exemption for at  
43 least five years after the rescission becomes effective.

44 M. If the legislative body of a municipality approves a subdivision  
45 plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this

1 section, the legislative body shall note on the face of the plat that the  
2 director of water resources has reported that the subdivision has an  
3 adequate water supply or that the subdivider has obtained a commitment of  
4 water service for the proposed subdivision from a city, town or private  
5 water company designated as having an adequate water supply pursuant to  
6 section 45-108.

7 N. If the legislative body of a municipality approves a subdivision  
8 plat pursuant to an exemption authorized by subsection K of this section  
9 or granted by the director of water resources pursuant to section  
10 45-108.02 or 45-108.03:

11 1. The legislative body shall give written notice of the approval  
12 to the director of water resources and the director of environmental  
13 quality.

14 2. The legislative body shall include on the face of the plat a  
15 statement that the director of water resources has determined that the  
16 water supply for the subdivision is inadequate and a statement describing  
17 the exemption under which the plat was approved, including a statement  
18 that the legislative body or the director of water resources, whichever  
19 applies, has determined that the specific conditions of the exemption were  
20 met. If the director subsequently informs the legislative body that the  
21 subdivision is being served by a water provider that has been designated  
22 by the director as having an adequate water supply pursuant to section  
23 45-108, the legislative body shall record in the county recorder's office  
24 a statement disclosing that fact.

25 0. If a municipality has not been given written notice by the  
26 director of water resources pursuant to section 45-108, subsection H, the  
27 legislative body of the municipality, to protect the public health and  
28 safety, may provide by ordinance that, except as provided in subsections K  
29 and P of this section, the final plat of a subdivision located in the  
30 municipality and outside of an active management area will not be approved  
31 ~~by the legislative body~~ unless the director of water resources has  
32 determined that there is an adequate water supply for the subdivision  
33 pursuant to section 45-108 or the subdivider has obtained a written  
34 commitment of water service for the subdivision from a city, town or  
35 private water company designated as having an adequate water supply by the  
36 director of water resources pursuant to section 45-108. Before holding a  
37 public hearing to consider whether to enact an ordinance pursuant to this  
38 subsection, a municipality shall provide written notice of the hearing to  
39 the board of supervisors of the county in which the municipality is  
40 located. A municipality that enacts an ordinance pursuant to this  
41 subsection shall give written notice of the enactment of the ordinance,  
42 including a certified copy of the ordinance, to the director of water  
43 resources, the director of environmental quality, the state real estate  
44 commissioner and the board of supervisors of the county in which the  
45 municipality is located. If a municipality enacts an ordinance pursuant

1 to this subsection, water providers may be eligible to receive monies in a  
2 water supply development fund, as otherwise provided by law.

3 P. Subsections J and O of this section do not apply to:

4 1. A proposed subdivision that the director of water resources has  
5 determined will have an inadequate water supply pursuant to section 45-108  
6 if the director grants an exemption for the subdivision pursuant to  
7 section 45-108.02 and the exemption has not expired or if the director  
8 grants an exemption pursuant to section 45-108.03.

9 2. A proposed subdivision that received final plat approval from  
10 the municipality before the requirement for an adequate water supply  
11 became effective in the municipality if the plat has not been materially  
12 changed since it received the final plat approval. If changes were made  
13 to the plat after the plat received the final plat approval, the director  
14 of water resources shall determine whether the changes are material  
15 pursuant to the rules adopted by the director to implement section  
16 45-108. If the municipality approves a plat pursuant to this paragraph  
17 and the director of water resources has determined that there is an  
18 inadequate water supply for the subdivision pursuant to section 45-108,  
19 the municipality shall note this on the face of the plat.

20 Q. If the subdivision is composed of subdivided lands as defined in  
21 section 32-2101 outside of an active management area and the municipality  
22 has not received written notice pursuant to section 45-108, subsection H  
23 and has not adopted an ordinance pursuant to subsection O of this section:

24 1. If the director of water resources has determined that there is  
25 an adequate water supply for the subdivision pursuant to section 45-108 or  
26 if the subdivider has obtained a written commitment of water service for  
27 the subdivision from a city, town or private water company designated as  
28 having an adequate water supply by the director of water resources  
29 pursuant to section 45-108, the municipality shall note this on the face  
30 of the plat if the plat is approved.

