

PROPOSED

SENATE AMENDMENTS TO H.B. 2536

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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. Residential housing; design standards; prohibition;
5 applicability; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY MAY NOT ADOPT OR
7 ENFORCE ANY ORDINANCE, CODE, STANDARD, REGULATION, GUIDELINE, AGREEMENT,
8 STIPULATION OR OTHER LEGAL REQUIREMENT RELATED TO OR REGULATING RESIDENTIAL
9 HOUSING DESIGN ELEMENTS. THE MUNICIPALITY MAY NOT WITHHOLD A BUILDING
10 PERMIT OR OTHER APPROVAL THAT IS NECESSARY AS A CONDITION OF CONSTRUCTION
11 FOR FAILING TO COMPLY WITH ANY ORDINANCE, CODE, STANDARD, REGULATION,
12 GUIDELINE, AGREEMENT, STIPULATION OR OTHER LEGAL REQUIREMENT RELATED TO OR
13 REGULATING RESIDENTIAL HOUSING DESIGN ELEMENTS. A MUNICIPALITY MAY:

14 1. LIMIT THE NUMBER OF TIMES AN ELEVATION CAN BE BUILT NEXT TO OR
15 ACROSS FROM THE SAME ELEVATION.

16 2. REGULATE THE HEIGHT OF THE DWELLING PURSUANT TO SECTIONS 9-462.01
17 AND 9-462.10.

18 3. REGULATE THE LOCATION AND SIZE OF OPEN SPACE TO THE EXTENT
19 REQUIRED BY THE MUNICIPALITY SOLELY FOR STORMWATER RETENTION AS OF THE
20 EFFECTIVE DATE OF THIS SECTION AND FOR WATER CONSERVATION.

21 B. ANY APPLICANT FOR AN APPROVAL THAT IS NECESSARY TO OBTAIN A
22 BUILDING PERMIT TO CONSTRUCT A SINGLE-FAMILY, TWO-FAMILY OR MULTIFAMILY
23 BUILDING OR ANY HOUSING ORGANIZATION MAY BRING AN ACTION IN SUPERIOR COURT
24 TO ENFORCE THE REQUIREMENTS OF THIS SECTION.

1 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO ANY ORDINANCE,
2 CODE, STANDARD, REGULATION, GUIDELINE, AGREEMENT, STIPULATION OR OTHER
3 LEGAL REQUIREMENT THAT IS:

4 1. A REQUIREMENT OF AN ADOPTED MINIMUM STANDARD BUILDING CODE,
5 INCLUDING ANY LOCAL AMENDMENTS THAT ARE LESS RESTRICTIVE THAN THE UNAMENDED
6 MINIMUM STANDARD BUILDING CODE.

7 2. APPLICABLE SOLELY TO STRUCTURES LOCATED IN AN AREA DESIGNATED AS
8 A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01,
9 SUBSECTION A, PARAGRAPH 10 OR AN AREA DESIGNATED AS HISTORIC ON THE
10 NATIONAL REGISTER OF HISTORIC PLACES.

11 3. APPLICABLE SOLELY TO STRUCTURES INDIVIDUALLY DESIGNATED AS LOCAL,
12 STATE OR NATIONAL HISTORIC LANDMARKS.

13 4. APPLIED TO MANUFACTURED HOMES IN A MANNER CONSISTENT WITH TITLE
14 41, CHAPTER 37, ARTICLE 3 OR APPLICABLE FEDERAL LAW.

15 5. REQUIRED AS A CONDITION OF PARTICIPATING IN THE NATIONAL FLOOD
16 INSURANCE PROGRAM.

17 6. A STIPULATION ON A RECORDED SUBDIVISION PLAT ADOPTED BY THE
18 MUNICIPALITY BEFORE THE EFFECTIVE DATE OF THIS SECTION.

19 7. REQUIRED TO MEET THE SOUND ATTENUATION STANDARDS AS PRESCRIBED BY
20 SECTION 28-8482.

21 D. THIS SECTION DOES NOT:

22 1. AFFECT THE VALIDITY OR ENFORCEABILITY OF PRIVATE COVENANTS OR
23 OTHER CONTRACTUAL ELEMENTS AMONG PROPERTY OWNERS RELATING TO DWELLING
24 DESIGN ELEMENTS BY PARTIES OTHER THAN THE MUNICIPALITY.

