

REFERENCE TITLE: vacant; abandoned buildings; ordinances

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2705

Introduced by
Representatives Shope: Campbell, Cook, Payne, Senator Pratt

AN ACT

PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 9-500.21, ARIZONA REVISED STATUTES; AMENDING TITLE 9, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; RELATING TO PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Transfer and renumber

3 Section 9-499, Arizona Revised Statutes, is transferred and
4 renumbered for placement in title 9, chapter 14, article 1, as section
5 9-1461.

6 Sec. 2. Section 9-500.21, Arizona Revised Statutes, is amended to
7 read:

8 9-500.21. Civil enforcement of municipal ordinances

9 A city or town that classifies ordinance violations as civil
10 offenses shall establish procedures to hear and determine these violations
11 that may include **THE FOLLOWING**:

12 1. Filing of a complaint before a hearing officer. The city or
13 town magistrate may serve as a hearing officer or the city or town may
14 appoint a separate hearing officer.

15 2. Timely notice of the citation to the violator. If the city or
16 town is unable to personally serve the notice, the notice may be served in
17 the same manner prescribed for alternative methods of service by the
18 Arizona rules of civil procedure or by certified or registered mail,
19 return receipt requested.

20 3. Procedures for the hearing, record on appeal, default by a
21 defendant and rules of evidence that generally comply with those for civil
22 traffic offenses.

23 4. Imposition of a civil penalty. At the conclusion of the
24 hearing, the hearing officer shall determine whether a violation exists
25 and, if so, may impose civil penalties of up to the maximum amount
26 specified in section 9-240 for ordinance violations for each day a
27 violation exists beyond the initial notice constituting a separate
28 offense. The hearing officer may also order abatement of the violation
29 pursuant to section ~~9-499~~ 9-1461.

30 5. A provision that if the violator does not comply with a civil
31 enforcement action, the city or town may file a criminal charge. A civil
32 enforcement action is not a prerequisite to the filing of a criminal
33 charge.

34 6. Judicial review of the final decisions of the hearing officer
35 pursuant to section 12-124.

36 Sec. 3. Title 9, Arizona Revised Statutes, is amended by adding
37 chapter 14, to read:

38 CHAPTER 14

39 PROPERTY

40 ARTICLE 1. VACANT AND ABANDONED BUILDINGS

41 9-1462. Registration; inspection and maintenance
42 requirements; fees; administration; enforcement;
43 definitions

44 **A. THE GOVERNING BODY OF A CITY OR TOWN MAY ADOPT, IMPLEMENT AND**
45 **ENFORCE AN ORDINANCE THAT ESTABLISHES REGISTRATION, INSPECTION AND**

1 MAINTENANCE REQUIREMENTS FOR A BUILDING THAT IS VACANT OR ABANDONED FOR
2 MORE THAN ONE HUNDRED FIFTY DAYS.

3 B. THE ORDINANCE MUST INCLUDE ALL OF THE FOLLOWING:

4 1. REGISTRATION REQUIREMENTS, INCLUDING THE NAME, RESIDENCE OR
5 BUSINESS ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESSES OF EACH OWNER OF
6 THE VACANT OR ABANDONED BUILDING. AN OWNER RESIDING OUTSIDE OF THIS STATE
7 MUST PROVIDE THE NAME AND ADDRESS OF A PERSON WHO RESIDES IN THIS STATE
8 WHO IS AUTHORIZED TO ACCEPT SERVICE OF PROCESS AND NOTICES ON BEHALF OF
9 THE OWNER AND WHO IS DESIGNATED AS A RESPONSIBLE LOCAL PARTY OR AGENT FOR
10 THE PURPOSES OF NOTIFICATION IN THE EVENT OF AN EMERGENCY.

11 2. PROPERTY STANDARDS FOR VACANT OR ABANDONED BUILDINGS THAT
12 REQUIRE THE OWNER TO SECURE THE PROPERTY, ENSURE BUILDINGS ARE
13 STRUCTURALLY SOUND, MAINTAIN UTILITY CONNECTIONS REQUIRED FOR FIRE
14 PROTECTION AND SECURITY, MAINTAIN ALL STRUCTURES, FENCES AND YARDS
15 PURSUANT TO THE CITY OR TOWN CODE AND MAINTAIN THE BUILDING AND PROPERTY
16 IN A SANITARY, SAFE AND SECURE MANNER.