31 2. If the director of water resources has determined that there is  
32 an inadequate water supply for the subdivision pursuant to section 45-108,  
33 the municipality shall note this on the face of the plat if the plat is  
34 approved.

35 R. Every municipality is responsible for the recordation of all  
36 final plats ~~approved by the legislative body~~ and shall receive from the  
37 subdivider and transmit to the county recorder the recordation fee  
38 established by the county recorder.

39 S. Pursuant to provisions of applicable state statutes, the  
40 legislative body of any municipality may itself prepare or have prepared a  
41 plat for the subdivision of land under municipal ownership.

42 T. The legislative bodies of cities and towns may regulate by  
43 ordinance land splits within their corporate limits. Authority granted  
44 under this section refers to the determination of division lines, area and  
45 shape of the tracts or parcels and does not include authority to regulate

1 the terms or condition of the sale or lease nor does it include the  
2 authority to regulate the sale or lease of tracts or parcels that are not  
3 the result of land splits as defined in section 9-463.

4 U. For any subdivision that consists of ten or fewer lots, tracts  
5 or parcels, each of which is of a size as prescribed by the legislative  
6 body, the legislative body of each municipality may expedite the  
7 processing of or waive the requirement to prepare, submit and receive  
8 approval of a preliminary plat as a condition precedent to submitting a  
9 final plat and may waive or reduce infrastructure standards or  
10 requirements proportional to the impact of the subdivision. Requirements  
11 for dust-controlled access and drainage improvements shall not be waived.

12 V. AT THE APPLICANT'S REQUEST, AFTER PRELIMINARY PLAT SUBMITTAL AND  
13 AFTER THE APPLICANT RECEIVES ANY REQUIRED APPROVAL FROM THE DEPARTMENT OF  
14 ENVIRONMENTAL QUALITY, THE MUNICIPALITY SHALL ISSUE AN AT-RISK PERMIT FOR  
15 GRADING AND EARTHMOVING THAT RELATES TO THE PROPERTY THAT IS THE SUBJECT  
16 OF THE PRELIMINARY PLAT. THE MUNICIPALITY ISSUING AN AT-RISK PERMIT DOES  
17 NOT CONSTITUTE FINAL PRELIMINARY PLAT APPROVAL OR FINAL APPROVAL OF ANY  
18 GRADING OR DRAINAGE PLANS. ANY WORK, SERVICES OR MATERIALS ACCOMPLISHED  
19 OR ACQUIRED BY THE APPLICANT OR ITS AGENTS IS DONE AT THE FINANCIAL RISK  
20 OF THE APPLICANT WITH NO FINANCIAL LIABILITY TO THE MUNICIPALITY FOR  
21 ISSUING THE AT-RISK PERMIT. THE MUNICIPALITY MAY REQUIRE THAT ALL GRADING  
22 AND EARTHMOVING BE DONE IN COMPLIANCE WITH ALL MUNICIPAL CODES, ORDINANCES  
23 AND STANDARDS AND OTHER LEGAL REQUIREMENTS. THIS SUBSECTION DOES NOT  
24 APPLY TO THE MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY THOUSAND  
25 PERSONS, A MUNICIPALITY THAT IS LOCATED ON TRIBAL LAND, LAND IN AN AREA  
26 THAT IS DESIGNATED AS A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO  
27 SECTION 9-462.01 OR AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL  
28 REGISTER OF HISTORIC PLACES.

29 Sec. 4. Title 9, chapter 4, article 6.4, Arizona Revised Statutes,  
30 is amended by adding section 9-469, to read:

31 9-469. Municipal housing needs assessment; annual report;  
32 applicability

33 A. BEGINNING JANUARY 1, 2024 AND EVERY FIVE YEARS THEREAFTER, A  
34 MUNICIPALITY SHALL PUBLISH A HOUSING NEEDS ASSESSMENT THAT INCLUDES AT  
35 LEAST THE FOLLOWING:

36 1. THE TOTAL POPULATION GROWTH PROJECTED FOR THE SUBSEQUENT  
37 FIVE-YEAR PERIOD.

