

REFERENCE TITLE: local planning; residential housing; repeal

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

## **HB 2597**

Introduced by  
Representatives Villegas: Contreras L, Gutierrez, Ortiz, Sandoval

### **AN ACT**

REPEALING SECTION 9-461.16, ARIZONA REVISED STATUTES; AMENDING SECTION 9-462.01, ARIZONA REVISED STATUTES; REPEALING SECTION 11-819, ARIZONA REVISED STATUTES; REPEALING LAWS 2015, CHAPTER 140, SECTION 4; RELATING TO LOCAL PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Repeal  
3 Section 9-461.16, Arizona Revised Statutes, is repealed.  
4 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to  
5 read:  
6 9-462.01. Zoning regulations; public hearing; definitions  
7 A. Pursuant to this article, the legislative body of any  
8 municipality by ordinance, in order to conserve and promote the public  
9 health, safety and general welfare, may:  
10 1. Regulate the use of buildings, structures and land as between  
11 agriculture, residence, industry, business and other purposes.  
12 2. Regulate signs and billboards.  
13 3. Regulate the location, height, bulk, number of stories and size  
14 of buildings and structures, the size and use of lots, yards, courts and  
15 other open spaces, the percentage of a lot that may be occupied by a  
16 building or structure, access to incident solar energy and the intensity  
17 of land use.  
18 4. Establish requirements for off-street parking and loading.  
19 5. Establish and maintain building setback lines.  
20 6. Create civic districts around civic centers, public parks,  
21 public buildings or public grounds and establish regulations for the civic  
22 districts.  
23 7. Require as a condition of rezoning public dedication of  
24 rights-of-way as streets, alleys, public ways, drainage and public  
25 utilities as are reasonably required by or related to the effect of the  
26 rezoning.  
27 8. Establish floodplain zoning districts and regulations to protect  
28 life and property from the hazards of periodic inundation. Regulations  
29 may include variable lot sizes, special grading or drainage requirements,  
30 or other requirements deemed necessary for the public health, safety or  
31 general welfare.  
32 9. Establish special zoning districts or regulations for certain  
33 lands characterized by adverse topography, adverse soils, subsidence of  
34 the earth, high water table, lack of water or other natural or man-made  
35 hazards to life or property. Regulations may include variable lot sizes,  
36 special grading or drainage requirements, or other requirements deemed  
37 necessary for the public health, safety or general welfare.  
38 10. Establish districts of historical significance provided that:  
39 (a) The ordinances may require that special permission be obtained  
40 for any development within the district if the legislative body has  
41 adopted a plan for the preservation of districts of historical  
42 significance that meets the requirements of subdivision (b) of this  
43 paragraph, and the criteria contained in the ordinance are consistent with  
44 the objectives set forth in the plan.  
45 (b) A plan for the preservation of districts of historical  
46 significance shall identify districts of special historical significance,

1 state the objectives to be sought concerning the development or  
2 preservation of sites, area and structures within the district, and  
3 formulate a program for public action, including providing public  
4 facilities and regulating private development and demolition necessary to  
5 realize these objectives.

6 (c) The ordinance establishing districts of historical significance  
7 shall set forth standards necessary to preserve the historical character  
8 of the area so designated.

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

17 11. Establish age-specific community zoning districts in which  
18 residency is restricted to a head of a household or spouse who must be of  
19 a specific age or older and in which minors are prohibited from living in  
20 the home. Age-specific community zoning districts shall not be overlaid  
21 over property without the permission of all owners of property included as  
22 part of the district unless all of the property in the district has been  
23 developed, advertised and sold or rented under specific age restrictions.  
24 The establishment of age-specific community zoning districts is subject to  
25 all of the public notice requirements and other procedures prescribed by  
26 this article.

27 12. Establish procedures, methods and standards for the transfer of  
28 development rights within its jurisdiction. Any proposed transfer of  
29 development rights from the sending property or to the receiving property  
30 shall be subject to the notice and hearing requirements of section  
31 9-462.04 and shall be subject to the approval and consent of the property  
32 owners of both the sending and receiving property. Before any transfer of  
33 development rights, a municipality shall adopt an ordinance providing for:

34 (a) The issuance and recordation of the instruments necessary to  
35 sever development rights from the sending property and to affix  
36 development rights to the receiving property. These instruments shall be  
37 executed by the affected property owners and lienholders.

38 (b) The preservation of the character of the sending property and  
39 assurance that the prohibitions against the use and development of the  
40 sending property shall bind the landowner and every successor in interest  
41 to the landowner.