25 2. APPLY TO A MUNICIPALITY LOCATED ON TRIBAL LAND OR WITH A
26 POPULATION OF LESS THAN TWENTY-FIVE THOUSAND PERSONS.

27 E. FOR THE PURPOSES OF THIS SECTION:

28 1. "DESIGN ELEMENTS" MEANS:

29 (a) THE NUMBER AND VARIATIONS OF FLOOR PLANS AND EXTERIOR
30 ELEVATIONS, INCLUDING THE SELECTION OF THE FLOOR PLAN TO BE BUILT ON EACH
31 LOT.

- 1 (b) THE SIZE AND NUMBER OF STORIES OF THE DWELLING.
- 2 (c) THE EXTERIOR BUILDING COLOR AND MATERIALS.
- 3 (d) THE TYPE OF STYLE OF EXTERIOR CLADDING MATERIALS.
- 4 (e) THE STYLE, MATERIALS, SHAPE, PITCH AND ARTICULATION OF THE ROOF
- 5 STRUCTURE.
- 6 (f) THE STYLE, MATERIALS, SIZE, SHAPE AND INCLUSION OF PORCHES AND
- 7 PATIOS.
- 8 (g) THE EXTERIOR NONSTRUCTURAL ARCHITECTURAL ORNAMENTATION.
- 9 (h) THE LOCATION, ARCHITECTURAL STYLING, MATERIALS AND SIZES OF
- 10 GARAGES, GARAGE DOORS AND DRIVEWAYS.
- 11 (i) THE PLACEMENT AND ORIENTATION OF GARAGE DOORS RELATIVE TO THE
- 12 FRONT FAÇADE OF THE LIVING SPACE.
- 13 (j) THE INTERIOR LAYOUT AND SIZE OF ROOMS, INCLUDING THE INTERIOR OF
- 14 THE GARAGE, HALLWAYS AND FLOOR PLANS.
- 15 (k) THE LOCATION, SIZE AND DESIGN OF OPEN SPACE AND AMENITIES,
- 16 INCLUDING AMENITIES IN COMMON AREAS MAINTAINED BY THE PROPERTY OWNER, AN
- 17 ASSOCIATION OR THE MEMBERS OF AN ASSOCIATION.
- 18 (l) SIDEWALK PLACEMENT AND DESIGN, INCLUDING REQUIRING DETACHED
- 19 SIDEWALKS, EXCEPT AS REQUIRED BY TITLE 41, CHAPTER 9, ARTICLE 8 AND
- 20 APPLICABLE FEDERAL LAW.
- 21 (m) THE DESIGN, DECORATION AND LANDSCAPING OF THE REAR YARD, SIDE
- 22 YARD AND ANY AREA THAT IS NOT VISIBLE OR ACCESSIBLE TO THE PUBLIC.
- 23 (n) ANY OTHER ARCHITECTURAL OR AESTHETIC ELEMENT THAT DOES NOT
- 24 DIRECTLY AFFECT AN OBJECTIVE AND IDENTIFIED HEALTH OR SAFETY CONDITION.
- 25 2. "HOUSING ORGANIZATION" MEANS A TRADE OR INDUSTRY GROUP WHOSE
- 26 MEMBERS ARE ENGAGED IN THE DEVELOPMENT OR CONSTRUCTION OF SINGLE-FAMILY,
- 27 TWO-FAMILY OR MULTIFAMILY HOUSING UNITS.
- 28 3. "MINIMUM STANDARD BUILDING CODE" MEANS AN UNAMENDED MODEL
- 29 BUILDING CODE, INCLUDING THE INTERNATIONAL BUILDING CODE AND INTERNATIONAL
- 30 RESIDENTIAL CODE, HOWEVER DENOMINATED.

1 4. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT BY
2 A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY
3 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION THAT
4 IS AVAILABLE AND KNOWABLE BY BOTH AN APPLICANT OR PROPONENT AND A MUNICIPAL
5 EMPLOYEE OR OFFICIAL.

6 5. "RESIDENTIAL HOUSING" MEANS A SINGLE-FAMILY, TWO-FAMILY OR
7 MULTIFAMILY BUILDING DESIGNED FOR RESIDENTIAL USE AND COMMON AREAS AND
8 IMPROVEMENTS THAT ARE OWNED OR MAINTAINED BY THE OWNER, A TENANT ON BEHALF
9 OF THE OWNER, AN ASSOCIATION OR THE MEMBERS OF AN ASSOCIATION.

