



Model Ordinance

Implementing 2024 Middle Housing Bill **(HB2721)**

Codified at A.R.S. 9-462.13:

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/9/00462-13.htm>

January 2025 *

(*Please note: This working draft will be modified based on
feedback from municipalities and stakeholders)

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY / TOWN] OF _____, ARIZONA, AMENDING THE CODE OF _____, ARIZONA BY [ADOPTING / AMENDING] ARTICLE _____ RELATING TO MIDDLE HOUSING; AUTHORIZING _____; INCORPORATING THE RECITALS BY REFERENCE; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; [ADOPTING APPLICATION FEES]; ESTABLISHING ELIGIBILITY CRITERIA FOR CERTAIN MIDDLE HOUSING AS A PERMITTED USE; DESIGNATING A CENTRAL BUSINESS DISTRICT FOR THE PURPOSE OF A.R.S. § 9-462.13; [ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS]; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS § 9-462.13(A) of the Arizona Revised Statutes (A.R.S.) requires the governing body of a city or town with a population of 75,000 or more to adopt regulations no later than January 1, 2026, which would allow duplexes, triplexes, fourplexes, and townhomes as a “permitted use” on: (i) lots zoned for single-family residential use within one mile of the municipality's central business district; and (ii) at least twenty percent of any new residential development of more than ten contiguous acres;

WHEREAS A.R.S. § 9-462.13(H)(8) defines “permitted use” as “the ability for a development to be approved without requiring a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determination that a site plan conforms with applicable zoning regulations”;

WHEREAS A.R.S. § 9-462.13(E) provides that a failure to adopt regulations by January 1, 2026, would result in middle housing being allowed on all lots zoned for single-family residential use without any limitations;

WHEREAS A.R.S. § 9-462.13(H)(8) defines “middle housing” as buildings that are compatible in scale, form and character with single-family houses and that contain two or more attached, detached, stacked or clustered homes, including duplexes, triplexes, fourplexes and townhouses;

WHEREAS A.R.S. § 9-462.13(B)(1) prohibits the [City/Town] from discouraging the development of middle housing through requirements or actions that individually or cumulatively make impracticable the permitting, siting, or construction of middle housing;

WHEREAS A.R.S. § 9-462.13(B)(2) prohibits the [City/Town] from restricting middle housing to less than two floors;

WHEREAS A.R.S. § 9-462.13(B)(3) prohibits the [City/Town] from restricting middle housing to a floor area ratio of less than fifty percent;

WHEREAS A.R.S. § 9-462.13(B)(4) prohibits the [City/Town] from setting restrictions, permitting or review processes for middle housing that are more restrictive than those for single-family dwellings within the same zone;

WHEREAS A.R.S. § 9-462.13(B)(5) prohibits the [City/Town] from requiring owner occupancy of a middle housing structure on the lot;

WHEREAS A.R.S. § 9-462.13(B)(6) prohibits the [City/Town] from requiring a middle housing structure to comply with a commercial building code or to contain a fire sprinkler;

WHEREAS A.R.S. § 9-462.13(B)(7) prohibits the [City/Town] from requiring more than one off-street parking space per unit of the middle housing;

WHEREAS A.R.S. § 9-462.13 includes and authorizes various exceptions and limitations that the [City/Town] is implementing with this Ordinance;

WHEREAS A.R.S. § 9-462.13 does not change or otherwise impair the terms of any development agreement that exists on September 14, 2024;

WHEREAS the Common Council of the [City/Town] of _____, Arizona, finds that _____.

WHEREAS the [City/Town] Council has considered the probable impact of this ordinance on the cost to construct housing for sale or rent; and

[WHEREAS a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code;]

WHEREAS [add as applicable].

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of _____, Arizona, as follows:

Section I. General.

The Code of _____, Arizona, is hereby amended by [amending/adding Articles XXX], to read as follows: [continued the next page]

ARTICLE X-X. MIDDLE HOUSING.

Sec. X-X-1 Purpose.

The purpose of this Article is to conform with A.R.S. § 9-462.13, which requires municipalities with populations of 75,000 or more persons to duplexes, triplexes, fourplexes and townhomes as a permitted use no later than January 1, 2026, on both of the following: (1) lots zoned for single-family residential use within one mile of the municipality's central business district; and (2) at least twenty percent of any new development of more than ten contiguous acres. The regulations in this Article are in addition to other codes and requirements of the [City/Town].

Sec. X-X-2 Definitions.¹

Terms used in this Article have the following definitions:

1. “*Building code*”:

(a) means the construction code adopted by [the City/Town].

(b) includes a model building code, commercial code, plumbing and mechanical code, electric code, energy conservation code, fire code, property maintenance code, neighborhood preservation code, anti-blight code or other similar code.

2. “*Central business district*” means an area or series of areas designated by a municipality that are primarily nonindustrial and that attract community activity, including the entire geographic area that the municipality has officially designated as its downtown or equivalent on the effective date of the section.

3. “*Duplex*” means two dwelling units on the same parcel or lot in attached, detached or semi-detached arrangements that are designed for residential occupancy by not more than two households living independently from each other.

4. “*Floor area ratio*” means the ratio of allowed square footage in a middle housing project to the square footage of the parcel on which it is built.

5. “*Fourplex*” means four dwelling units on the same parcel or lot in attached, detached or semi-detached arrangements that are designed for residential occupancy by not more than four households living independently from each other.

