

REFERENCE TITLE: **planning; zoning; building permits**

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **HB 2719**

Introduced by  
Representatives Solorio: Abraham, Liguori, Meza

**AN ACT**

**AMENDING SECTION 9-467, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-810.01; AMENDING SECTIONS 11-321 AND 11-861, ARIZONA REVISED STATUTES; RELATING TO PLANNING AND ZONING.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-467, Arizona Revised Statutes, is amended to  
3 read:

4 9-467. Building permits; issuance; distribution of copies;  
5 state preemption; utilities; subsequent owner;  
6 limitation; definitions

7 A. Any municipality requiring the issuance of a building permit  
8 shall transmit one copy of the permit to the county assessor and one copy  
9 to the director of the department of revenue. Permit copies shall provide  
10 the permit number, issue date and parcel number. On the issuance of the  
11 certificate of occupancy or the certificate of completion or on the  
12 expiration or cancellation of the permit, the assessor and the department  
13 of revenue shall be notified in writing or in electronic format of the  
14 permit number, parcel number, issue date and completion date.

15 B. The regulation of a utility provider's authority to operate and  
16 serve customers is a matter of statewide concern. The regulation of  
17 building permits as it relates to a building permit applicant's ability to  
18 use a utility provider that is capable and authorized to provide utility  
19 service is allowed solely in accordance with subsections C and D of this  
20 section. A building permit applicant's ability to use a utility provider  
21 that is capable and authorized to provide utility service is not subject  
22 to further regulation by a municipality.

23 C. A municipality requiring the issuance of a building permit may  
24 not deny a permit application based on the utility provider proposed to  
25 provide utility service to the project.

26 D. A municipality issuing a building permit shall ensure that all  
27 applicable permits and associated fees assessed on a building permit  
28 applicant contain requirements and amounts that do not exceed the  
29 requirements and amounts for use of other utility providers and do not  
30 have the effect of restricting ~~a~~ THE permit applicant's ability to use  
31 the services of a utility provider that is capable and authorized to  
32 provide utility service.

33 E. A municipality may not require an applicant for a building  
34 permit to hold a transaction privilege tax license or business license as  
35 a condition for issuing the building permit. A ~~city or town~~ MUNICIPALITY  
36 may require a person that has been issued a building permit and that does  
37 not otherwise hold a business license from the municipality to apply for a  
38 business license within thirty days after issuing the building permit.

39 F. If a person has constructed a building or an addition to a  
40 building without obtaining a building permit, a municipality shall not  
41 require a subsequent owner to obtain a permit for the construction or  
42 addition done by the prior owner before issuing a permit for a building  
43 addition except that this section does not prohibit A MUNICIPALITY FROM  
44 enforcing an applicable ordinance or code provision that affects the  
45 public health or safety.

1 G. NOTWITHSTANDING ANY OTHER LAW, NOT MORE THAN TWENTY DAYS AFTER  
2 RECEIVING A COMPLETED BUILDING PERMIT APPLICATION, A MUNICIPALITY SHALL  
3 ISSUE THE REQUESTED PERMIT OR PROVIDE A WRITTEN NOTICE TO THE PERMIT  
4 APPLICANT IDENTIFYING THE SPECIFIC APPLICATION DEFICIENCIES THAT DO NOT  
5 COMPLY WITH APPLICABLE CODES. IF THE MUNICIPALITY DOES NOT ISSUE THE  
6 PERMIT OR PROVIDE THE WRITTEN NOTICE OF APPLICATION DEFICIENCIES WITHIN  
7 TWENTY DAYS AFTER RECEIVING A COMPLETED PERMIT APPLICATION, THE PERMIT IS  
8 DEEMED APPROVED AND SHALL BE ISSUED ON THE NEXT BUSINESS DAY.

9 ~~H.~~ H. This section does not prohibit a municipality from  
10 recovering reasonable costs associated with reviewing and issuing a  
11 building permit.