10 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to
11 read:

12 9-462.01. Zoning regulations; public hearing; definitions

13 A. Pursuant to this article, the legislative body of any
14 municipality by ordinance, in order to conserve and promote the public
15 health, safety and general welfare, may:

16 1. Regulate the use of buildings, structures and land as between
17 agriculture, residence, industry, business and other purposes.

18 2. Regulate signs and billboards.

19 3. Regulate the location, height, bulk, number of stories and size
20 of buildings and structures, the size and use of lots, yards, courts and
21 other open spaces, the percentage of a lot that may be occupied by a
22 building or structure, access to incident solar energy and the intensity of
23 land use.

24 4. Establish requirements for off-street parking and loading EXCEPT
25 IN AREAS ZONED FOR RESIDENTIAL USE IN A MUNICIPALITY WITH A POPULATION OF
26 MORE THAN TWENTY-FIVE THOUSAND PERSONS.

27 5. Establish and maintain building setback lines.

28 6. Create civic districts around civic centers, public parks, public
29 buildings or public grounds and establish regulations for the civic
30 districts.

31 7. Require as a condition of rezoning public dedication of
32 rights-of-way as streets, alleys, public ways, drainage and public

1 utilities as are reasonably required by or related to the effect of the
2 rezoning.

3 8. Establish floodplain zoning districts and regulations to protect
4 life and property from the hazards of periodic inundation. Regulations may
5 include variable lot sizes, special grading or drainage requirements, or
6 other requirements deemed necessary for the public health, safety or
7 general welfare.

8 9. Establish special zoning districts or regulations for certain
9 lands characterized by adverse topography, adverse soils, subsidence of the
10 earth, high water table, lack of water or other natural or man-made hazards
11 to life or property. Regulations may include variable lot sizes, special
12 grading or drainage requirements, or other requirements deemed necessary
13 for the public health, safety or general welfare.

14 10. Establish districts of historical significance provided that:

15 (a) The ordinances may require that special permission be obtained
16 for any development within the district if the legislative body has adopted
17 a plan for the preservation of districts of historical significance that
18 meets the requirements of subdivision (b) of this paragraph, and the
19 criteria contained in the ordinance are consistent with the objectives set
20 forth in the plan.

21 (b) A plan for the preservation of districts of historical
22 significance shall identify districts of special historical significance,
23 state the objectives to be sought concerning the development or
24 preservation of sites, area and structures within the district, and
25 formulate a program for public action, including providing public
26 facilities and regulating private development and demolition necessary to
27 realize these objectives.

28 (c) The ordinance establishing districts of historical significance
29 shall set forth standards necessary to preserve the historical character of
30 the area so designated.

31 (d) The ordinances may designate or authorize any committee,
32 commission, department or person to designate structures or sites of

1 special historical significance in accordance with criteria contained in
2 the ordinance, and no designation shall be made except after a public
3 hearing on notice of the owners of record of the property designated of
4 special historical significance. The ordinances may require that special
5 permission be obtained for any development respecting the structures or
6 sites.

7 11. Establish age-specific community zoning districts in which
8 residency is restricted to a head of a household or spouse who must be of a
9 specific age or older and in which minors are prohibited from living in the
10 home. Age-specific community zoning districts shall not be overlaid over
11 property without the permission of all owners of property included as part
12 of the district unless all of the property in the district has been
13 developed, advertised and sold or rented under specific age restrictions.
14 The establishment of age-specific community zoning districts is subject to
15 all of the public notice requirements and other procedures prescribed by
16 this article. **OUTSIDE OF AN AGE-SPECIFIC COMMUNITY ZONING DISTRICT, A
17 MUNICIPALITY WITH A POPULATION OF MORE THAN TWENTY-FIVE THOUSAND PERSONS
18 SHALL ALLOW A SINGLE-ROOM OCCUPANCY TO BE OCCUPIED BY A PERSON WHO IS
19 FIFTY-FIVE YEARS OF AGE OR OLDER IN OTHER ZONING DISTRICTS AS DETERMINED BY
20 THE MUNICIPALITY.**

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

28 (a) The issuance and recordation of the instruments necessary to
29 sever development rights from the sending property and to affix development
30 rights to the receiving property. These instruments shall be executed by
31 the affected property owners and lienholders.