38 2. THE TOTAL JOB GROWTH PROJECTED FOR THE SUBSEQUENT FIVE-YEAR  
39 PERIOD.

40 3. THE TOTAL NEED FOR ADDITIONAL RESIDENTIAL HOUSING UNITS FOR RENT  
41 AND FOR SALE IN THE MUNICIPALITY TO MEET:

42 (a) ANY DEFICIENCIES IN HOUSING THE EXISTING POPULATION.

43 (b) ANY DEFICIENCIES IN HOUSING THE EXISTING WORKFORCE.

44 (c) THE POPULATION GROWTH PROJECTIONS.

45 (d) THE JOB GROWTH PROJECTIONS.

1 (e) THE HOUSING NEEDS ACROSS ALL VARIOUS INCOME LEVELS.  
2 B. BEGINNING JANUARY 1, 2025 AND EVERY YEAR THEREAFTER, EACH  
3 MUNICIPALITY SHALL SUBMIT AN ANNUAL REPORT ACCOUNTING FOR THE TOTAL NUMBER  
4 OF PROPOSED RESIDENTIAL HOUSING UNITS SUBMITTED TO THE MUNICIPALITY, THE  
5 TOTAL NUMBER OF NET NEW RESIDENTIAL HOUSING UNITS SUBMITTED TO THE  
6 MUNICIPALITY AND THE TOTAL NUMBER OF NEW RESIDENTIAL HOUSING UNITS THAT  
7 ARE ENTITLED, HAVE BEEN PLATTED, HAVE BEEN ISSUED A BUILDING PERMIT AND  
8 HAVE RECEIVED A CERTIFICATE OF OCCUPANCY BY THE MUNICIPALITY. THE REPORT  
9 SHALL BE SUBMITTED TO THE ARIZONA DEPARTMENT OF HOUSING. THE ANNUAL REPORT  
10 SHALL ALSO INCLUDE THE FOLLOWING:  
11 1. THE NUMBER OF HOUSING DEVELOPMENT APPLICATIONS RECEIVED IN THE  
12 PRIOR YEAR.  
13 2. THE NUMBER OF LOTS AND MULTIFAMILY UNITS INCLUDED IN ALL  
14 DEVELOPMENT APPLICATIONS IN THE PRIOR YEAR.  
15 3. THE NUMBER OF LOTS AND MULTIFAMILY UNITS APPROVED AND  
16 DISAPPROVED OR OTHERWISE NOT APPROVED IN THE PRIOR YEAR.  
17 4. THE TOTAL AMOUNT OF VACANT AREA ZONED FOR SINGLE-FAMILY,  
18 COMMERCIAL AND MULTIFAMILY RESIDENTIAL USES AS A PERCENTAGE OF THE  
19 MUNICIPALITY'S TOTAL AREA AT THE TIME OF THE HOUSING NEEDS ASSESSMENT.  
20 5. THE STATUS AND PROGRESS IN MEETING THE MUNICIPALITY'S HOUSING  
21 NEEDS.  
22 6. A PLAN THAT SPECIFIES HOW THE MUNICIPALITY INTENDS TO SATISFY  
23 THE IDENTIFIED NEED FOR ADDITIONAL HOUSING UNITS WITHIN THE MUNICIPALITY.  
24 C. THIS SECTION DOES NOT REQUIRE A MUNICIPALITY TO MEET OR  
25 OTHERWISE FULFILL THE PROJECTIONS IN THE HOUSING NEEDS ASSESSMENT REQUIRED  
26 BY SUBSECTION A OF THIS SECTION.  
27 D. THIS SECTION DOES NOT APPLY TO A MUNICIPALITY THAT IS LOCATED ON  
28 TRIBAL LAND OR A MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY  
29 THOUSAND PERSONS.