12 ~~I.~~ I. This section does not affect any authority of a municipality  
13 to manage or operate a municipally owned utility.

14 ~~J.~~ J. For the purposes of this section:

15 1. "Municipality" means a city or town organized in accordance with  
16 law, including a home rule or charter city.

17 2. "Utility service" means water, wastewater, natural gas,  
18 including propane gas, or electric service provided to an end user.

19 Sec. 2. Title 9, chapter 7, article 1, Arizona Revised Statutes, is  
20 amended by adding section 9-810.01, to read:

21 9-810.01. Building codes; construction materials; building  
22 products; prohibition

23 NOTWITHSTANDING ANY OTHER LAW OR ANY CODE, ORDINANCE OR GENERAL OR  
24 SPECIFIC PLAN PROVISION OR PART OF A CODE, ORDINANCE OR GENERAL OR  
25 SPECIFIC PLAN PROVISION ADOPTED BY A MUNICIPALITY, THE MUNICIPALITY MAY  
26 NOT:

27 1. PROHIBIT OR LIMIT, DIRECTLY OR INDIRECTLY, USING OR INSTALLING A  
28 BUILDING PRODUCT OR MATERIAL IN THE CONSTRUCTION, RENOVATION, MAINTENANCE  
29 OR OTHER ALTERATION OF A RESIDENTIAL OR COMMERCIAL BUILDING IF THE  
30 BUILDING PRODUCT OR MATERIAL IS APPROVED FOR USE BY A NATIONAL MODEL CODE  
31 THAT WAS PUBLISHED WITHIN THE LAST THREE CODE CYCLES AND THAT APPLIES TO  
32 THE CONSTRUCTION, RENOVATION, MAINTENANCE OR OTHER ALTERATION OF THE  
33 BUILDING.

34 2. ESTABLISH A STANDARD FOR A BUILDING PRODUCT, MATERIAL OR  
35 AESTHETIC METHOD IN THE CONSTRUCTION, RENOVATION, MAINTENANCE OR OTHER  
36 ALTERATION OF A RESIDENTIAL OR COMMERCIAL BUILDING IF THE STANDARD IS MORE  
37 STRINGENT THAN A STANDARD FOR THE PRODUCT, MATERIAL OR AESTHETIC METHOD  
38 UNDER A NATIONAL MODEL CODE THAT WAS PUBLISHED WITHIN THE LAST THREE CODE  
39 CYCLES AND THAT APPLIES TO THE CONSTRUCTION, RENOVATION, MAINTENANCE OR  
40 OTHER ALTERATION OF THE BUILDING.

1           Sec. 3. Section 11-321, Arizona Revised Statutes, is amended to  
2 read:

3           11-321. Building permits; issuance; state preemption;  
4                   utilities; distribution of copies; subsequent  
5                   owner; limitation; definition

6           A. Except in those cities and towns that have an ordinance relating  
7 to ~~the issuance of~~ ISSUING building permits, the board of supervisors  
8 shall require a building permit for any construction of a building or an  
9 addition to a building exceeding a cost of \$1,000 within its  
10 jurisdiction. The building permit shall be filed with the board of  
11 supervisors or its designated agent.

12           B. The regulation of a utility provider's authority to operate and  
13 serve customers is a matter of statewide concern. The regulation of  
14 building permits as it relates to a building permit applicant's ability to  
15 use a utility provider that is capable and authorized to provide utility  
16 service is allowed solely in accordance with subsections C and D of this  
17 section. A building permit applicant's ability to use a utility provider  
18 that is capable and authorized to provide utility service is not subject  
19 to further regulation by a county.

20           C. A county may not deny a permit application based on the utility  
21 provider proposed to provide utility service to the project.

22           D. A county issuing a building permit shall ensure that all  
23 applicable permits and associated fees assessed on a building permit  
24 applicant contain requirements and amounts that do not exceed the  
25 requirements and amounts for use of other utility providers and do not  
26 have the effect of restricting ~~a~~ THE permit applicant's ability to use  
27 the services of a utility provider that is capable and authorized to  
28 provide utility service.