1 (b) The preservation of the character of the sending property and
2 assurance that the prohibitions against the use and development of the
3 sending property shall bind the landowner and every successor in interest
4 to the landowner.

5 (c) The severance of transferable development rights from the
6 sending property and the delayed transfer of development rights to a
7 receiving property.

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

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

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

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

20 B. For the purposes of subsection A of this section, the legislative
21 body may divide a municipality, or portion of a municipality, into zones of
22 the number, shape and area:

23 1. It deems best suited to carry out the purpose of this article and
24 articles 6, 6.2 and 6.3 of this chapter.

25 2. IN AN EFFORT TO ENSURE AN ADEQUATE SUPPLY OF LAND ZONED FOR
26 HOUSING FOR THE MUNICIPALITY'S CURRENT AND FUTURE RESIDENTS.

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

30 1. Within individual zones, there may be uses permitted on a
31 conditional basis under which additional requirements must be met,

1 including requiring site plan review and approval by the planning agency.
2 The conditional uses are generally characterized by any of the following:

- 3 (a) Infrequency of use.
- 4 (b) High degree of traffic generation.
- 5 (c) Requirement of large land area.

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

8 3. WITHIN ZONES THAT ALLOW SINGLE-FAMILY RESIDENTIAL USES IN A
9 MUNICIPALITY WITH A POPULATION OF MORE THAN TWENTY-FIVE THOUSAND PERSONS,
10 THE REGULATIONS SHALL ALLOW ONE ACCESSORY DWELLING UNIT PER LOT THAT MAY BE
11 OCCUPIED BY A PERSON OTHER THAN THE OWNER. A MUNICIPALITY MAY ALLOW MORE
12 THAN ONE ACCESSORY DWELLING UNIT PER LOT AND MAY REQUIRE A LEASE FOR AN
13 ACCESSORY DWELLING UNIT TO HAVE A DURATION OF AT LEAST THREE MONTHS. THIS
14 PARAGRAPH DOES NOT APPLY TO AREAS DESIGNATED AS A DISTRICT OF HISTORICAL
15 SIGNIFICANCE PURSUANT TO SUBSECTION A, PARAGRAPH 10 OF THIS SECTION OR AN
16 AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC
17 PLACES.

18 D. To carry out the purposes of this article and articles 6 and 6.2
19 of this chapter, the legislative body may adopt overlay zoning districts
20 and regulations applicable to particular buildings, structures and land
21 within individual zones. For the purposes of this subsection, "overlay
22 zoning district" means a special zoning district that includes regulations
23 that modify regulations in another zoning district with which the overlay
24 zoning district is combined. Overlay zoning districts and regulations
25 shall be adopted pursuant to section 9-462.04.

26 E. The legislative body may approve a change of zone conditioned on
27 a schedule for development of the specific use or uses for which rezoning
28 is requested. If, at the expiration of this period, the property has not
29 been improved for the use for which it was conditionally approved, the
30 legislative body, after notification by certified mail to the owner and
31 applicant who requested the rezoning, shall schedule a public hearing to
32 take administrative action to extend, remove or determine compliance with

1 the schedule for development or take legislative action to cause the
2 property to revert to its former zoning classification.

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

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

30 1. "Agricultural composting" means the controlled biological
31 decomposition of organic solid waste under in-vessel anaerobic or aerobic
32 conditions where all or part of the materials are generated on the farmland

1 or will be used on the farmland associated with the agricultural composting
2 operation.

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

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

8 I. In accordance with article II, sections 1 and 2, Constitution of
9 Arizona, the legislative body of a municipality shall consider the
10 individual property rights and personal liberties of the residents of the
11 municipality before adopting any zoning ordinance.

12 J. Before adopting any zoning ordinance or zoning ordinance text
13 amendment of general applicability, the legislative body of a municipality
14 shall consider the probable impact of the proposed zoning ordinance or text
15 amendment on the cost to construct housing for sale or rent.

16 K. A municipality may not adopt or enforce a land use regulation
17 that requires the property on which a nongovernmental primary or secondary
18 school operates to be larger than one acre.