42 (c) The severance of transferable development rights from the  
43 sending property and the delayed transfer of development rights to a  
44 receiving property.

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

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

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

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

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

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

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

25 (a) Infrequency of use.

26 (b) High degree of traffic generation.

27 (c) Requirement of large land area.

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

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

38 E. The legislative body may approve a change of zone conditioned on  
39 a schedule for development of the specific use or uses for which rezoning  
40 is requested. If, at the expiration of this period, the property has not  
41 been improved for the use for which it was conditionally approved, the  
42 legislative body, after notification by certified mail to the owner and  
43 applicant who requested the rezoning, shall schedule a public hearing to  
44 take administrative action to extend, remove or determine compliance with  
45 the schedule for development or take legislative action to cause the  
46 property to revert to its former zoning classification.

1 F. All zoning and rezoning ordinances or regulations adopted under  
2 this article shall be consistent with and conform to the adopted general  
3 plan of the municipality, if any, as adopted under article 6 of this  
4 chapter. In the case of uncertainty in construing or applying the  
5 conformity of any part of a proposed rezoning ordinance to the adopted  
6 general plan of the municipality, the ordinance shall be construed in a  
7 manner that will further the implementation of, and not be contrary to,  
8 the goals, policies and applicable elements of the general plan. A  
9 rezoning ordinance conforms with the land use element of the general plan  
10 if it proposes land uses, densities or intensities within the range of  
11 identified uses, densities and intensities of the land use element of the  
12 general plan.

13 G. A regulation or ordinance under this section may not prevent or  
14 restrict agricultural composting on farmland that is five or more  
15 contiguous acres and that meets the requirements of this subsection. An  
16 agricultural composting operation shall notify in writing the legislative  
17 body of the municipality and the nearest fire department of the location  
18 of the composting operation. If the nearest fire department is located in  
19 a different municipality from the agricultural composting operation, the  
20 agricultural composting operation shall also notify in writing the fire  
21 department of the municipality in which the operation is located.  
22 Agricultural composting is subject to sections 3-112 and 49-141.  
23 Agricultural composting may not be conducted within one thousand three  
24 hundred twenty feet of an existing residential use, unless the operations  
25 are conducted on farmland or land leased in association with farmland.  
26 Any disposal of manure shall comply with section 49-247. For the purposes  
27 of this subsection:

28 1. "Agricultural composting" means the controlled biological  
29 decomposition of organic solid waste under in-vessel anaerobic or aerobic  
30 conditions ~~where~~ IN WHICH all or part of the materials are generated on  
31 the farmland or will be used on the farmland associated with the  
32 agricultural composting operation.

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

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

38 ~~I.~~ H. In accordance with article II, sections 1 and 2,  
39 Constitution of Arizona, the legislative body of a municipality shall  
40 consider the individual property rights and personal liberties of the  
41 residents of the municipality before adopting any zoning ordinance.

42 ~~J.~~ I. Before adopting any zoning ordinance or zoning ordinance  
43 text amendment of general applicability, the legislative body of a  
44 municipality shall consider a housing impact statement regarding the  
45 impact of the zoning ordinance or zoning ordinance text amendment that  
46 shall include:

1           1. A general estimate of the probable impact on the average cost to  
2 construct housing for sale or rent within the zoning districts to which  
3 the zoning ordinance or text amendment applies.

4           2. A description of any data or reference material on which the  
5 proposed zoning ordinance or text amendment is based.

6           3. A description of any less costly or less restrictive alternative  
7 methods of achieving the purpose of the proposed zoning ordinance or text  
8 amendment.

9           ~~K.~~ J. A municipality may not adopt or enforce a land use  
10 regulation that requires the property on which a nongovernmental primary  
11 or secondary school operates to be larger than one acre.

12           ~~L.~~ K. For the purposes of this section:

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

24           2. "Receiving property" means a lot or parcel within which  
25 development rights are increased pursuant to a transfer of development  
26 rights. Receiving property shall be appropriate and suitable for  
27 development and shall be sufficient to accommodate the transferable  
28 development rights of the sending property without substantial adverse  
29 environmental, economic or social impact to the receiving property or to  
30 neighboring property.

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

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

39           Sec. 3. Repeal  
40 Section 11-819, Arizona Revised Statutes, is repealed.

41           Sec. 4. Repeal  
42 Laws 2015, chapter 140, section 4 is repealed.