29           E. The board of supervisors may not require an applicant for a  
30 building permit to hold a transaction privilege tax license or business  
31 license as a condition for issuing the building permit.

32           F. Where deemed of public convenience, the board of supervisors  
33 shall allow the application for and the issuance of building permits by  
34 mail.

35           G. One copy of the building permit required by the terms of  
36 subsection A of this section shall be transmitted to the county assessor  
37 and one copy shall be transmitted to the director of the department of  
38 revenue. The permit copy provided to the assessor and the department of  
39 revenue shall have the permit number, the issue date and the parcel number  
40 for which the permit is issued. On the issuance of the certificate of  
41 occupancy or the certificate of completion or on the expiration or  
42 cancellation of the permit, the assessor and the department of revenue  
43 shall be notified in writing or in electronic format of the permit number,  
44 parcel number, issue date and completion date.

1 H. If a person has constructed a building or an addition to a  
2 building without obtaining a building permit, a county shall not require a  
3 subsequent owner to obtain a permit for the construction or addition done  
4 by the prior owner before issuing a permit for a building addition except  
5 that this section does not prohibit A COUNTY FROM enforcing an applicable  
6 ordinance or code provision that affects the public health or safety.

7 I. NOTWITHSTANDING ANY OTHER LAW, NOT MORE THAN TWENTY DAYS AFTER  
8 RECEIVING A COMPLETED BUILDING PERMIT APPLICATION, A COUNTY SHALL ISSUE  
9 THE REQUESTED PERMIT OR PROVIDE A WRITTEN NOTICE TO THE PERMIT APPLICANT  
10 IDENTIFYING THE SPECIFIC APPLICATION DEFICIENCIES THAT DO NOT COMPLY WITH  
11 APPLICABLE CODES. IF THE COUNTY DOES NOT ISSUE THE PERMIT OR PROVIDE THE  
12 WRITTEN NOTICE OF APPLICATION DEFICIENCIES WITHIN TWENTY DAYS AFTER  
13 RECEIVING A COMPLETED PERMIT APPLICATION, THE PERMIT IS DEEMED APPROVED  
14 AND SHALL BE ISSUED ON THE NEXT BUSINESS DAY.

15 ~~I.~~ J. This section does not prohibit a county from recovering  
16 reasonable costs associated with reviewing and issuing a building permit.

17 ~~J.~~ K. This section does not affect any authority of a county to  
18 manage or operate a county-owned utility.

19 ~~K.~~ L. For the purposes of this section, "utility service" means  
20 water, wastewater, natural gas, including propane gas, or electric service  
21 provided to an end user.

22 Sec. 4. Section 11-861, Arizona Revised Statutes, is amended to  
23 read:

24 11-861. Adoption of codes by reference; limitations; method  
25 of adoption; fire sprinklers; fire apparatus access  
26 roads or approved routes; intent; state preemption;  
27 fire watch requirements; pool barrier gates;  
28 construction materials; building products;  
29 prohibition

30 A. In any county that has adopted zoning pursuant to this chapter,  
31 the board of supervisors may adopt and enforce, for the unincorporated  
32 areas of the county so zoned, a building code and other related codes to  
33 regulate the quality, type of material and workmanship of all aspects of  
34 construction of buildings or structures, except that the board may  
35 authorize that areas zoned rural or unclassified may be exempt from the  
36 provisions of the code adopted. The codes may be adopted by reference  
37 after notice and hearings before the county planning and zoning commission  
38 and board of supervisors as provided in this chapter for amendments to the  
39 zoning ordinance of the county.