19 L. For the purposes of this section:

20 1. "ACCESSORY DWELLING UNIT":

21 (a) MEANS A RESIDENTIAL LIVING UNIT THAT PROVIDES COMPLETE
22 INDEPENDENT LIVING FACILITIES, WHICH MAY INCLUDE A KITCHEN WITH A RANGE,
23 FOR ONE OR MORE PERSONS ON THE SAME PARCEL AS A SINGLE-FAMILY DWELLING AND
24 THAT IS SMALLER IN TOTAL SQUARE FOOTAGE THAN THE PRIMARY DWELLING UNIT.

25 (b) INCLUDES EITHER OF THE FOLLOWING:

26 (i) A DETACHED UNIT.

27 (ii) A UNIT THAT IS ATTACHED TO THE SINGLE-FAMILY UNIT ON THE SAME
28 PARCEL.

29 ~~1.~~ 2. "Development rights" means the maximum development that would
30 be allowed on the sending property under any general or specific plan and
31 local zoning ordinance of a municipality in effect on the date the
32 municipality adopts an ordinance pursuant to subsection A, paragraph 12 of

1 this section respecting the permissible use, area, bulk or height of
2 improvements made to the lot or parcel. Development rights may be
3 calculated and allocated in accordance with factors including dwelling
4 units, area, floor area, floor area ratio, height limitations, traffic
5 generation or any other criteria that will quantify a value for the
6 development rights in a manner that will carry out the objectives of this
7 section.

8 ~~2.~~ 3. "Receiving property" means a lot or parcel within which
9 development rights are increased pursuant to a transfer of development
10 rights. Receiving property shall be appropriate and suitable for
11 development and shall be sufficient to accommodate the transferable
12 development rights of the sending property without substantial adverse
13 environmental, economic or social impact to the receiving property or to
14 neighboring property.

15 ~~3.~~ 4. "Sending property" means a lot or parcel with special
16 characteristics, including farmland, woodland, desert land, mountain land,
17 floodplain, natural habitats, recreation or parkland, including golf course
18 area, or land that has unique aesthetic, architectural or historic value
19 that a municipality desires to protect from future development.

20 5. "SINGLE-ROOM OCCUPANCY":

21 (a) MEANS A DWELLING UNIT IN WHICH A RESIDENT RENTS A PRIVATE
22 BEDROOM WITH A SHARED KITCHEN AND BATHROOM FACILITY.

23 (b) DOES NOT INCLUDE A SOBER LIVING HOME AS DEFINED IN SECTION
24 36-2061 OR AN ASSISTED LIVING FACILITY AS DEFINED IN SECTION 36-401.

25 ~~4.~~ 6. "Transfer of development rights" means the process by which
26 development rights from a sending property are affixed to one or more
27 receiving properties.

28 Sec. 3. Section 9-462.03, Arizona Revised Statutes, is amended to
29 read:

30 9-462.03. Amendment procedure

31 A. The governing body of the municipality shall adopt by ordinance a
32 citizen review process that applies to all rezoning and specific plan

1 applications that require a public hearing. The citizen review process
2 shall include at least the following requirements:

3 1. Adjacent landowners and other potentially affected citizens will
4 be notified of the application.

5 2. The municipality will inform adjacent landowners and other
6 potentially affected citizens of the substance of the proposed rezoning.

7 3. Adjacent landowners and other potentially affected citizens will
8 be provided an opportunity to express any issues or concerns that they may
9 have with the proposed rezoning before the public hearing.

10 B. EXCEPT FOR MODIFICATIONS MADE PURSUANT TO SECTION 9-462.10, a
11 zoning ordinance that changes any property from one zone to another, that
12 imposes any regulation not previously imposed or that removes or modifies
13 any such regulation previously imposed must be adopted following the
14 procedure prescribed in the citizen review process and in the manner set
15 forth in section 9-462.04.

16 Sec. 4. Section 9-462.04, Arizona Revised Statutes, is amended to
17 read:

18 9-462.04. Public hearing required; definition

19 A. If the municipality has a planning commission or a hearing
20 officer, the planning commission or hearing officer shall hold a public
21 hearing on any zoning ordinance. Notice of the time and place of the
22 hearing, including a general explanation of the matter to be considered
23 and ~~including~~ a general description of the area affected, shall be given
24 at least fifteen days before the hearing in the following manner:

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

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

12 3. In proceedings that are not initiated by the property owner
13 involving rezoning of land that may change the zoning classification,
14 notice by first class mail shall be sent to each real property owner, as
15 shown on the last assessment of the property, of the area to be rezoned
16 and all property owners, as shown on the last assessment of the property,
17 within three hundred feet of the property to be rezoned.