17 3. REQUIREMENTS THAT A VACANT OR ABANDONED BUILDING BE INSPECTED.
18 WHEN CARRYING OUT INSPECTIONS, THE CITY OR TOWN SHALL COMPLY WITH THE
19 REQUIREMENTS OF SECTION 9-833. THE CITY OR TOWN MAY REQUIRE THE OWNER TO
20 MAKE A REQUEST FOR INSPECTION. THE CITY OR TOWN INSPECTOR MUST EXAMINE
21 WHETHER THE VACANT OR ABANDONED BUILDING IS SECURE FROM TRESPASSERS, IS
22 SAFE FOR ENTRY BY FIREFIGHTERS AND POLICE OFFICERS IN AN EMERGENCY,
23 PRESENTS A HAZARD TO THE PUBLIC OR IMPEDES EFFORTS TO REHABILITATE OR
24 MAINTAIN SURROUNDING PROPERTIES. A VACANT OR ABANDONED BUILDING THAT IS A
25 HAZARD TO PUBLIC HEALTH AND SAFETY IS SUBJECT TO SECTION 9-1461 AND
26 APPLICABLE CITY OR TOWN CODE. IF THE OWNER FAILS TO REQUEST A REQUIRED
27 INSPECTION OR REFUSES TO CONSENT TO AN INSPECTION INITIATED BY THE CITY OR
28 TOWN OR IT IS NOT POSSIBLE TO REASONABLY OBTAIN CONSENT FROM THE OWNER,
29 THE CITY OR TOWN SHALL OBTAIN A SEARCH WARRANT FOR THE INSPECTION OF THE
30 VACANT OR ABANDONED BUILDING OR PROPERTY IN COMPLIANCE WITH TITLE 13,
31 CHAPTER 38, ARTICLE 8. IF A VACANT OR ABANDONED BUILDING IS OWNED BY MORE
32 THAN ONE PERSON, CONSENT FOR INSPECTION MAY BE OBTAINED FROM ANY ONE OF
33 THE OWNERS.

34 4. NOTICE PROVISIONS FOR REGISTRATION, INSPECTION AND MAINTENANCE
35 REQUIREMENTS AND ASSESSMENT OF FEES OR OTHER PENALTIES. THE CITY OR TOWN
36 MUST PROVIDE NOTICES IN WRITING BY CERTIFIED MAIL TO THE LAST KNOWN
37 ADDRESS OF THE OWNER OR THE ADDRESS TO WHICH THE TAX BILL FOR THE PROPERTY
38 ON WHICH THE BUILDING IS LOCATED WAS LAST MAILED. THE NOTICE SHALL INCLUDE
39 THE LEGAL DESCRIPTION OF THE PROPERTY, THE FEE OWED TO THE CITY OR TOWN
40 PURSUANT TO THIS SECTION AND ANY PENALTY IF THE OWNER DOES NOT COMPLY.

41 5. REQUIREMENTS FOR THE OWNER TO PROVIDE PROOF OF AN INSURANCE
42 POLICY THAT SHOWS SUFFICIENT LIABILITY COVERAGE FOR THE VACANT OR
43 ABANDONED BUILDING.

1 6. AN APPEAL PROCESS FOR THE OWNER TO CHALLENGE ANY DETERMINATION
2 MADE PURSUANT TO THE ORDINANCE. THE OWNER MAY APPEAL THE FINAL DECISION
3 BY THE CITY OR TOWN TO THE SUPERIOR COURT OF THE COUNTY IN WHICH THE
4 PROPERTY IS LOCATED WITHIN THIRTY DAYS AFTER THE DECISION IS RENDERED.

5 C. THE CITY OR TOWN MAY CHARGE FEES AGAINST AN OWNER FOR
6 REGISTRATION AND INSPECTION OF THE VACANT OR ABANDONED BUILDING AND OWNERS
7 SHALL BE JOINT AND SEVERALLY LIABLE FOR THE PAYMENT OF SUCH FEES. THE
8 ORDINANCE SHALL PROVIDE PROCEDURES FOR ADMINISTERING AND ENFORCING THE
9 FEES FOR REGISTRATION AND INSPECTIONS AND PAYING AND COLLECTING THE FEES.
10 THE CITY OR TOWN SHALL SEPARATELY ACCOUNT FOR FEES COLLECTED UNDER THIS
11 SECTION, WHICH SHALL BE USED AS FOLLOWS:

12 1. TO IMPROVE AND MAINTAIN PUBLIC SAFETY IN AND AROUND VACANT OR
13 ABANDONED BUILDINGS AND PROPERTIES.