40 B. The board of supervisors may adopt a fire prevention code in the  
41 unincorporated areas of the county in which a fire district has not  
42 adopted a nationally recognized fire code pursuant to section 48-805. Any  
43 fire code adopted by a board of supervisors pursuant to this subsection  
44 shall remain in effect until a fire district is established and adopts a  
45 code applicable within the boundaries of the district.

1 C. For the ~~purpose~~ PURPOSES of this article, codes authorized by  
2 subsections A and B of this section shall be limited to the following:

3 1. Any building, electrical, plumbing or mechanical code that has  
4 been adopted by any national organization or association that is organized  
5 and conducted for the purpose of developing codes or that has been adopted  
6 by the largest city in that county. If the board of supervisors adopts a  
7 city code, it shall adopt, within ninety days after receiving a written  
8 notification of a change to the city code, the same change or shall  
9 terminate the adopted city code.

10 2. Any fire prevention code that has been adopted by a national  
11 organization or association organized or conducted for the purpose of  
12 developing fire prevention codes and that is as stringent as the state  
13 fire code adopted pursuant to section 37-1383.

14 D. The board of supervisors may adopt a current wildland-urban  
15 interface code. The code may be adapted from a model code adopted by a  
16 national or international organization or association for mitigating the  
17 hazard to life and property. The board must follow written public  
18 procedures in ~~the development~~ DEVELOPING and ~~adoption of~~ ADOPTING the code  
19 and any revisions to the code to provide effective, early and continuous  
20 public participation through:

21 1. The broad dissemination and publicity of the proposed code and  
22 any revisions to the code.

23 2. The opportunity for submission and consideration of written  
24 public comments.

25 3. Open discussions, communications programs and information  
26 services.

27 4. Consultation with federal agencies and state and local  
28 officials.

29 E. The board of supervisors shall not adopt a code or ordinance or  
30 part of a uniform code or ordinance that prohibits a person or entity from  
31 choosing to install or equip or not install or equip fire sprinklers in a  
32 ~~single family~~ SINGLE-FAMILY detached residence or any residential building  
33 that contains not more than two dwelling units. The board of supervisors  
34 shall not impose any fine, penalty or other requirement on any person or  
35 entity for choosing to install or equip or not install or equip fire  
36 sprinklers in such a residence. This subsection does not apply to any  
37 code or ordinance that requires fire sprinklers in a residence and that  
38 was adopted before December 31, 2009. The provisions of this subsection  
39 shall be included on all fire sprinkler permit applications that are for a  
40 ~~single family~~ SINGLE-FAMILY detached residence or any residential building  
41 that contains not more than two dwelling units.

42 F. A fire sprinkler permit application may be in either print or  
43 electronic format.

44 G. A board of supervisors may not adopt any, or part of any, fire  
45 code, ordinance, stipulation or other legal requirement for an approved

1 fire apparatus access road or a fire apparatus access road extension, or  
 2 both, or an approved route or a route extension, or both, that directly or  
 3 indirectly requires a one or two family residence or a utility or  
 4 miscellaneous accessory building or structure to install fire sprinklers.  
 5 A fire code official may increase or extend an approved fire apparatus  
 6 access road or a fire apparatus access road extension, or both, or an  
 7 approved route or a route extension, or both, to comply with this  
 8 subsection. Compliance with this subsection is not grounds to deny or  
 9 suspend a license or permit. This subsection may be enforced in a private  
 10 civil action and relief, including an injunction, may be awarded against a  
 11 county. The court shall award reasonable attorney fees, damages, lost  
 12 opportunity costs, interest and the cost of the sprinkler system to a  
 13 party that prevails in an action against a county for a violation of this  
 14 subsection. The legislature finds and determines that property rights are  
 15 a matter of statewide concern and a fundamental element of freedom. A  
 16 property owner's right to use the property owner's property must be  
 17 protected from unreasonable abridgment by county regulation and  
 18 enforcement. This subsection supersedes and preempts any regulation  
 19 adopted by a county regarding an approved fire apparatus access road, fire  
 20 apparatus access road extension, approved route or route extension. For  
 21 the purposes of this subsection:

22 1. "Fire code" includes the international fire code, however  
 23 denominated.

