

REFERENCE TITLE: affordable housing; parking requirements; prohibition

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

HB 2734

Introduced by
Representatives Ortiz: Biasiucci, Peña

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-461.18; AMENDING SECTION 9-462.04, ARIZONA REVISED
STATUTES; RELATING TO MUNICIPAL PLANNING.

(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. Minimum parking requirements; prohibition;
5 applicability; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY MAY NOT ENACT ANY
7 ORDINANCE OR LAND USE REGULATION OR GENERAL OR SPECIFIC PLAN PROVISION OR
8 IMPOSE AS A CONDITION FOR APPROVING A BUILDING OR USE PERMIT ANY
9 REGULATION THAT REQUIRES MORE THAN THE FOLLOWING PARKING SPACE
10 REQUIREMENTS IN A PROPOSED AFFORDABLE HOUSING DEVELOPMENT THAT QUALIFIES
11 FOR THE LOW-INCOME HOUSING TAX CREDIT PROGRAM AS DEFINED IN SECTION
12 42-13601 OR THAT IS HOUSING FOR OLDER PERSONS AND THAT IS LOCATED WITHIN
13 ONE-HALF MILE OF A LIGHT RAIL OR STREET CAR STOP:

14 1. ONE ON-SITE PARKING SPACE FOR A DWELLING UNIT THAT CONTAINS ZERO
15 TO ONE BEDROOM.

16 2. ONE AND A HALF ON-SITE PARKING SPACES FOR A DWELLING UNIT THAT
17 CONTAINS TWO OR THREE BEDROOMS.

18 3. TWO PARKING SPACES FOR A DWELLING UNIT THAT CONTAINS FOUR OR
19 MORE BEDROOMS.

20 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO AN AFFORDABLE
21 HOUSING DEVELOPMENT IF THE DEVELOPMENT INCORPORATES SHARED PARKING WITH A
22 MIXED USE DEVELOPMENT.

23 C. THIS SECTION DOES NOT APPLY TO ACCESSIBLE PARKING SPACES AS
24 REQUIRED BY THE AMERICANS WITH DISABILITIES ACT OF 1990 (P.L. 101-336; 104
25 STAT. 327; 42 UNITED STATES CODE SECTIONS 12101 THROUGH 12213).

26 D. FOR THE PURPOSES OF THIS SECTION:

27 1. "AFFORDABLE HOUSING DEVELOPMENT" MEANS A DEVELOPMENT OR
28 REDEVELOPMENT PROJECT THAT PROVIDES HOUSING AND INCIDENTAL FACILITIES FOR
29 PERSONS OF LOW INCOME AND MODERATE INCOME AS DETERMINED BY THE ARIZONA
30 DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED ON THE UNITED
31 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

32 2. "HOUSING FOR OLDER PERSONS" MEANS A DEVELOPMENT OR REDEVELOPMENT
33 PROJECT THAT IS SPECIFICALLY DESIGNATED BY THE UNITED STATES DEPARTMENT OF
34 HOUSING AND URBAN DEVELOPMENT AS HOUSING FOR OLDER PERSONS OR THAT IS
35 INTENDED FOR AND SOLELY OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON
36 FIFTY-FIVE YEARS OF AGE OR OLDER PER UNIT.

37 Sec. 2. Section 9-462.04, Arizona Revised Statutes, is amended to
38 read:

39 9-462.04. Public hearing required; definition

40 A. If the municipality has a planning commission or a hearing
41 officer, the planning commission or hearing officer shall hold a public
42 hearing on any zoning ordinance. Notice of the time and place of the
43 hearing, including a general explanation of the matter to be considered
44 and ~~including~~ a general description of the area affected, shall be given
45 at least fifteen days before the hearing in the following manner:

1 1. The notice shall be published at least once in a newspaper of
2 general circulation published or circulated in the municipality, or if
3 there is none, it shall be posted on the affected property in such a
4 manner as to be legible from the public right-of-way and in at least ten
5 public places in the municipality. A posted notice shall be printed so
6 that the following are visible from a distance of one hundred feet: the
7 word "zoning", the present zoning district classification, the proposed
8 zoning district classification and the date and time of the hearing.

9 2. In proceedings involving rezoning of land that abuts other
10 municipalities or unincorporated areas of the county or a combination of a
11 municipality and an unincorporated area, copies of the notice of public
12 hearing shall be transmitted to the planning agency of the governmental
13 unit abutting such land. In proceedings involving rezoning of land that
14 is located within the territory in the vicinity of a military airport or
15 ancillary military facility as defined in section 28-8461, the
16 municipality shall send copies of the notice of public hearing by first
17 class mail to the military airport. In addition to notice by publication,
18 a municipality may give notice of the hearing in any other manner that the
19 municipality deems necessary or desirable.

20 3. In proceedings that are not initiated by the property owner
21 involving rezoning of land that may change the zoning classification,
22 notice by first class mail shall be sent to each real property owner, as
23 shown on the last assessment of the property, of the area to be rezoned
24 and all property owners, as shown on the last assessment of the property,
25 within three hundred feet of the property to be rezoned.

26 4. In proceedings involving one or more of the following proposed
27 changes or related series of changes in the standards governing land uses,
28 notice shall be provided in the manner prescribed by paragraph 5 of this
29 subsection:

30 (a) A ten percent or more increase or decrease in the number of
31 square feet or units that may be developed.

32 (b) A ten percent or more increase or reduction in the allowable
33 height of buildings.

34 (c) An increase or reduction in the allowable number of stories of
35 buildings.

36 (d) A ten percent or more increase or decrease in setback or open
37 space requirements.