6. “*Household*” means either:

¹ This only addresses those definitions needed to implement H.B. 2721.

- (a) A single person living or residing in a dwelling or place of residence.
- (b) Two or more persons living together or residing in the same dwelling or place of residence.

7. “*Middle housing*”:

- (a) Means buildings that are compatible in scale, form and character with single-family houses and that contain two or more attached, detached, stacked or clustered homes.
- (b) Includes duplexes, triplexes, fourplexes and townhouses.

8. “*Permitted use*” means the ability for a development to be approved without requiring a public hearing, variance, conditional use permit, special permit or special exception, other than a discretionary zoning action to determination that a site plan conforms with applicable zoning regulations.

9. “*Townhouses*” means dwelling units that are constructed in a row of two or more attached units in which each dwelling unit shares at least one common wall with an adjacent unit and that are accessed by separate outdoor entrances.

10. “*Triplex*” means three dwelling units on the same parcel or lot in attached, detached or semi-detached arrangements that are designed for residential occupancy by not more than three households living independently from each other.

Sec. X-X-3 Eligibility for Middle Housing as a Permitted Use.

A. Eligibility. Subject to the requirements of this section, a duplex, triplex, fourplex, or townhome is allowed as a permitted use on:

- 1. a lot zoned for single-family residential use² within one mile of the municipality's central business district; or
- 2. at least twenty percent of a new development³ of more than ten contiguous acres.

B. Non-Eligibility. The following areas are not eligible to construct a duplex, triplex, fourplex, or townhome as a permitted use as provided in this Article:

² The Working Group interpreted “zoned for single-family residential use” as referring to zoning districts that allow for single-family homes only.

³ The Working Group interpreted “new development” as referring to an application for unified (non-phased) development project.

1. areas that are not incorporated;
2. areas that lack sufficient urban services;⁴
3. areas that are not served by water and sewer services;
4. areas that are not zoned for residential use;⁵
5. areas that are not incorporated and are zoned under an interim zoning designation that maintains the area's potential for planned urban development;
6. areas covered under A.R.S., title 48, chapter 6, article 4;
7. any land within the territory in the vicinity of a public airport as defined in section 28-8486 or to the extent this section would interfere with the public airport's ability to comply with the laws, regulations and requirements of the united states related to applying for, receiving or spending federal monies; and
8. any land within the territory in the vicinity of a military airport as defined in A.R.S. § 28-8461.

C. Application Process. A property owner seeking to develop an eligible project shall submit an application that includes the following: [add]

1. Evidence satisfactory to the [Planning Director] that the proposed duplex, triplex, fourplex, or townhome is eligible as a permitted use in accordance with this section;
2. A site plan in conformance with [insert the City/Town site plan review and approval process];
3. Evidence of site plan review and approval by any utility provider impacted by the proposed development;
4. Evidence of sufficient urban services for the entire proposed development;
5. Evidence of adequate existing public sewer and water service for the entire proposed development; and

⁴ The city/town ordinance should address the specific city/town employee who will make the determination of whether there are sufficient urban services.

⁵ The Working Group interpreted “areas that are not zoned for residential use” as commercial and industrial zoning districts.

6. Compliance with [all applicable building code, commercial code, plumbing and mechanical code, electric code, energy conservation code, fire code, property maintenance code, neighborhood preservation code, anti-blight code or other similar code].

D. Utilities. Notwithstanding the provisions of this Article, a utility provider impacted by an application under this section shall have the opportunity to review and approve⁶ the site plan for the development.

E. Development Standards and Requirements. An eligible project shall comply with the following development standards and requirements:

1. *Parking.*

2. *Height.*

3. *Density.*

F. Application Fees. [Add]

G. [Add]

[continued on the next page]

⁶ Please note the following from HB2721: “Notwithstanding subsection a of this section, a utility provider impacted by a development being developed pursuant to this section shall have the opportunity to review and approve the site plan for the development.”

Section II. Penalties.

[Add penalty clause].⁷

Section III. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section IV. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section V. Effective Date.

The effective date of this Ordinance shall be days following adoption by the [City/Town] Council.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or

⁷ A penalty clause cannot be adopted by reference. *See* A.R.S. §§ 9-802, 9-803. As a result, if a violation of the ordinance is subject to a penalty or civil sanction, the penalty or civil sanction must be fully described in the ordinance itself. In addition to any local requirements, an ordinance containing a penalty, fine, forfeiture or other punishment must be published after its enactment by posting it: (1) at city or town hall or in one public place within the city or town; (2) on the city's or town's website, and (3) any additional public notice as is reasonable and practicable. *See* A.R.S. § 9-813. Exhibits to the ordinance may be excluded from the postings if the city or town lists in the postings where the exhibits are available for public use and inspection. *See* A.R.S. § 9-813. Posting may be established by the affidavit of the person who posted the ordinance filed with the clerk. *See* A.R.S. § 9-813.

unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the [City/Town] Council of _____ this ____ day of _____, 2025.⁸

ATTEST:

CITY/TOWN OF _____, an
Arizona municipal corporation

“ _____ ”
City/Town Clerk

“ _____ ”
Mayor

APPROVED AS TO FORM:

“ _____ ”
City/Town Attorney

I, _____, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE [CITY/TOWN] OF _____ ON THE ____ DAY OF _____, 2025, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 2025.

⁸ HB2721 requires adoption no later than January 1, 2026.