24 2. "Utility or miscellaneous accessory building or structure"  
 25 includes an agricultural building, aircraft hangar, accessory to a  
 26 residence, barn, carport, fence that is more than six feet high, grain  
 27 silo, greenhouse, livestock shelter, private garage, retaining wall, shed,  
 28 stable, tank or tower.

29 H. If a fire code adopted by a board of supervisors requires the  
 30 use of a fire watch, an employee who works at the building in which a fire  
 31 watch is required may serve as the fire watch. A person who is designated  
 32 as a fire watch shall be equipped with means to contact the local fire  
 33 department, and the person's only duty while keeping watch for fires shall  
 34 be to perform constant patrols of the protected premises. The county  
 35 shall provide the fire watch with printed instructions from the office of  
 36 the state fire marshal and may provide a free training session before the  
 37 person's deployment as the fire watch begins. For the purposes of this  
 38 subsection, "fire watch" means a person who is stationed in a building or  
 39 in a place relative to a building to observe the building and its openings  
 40 when the fire protection system for the building is temporarily  
 41 nonoperational or absent.

42 I. From and after December 31, 2014, a code or ordinance or part of  
 43 a uniform code or ordinance that is adopted by the board of supervisors  
 44 applies to locking devices for pool barrier gates used for means of  
 45 ingress or egress for semipublic swimming pools. Any new construction or

1 major renovation of a semipublic swimming pool from and after December 31,  
2 2014 must meet the requirements of the code or ordinance or part of the  
3 uniform code or ordinance that is adopted by the board of supervisors.  
4 This subsection does not apply to a locking device for a pool barrier gate  
5 used for means of ingress or egress for a semipublic swimming pool that  
6 was installed before January 1, 2015, if the locking device meets the  
7 requirements prescribed in section 36-1681, subsection B, paragraph 3.

8 J. NOTWITHSTANDING ANY OTHER LAW OR ANY CODE, ORDINANCE OR GENERAL  
9 OR SPECIFIC PLAN PROVISION OR PART OF A CODE, ORDINANCE OR GENERAL OR  
10 SPECIFIC PLAN PROVISION ADOPTED BY A COUNTY, THE COUNTY MAY NOT:

11 1. PROHIBIT OR LIMIT, DIRECTLY OR INDIRECTLY, USING OR INSTALLING A  
12 BUILDING PRODUCT OR MATERIAL IN THE CONSTRUCTION, RENOVATION, MAINTENANCE  
13 OR OTHER ALTERATION OF A RESIDENTIAL OR COMMERCIAL BUILDING IF THE  
14 BUILDING PRODUCT OR MATERIAL IS APPROVED FOR USE BY A NATIONAL MODEL CODE  
15 THAT WAS PUBLISHED WITHIN THE LAST THREE CODE CYCLES AND THAT APPLIES TO  
16 THE CONSTRUCTION, RENOVATION, MAINTENANCE OR OTHER ALTERATION OF THE  
17 BUILDING.

18 2. ESTABLISH A STANDARD FOR A BUILDING PRODUCT, MATERIAL OR  
19 AESTHETIC METHOD IN THE CONSTRUCTION, RENOVATION, MAINTENANCE OR OTHER  
20 ALTERATION OF A RESIDENTIAL OR COMMERCIAL BUILDING IF THE STANDARD IS MORE  
21 STRINGENT THAN A STANDARD FOR THE PRODUCT, MATERIAL OR AESTHETIC METHOD  
22 UNDER A NATIONAL MODEL CODE THAT WAS PUBLISHED WITHIN THE LAST THREE CODE  
23 CYCLES AND THAT APPLIES TO THE CONSTRUCTION, RENOVATION, MAINTENANCE OR  
24 OTHER ALTERATION OF THE BUILDING.