14 2. TO ADMINISTER THE VACANT OR ABANDONED BUILDING REGISTRATION,
15 INSPECTION AND MAINTENANCE REQUIREMENTS ESTABLISHED PURSUANT TO THIS
16 SECTION.

17 3. TO REPAIR, CLOSE OR DEMOLISH A VACANT OR ABANDONED BUILDING AS
18 AUTHORIZED BY SECTION 9-1461.

19 D. THE CITY OR TOWN MAY GRANT A WAIVER FROM FEES FOR A VACANT
20 BUILDING ON A FAVORABLE INSPECTION OR AN EXTENSION TO COMPLY WITH THE
21 REGISTRATION, INSPECTION AND MAINTENANCE REQUIREMENTS FOR A VACANT OR
22 ABANDONED BUILDING IF THE OWNER SHOWS GOOD CAUSE FOR WHY THE OWNER IS
23 UNABLE TO OCCUPY THE BUILDING FOR A DETERMINED PERIOD OF TIME AND THE
24 BUILDING OR PROPERTY IS NOT A NUISANCE OR A HAZARD TO THE PUBLIC.
25 DELINQUENT FEES ARE NOT ELIGIBLE FOR A FEE WAIVER.

26 E. A BUILDING THAT IS VACANT OR ABANDONED MAY NOT BE RECLASSIFIED
27 AS AN UNOCCUPIED STRUCTURE UNTIL THE BUILDING NO LONGER MEETS THE
28 DEFINITION OF ABANDONED PURSUANT TO SUBSECTION I, PARAGRAPH 1 FOR A
29 MINIMUM PERIOD OF NINETY DAYS AND THE OWNER HAS COMPLIED WITH THE
30 REGISTRATION, INSPECTION AND MAINTENANCE REQUIREMENTS UNDER THIS SECTION,
31 INCLUDING THE PAYMENT OF FEES.

32 F. THE GOVERNING BODY OF A CITY OR TOWN MAY LIMIT THE REGISTRATION,
33 INSPECTION AND MAINTENANCE REQUIREMENTS TO ONE OR MORE ZONING DISTRICTS.

34 G. THIS SECTION DOES NOT IMPOSE A DUTY, OBLIGATION OR REQUIREMENT
35 THAT A CITY OR TOWN UNDERTAKE SUCH REPAIRS, DEMOLITION OR MAINTENANCE
36 MEASURES THAT REMAIN THE OBLIGATION AND RESPONSIBILITY OF THE OWNER. COSTS
37 OF REPAIRS, DEMOLITION AND MAINTENANCE AND RELATED LEGAL AND
38 ADMINISTRATIVE COSTS INCURRED BY THE CITY OR TOWN TO SECURE THE VACANT OR
39 ABANDONED BUILDING ARE TO BE PAID BY THE OWNER. THE CITY OR TOWN MAY FILE
40 LIENS ON REAL PROPERTY TO COLLECT AMOUNTS OWED TO THE CITY OR TOWN FOR
41 DELINQUENT FEES AND COSTS INCURRED BY THE CITY OR TOWN FOR REPAIRS,
42 DEMOLITION OR MAINTENANCE MEASURES TO THE VACANT OR ABANDONED BUILDING.

1 H. AN OWNER MAY NOT AVOID COMPLIANCE OR LIABILITY WITH THIS SECTION
2 BY TRANSFERRING THE PROPERTY TO ONE OR MORE PERSONS OR ENTITIES THAT ARE
3 CONTROLLED BY THE OWNER OR A SUBSIDIARY OR AN AFFILIATE OF THE OWNER.

4 I. THIS SECTION DOES NOT APPLY TO AN UNOCCUPIED STRUCTURE.

5 J. FOR THE PURPOSES OF THIS SECTION:

6 1. "ABANDONED" MEANS A BUILDING THAT IS VACANT AND TWO OR MORE OF
7 THE FOLLOWING CONDITIONS EXIST ON THE PROPERTY:

8 (a) ACCUMULATION OF TRASH, JUNK OR DEBRIS OR HAZARDOUS, NOXIOUS OR
9 UNHEALTHY SUBSTANCES OR MATERIALS.

10 (b) ABSENCE OF FURNISHINGS OR WINDOW COVERINGS.