38 (e) An increase or reduction in permitted uses.

39 5. In proceedings governed by paragraph 4 of this subsection, the
40 municipality shall provide notice to real property owners pursuant to at
41 least one of the following notification procedures:

42 (a) Notice shall be sent by first class mail to each real property
43 owner, as shown on the last assessment, whose real property is directly
44 governed by the changes.

1 (b) If the municipality issues utility bills or other mass mailings
2 that periodically include notices or other informational or advertising
3 materials, the municipality shall include notice of the changes with such
4 utility bills or other mailings.

5 (c) The municipality shall publish the changes before the first
6 hearing on such changes in a newspaper of general circulation in the
7 municipality. The changes shall be published in a "display ad" covering
8 not less than one-eighth of a full page.

9 6. If notice is provided pursuant to paragraph 5, subdivision (b)
10 or (c) of this subsection, the municipality shall also send notice by
11 first class mail to persons who register their names and addresses with
12 the municipality as being interested in receiving such notice. The
13 municipality may charge a fee not to exceed \$5 per year for providing this
14 service and may adopt procedures to implement this paragraph.

15 7. Notwithstanding the notice requirements in paragraph 4 of this
16 subsection, the failure of any person or entity to receive notice does not
17 constitute grounds for any court to invalidate the actions of a
18 municipality for which the notice was given.

19 B. If the matter to be considered applies to territory in a high
20 noise or accident potential zone as defined in section 28-8461, the notice
21 prescribed in subsection A of this section shall include a general
22 statement that the matter applies to property located in the high noise or
23 accident potential zone.

24 C. After the hearing, the planning commission or hearing officer
25 shall render a decision in the form of a written recommendation to the
26 governing body. The recommendation shall include the reasons for the
27 recommendation and be transmitted to the governing body in the form and
28 manner prescribed by the governing body.

29 D. If the planning commission or hearing officer has held a public
30 hearing, the governing body may adopt the recommendations of the planning
31 commission or hearing officer without holding a second public hearing if
32 there is no objection, request for public hearing or other protest. The
33 governing body shall hold a public hearing if requested by the party
34 aggrieved or any member of the public or of the governing body, or, in any
35 case, if a public hearing has not been held by the planning commission or
36 hearing officer. The governing body may consider the testimony of any
37 party aggrieved when making its decision. In municipalities with
38 territory in the vicinity of a military airport or ancillary military
39 facility as defined in section 28-8461, the governing body shall hold a
40 public hearing if, after notice is transmitted to the military airport
41 pursuant to subsection A of this section and before the public hearing,
42 the military airport provides comments or analysis concerning the
43 compatibility of the proposed rezoning with the high noise or accident
44 potential generated by military airport or ancillary military facility
45 operations that may have an adverse impact on public health and safety,

1 and the governing body shall consider and analyze the comments or analysis
2 before making a final determination. Notice of the time and place of the
3 hearing shall be given in the time and manner provided for ~~the giving of~~
4 notice of the hearing by the planning commission as specified in
5 subsection A of this section. A municipality may give additional notice
6 of the hearing in any other manner as the municipality deems necessary or
7 desirable. For the purposes of this subsection, "party aggrieved" means
8 any property owner within the notification area prescribed by subsection
9 A, paragraph 3 of this section.

10 E. A municipality may enact an ordinance authorizing county zoning
11 to continue in effect until municipal zoning is applied to land previously
12 zoned by the county and annexed by the municipality, but not longer than
13 six months after the annexation.

14 F. A municipality is not required to adopt a general plan before
15 the adoption of a zoning ordinance.

16 G. If there is no planning commission or hearing officer, the
17 governing body of the municipality shall perform the functions assigned to
18 the planning commission or hearing officer.

19 H. If the owners of twenty percent or more of the property by area
20 and number of lots, tracts and condominium units within the zoning area of
21 the affected property file a protest in writing against a proposed
22 amendment, the change shall not become effective except by the favorable
23 vote of ~~three-fourths~~ A MAJORITY of all members of the governing body of
24 the municipality. If any members of the governing body are unable to vote
25 on such a question because of a conflict of interest, then the required
26 number of votes for passage of the question shall be ~~three-fourths~~ A
27 MAJORITY of the remaining membership of the governing body, ~~provided that~~
28 ~~such required number of votes shall not be less than a majority of the~~
29 ~~full membership of the legally established governing body.~~ For the
30 purposes of this subsection, the vote shall be rounded to the nearest
31 whole number. A protest filed pursuant to this subsection shall be signed
32 by the property owners opposing the proposed amendment and filed in the
33 office of the clerk of the municipality not later than 12:00 noon ~~one~~
34 THREE business ~~day~~ DAYS before the date on which the governing body will
35 vote on the proposed amendment or on an earlier time and date established
36 by the governing body.

37 I. In applying an open space element or a growth element of a
38 general plan, a parcel of land shall not be rezoned for open space,
39 recreation, conservation or agriculture unless the owner of the land
40 consents to the rezoning in writing.

41 J. Notwithstanding section 19-142, subsection B, a decision by the
42 governing body involving rezoning of land that is not owned by the
43 municipality and that changes the zoning classification of such land may
44 not be enacted as an emergency measure and the change shall not be

1 effective for at least thirty days after final approval of the change in
2 classification by the governing body.

3 K. For the purposes of this section, "zoning area" means both of
4 the following:

5 1. The area within one hundred fifty feet, including all
6 rights-of-way, of the affected property subject to the proposed amendment
7 or change.

8 2. The area of the proposed amendment or change.