11 (c) AT LEAST ONE FILED REPORT TO LAW ENFORCEMENT INVOLVING
12 TRESPASSING, VANDALISM OR OTHER ILLEGAL ACTS BEING COMMITTED AT THE
13 PROPERTY WITHIN THE PRECEDING ONE HUNDRED FIFTY DAYS.

14 (d) THE PROPERTY IS OPEN AND UNPROTECTED OR THERE IS EVIDENCE OF
15 DILAPIDATION, DECAY, DETERIORATION DUE TO EXPOSURE TO THE ELEMENTS OR
16 DAMAGE DUE TO WIND, FIRE, FLOOD OR PESTS.

17 (e) NONPAYMENT OR DISCONNECTION OF GAS, ELECTRICAL, WATER OR
18 WASTEWATER UTILITIES.

19 (f) CONSTRUCTION WAS INITIATED ON THE PROPERTY AND WAS DISCONTINUED
20 BEFORE THE CITY OR TOWN ISSUED A CERTIFICATE OF OCCUPANCY, OR ITS
21 EQUIVALENT, LEAVING THE BUILDING UNSUITABLE FOR OCCUPANCY, AND NO
22 CONSTRUCTION HAS TAKEN PLACE FOR AT LEAST ONE HUNDRED FIFTY DAYS OR SUCH
23 OTHER PERIOD PURSUANT TO THE CITY OR TOWN BUILDING CODE IN EFFECT AT THE
24 TIME CONSTRUCTION WAS INITIATED, WHICHEVER IS LESS.

25 (g) MORE THAN ONE WINDOW OR DOOR ON THE PROPERTY IS BOARDED UP,
26 CLOSED OFF, SMASHED THROUGH, BROKEN, UNHINGED, CONTINUOUSLY UNLOCKED OR IS
27 IN AN UNREPAIRED OR UNSECURED STATE.

28 (h) THERE ARE ONE OR MORE WRITTEN COMPLAINTS BY NEIGHBORS OR
29 REPRESENTATIVES OF A COMMUNITY ASSOCIATION INDICATING THE BUILDING OR
30 PROPERTY CONTAINS ANY OF THE FACTORS PRESCRIBED IN SUBDIVISION (a), (b),
31 (d), (f) OR (g) OF THIS PARAGRAPH.

32 2. "OWNER":

33 (a) MEANS A PERSON OR ENTITY THAT INDIVIDUALLY OR JOINTLY WITH
34 OTHERS:

35 (i) HAS LEGAL TITLE TO THE PROPERTY, WITH OR WITHOUT ACTUAL
36 POSSESSION OF THE PROPERTY.

37 (ii) HAS CHARGE, CARE OR CONTROL OF THE PROPERTY AS AN AUTHORIZED
38 AGENT, GUARDIAN OR CONSERVATOR OF THE OWNER.

39 (iii) IS AN EXECUTOR, ADMINISTRATOR, TRUSTEE OR PERSONAL
40 REPRESENTATIVE OF THE ESTATE OF THE OWNER.

41 (iv) IS ENTITLED TO CONTROL OR DIRECT THE MANAGEMENT OR DISPOSITION
42 OF THE PROPERTY.

43 (b) DOES NOT INCLUDE THIS STATE OR THE FEDERAL GOVERNMENT.

1 3. "UNOCCUPIED STRUCTURE" MEANS A BUILDING UNDER CONSTRUCTION OR
2 POSSESSING AN ISSUED CERTIFICATE OF OCCUPANCY, OR ITS EQUIVALENT, THAT
3 DOES NOT MEET THE DEFINITION OF ABANDONED PURSUANT TO PARAGRAPH 1 OF THIS
4 SUBSECTION, AND THE OWNER IS ACTIVELY SEEKING OCCUPANCY THROUGH SALE OR
5 LEASE OF THE PROPERTY THROUGH CUSTOMARY COMMERCIAL METHODS, INCLUDING BONA
6 FIDE RENTAL OR SALE SIGNS ON THE PROPERTY OR THE LISTING OF THE PROPERTY
7 ON A MULTIPLE LISTING SERVICE.

8 4. "VACANT":

9 (a) MEANS A BUILDING NO LONGER USED OR OCCUPIED BY ITS OWNER OR
10 OTHER LEGALLY ALLOWED OCCUPANT.

11 (b) DOES NOT INCLUDE AN UNOCCUPIED STRUCTURE.