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

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

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

26 (c) An increase or reduction in the allowable number of stories of
27 buildings.

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

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

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

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

7 (b) If the municipality issues utility bills or other mass mailings
8 that periodically include notices or other informational or advertising
9 materials, the municipality shall include notice of the changes with such
10 utility bills or other mailings.

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

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

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

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

30 C. After the hearing, the planning commission or hearing officer
31 shall render a decision in the form of a written recommendation to the
32 governing body. The recommendation shall include the reasons for the

1 recommendation and be transmitted to the governing body in the form and
2 manner prescribed by the governing body.

3 D. If the planning commission or hearing officer has held a public
4 hearing, the governing body may adopt the recommendations of the planning
5 commission or hearing officer without holding a second public hearing if
6 there is no objection, request for public hearing or other protest. The
7 governing body shall hold a public hearing if requested by the party
8 aggrieved or any member of the public or of the governing body, or, in any
9 case, if a public hearing has not been held by the planning commission or
10 hearing officer. The governing body may consider the testimony of any
11 party aggrieved when making its decision. In municipalities with
12 territory in the vicinity of a military airport or ancillary military
13 facility as defined in section 28-8461, the governing body shall hold a
14 public hearing if, after notice is transmitted to the military airport
15 pursuant to subsection A of this section and before the public hearing,
16 the military airport provides comments or analysis concerning the
17 compatibility of the proposed rezoning with the high noise or accident
18 potential generated by military airport or ancillary military facility
19 operations that may have an adverse impact on public health and safety,
20 and the governing body shall consider and analyze the comments or analysis
21 before making a final determination. Notice of the time and place of the
22 hearing shall be given in the time and manner provided for ~~the giving of~~
23 notice of the hearing by the planning commission as specified in
24 subsection A of this section. A municipality may give additional notice
25 of the hearing in any other manner as the municipality deems necessary or
26 desirable. For the purposes of this subsection, "party aggrieved" means
27 any property owner within the notification area prescribed by subsection
28 A, paragraph 3 of this section.

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

1 F. A municipality is not required to adopt a general plan before
2 ~~the adoption of~~ ADOPTING a zoning ordinance.

3 G. If there is no planning commission or hearing officer, the
4 governing body of the municipality shall perform the functions assigned to
5 the planning commission or hearing officer.

6 H. If the owners of twenty percent or more of the property by area
7 and number of lots, tracts and condominium units within the zoning area of
8 the affected property file a protest in writing against a proposed
9 amendment, the change shall not become effective except by the favorable
10 vote of three-fourths of all members of the governing body of the
11 municipality. If any members of the governing body are unable to vote on
12 such a question because of a conflict of interest, then the required
13 number of votes for passage of the question shall be three-fourths of the
14 remaining membership of the governing body, ~~provided that~~ IF such required
15 number of votes ~~shall~~ IS not ~~be~~ less than a majority of the full
16 membership of the legally established governing body. For the purposes of
17 this subsection, the vote shall be rounded to the nearest whole number. A
18 protest filed pursuant to this subsection shall be signed by the property
19 owners opposing the proposed amendment and filed in the office of the
20 clerk of the municipality not later than 12:00 noon one business day
21 before the date on which the governing body will vote on the proposed
22 amendment or on an earlier time and date established by the governing
23 body.

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

28 J. Notwithstanding section 19-142, subsection B, a decision by the
29 governing body involving rezoning ~~of~~ land that is not owned by the
30 municipality and that changes the zoning classification of such land may
31 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. EXCEPT AS OTHERWISE PROVIDED, THIS SECTION DOES NOT APPLY TO ANY
4 ZONING ORDINANCE OR PART OF A ZONING ORDINANCE ADOPTED PURSUANT TO SECTION
5 9-462.10.

6 ~~K.~~ L. For the purposes of this section, "zoning area" means both
7 of the following:

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

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

12 Sec. 5. Title 9, chapter 4, article 6.1, Arizona Revised Statutes,
13 is amended by adding section 9-462.10, to read:

14 9-462.10. State preemption; residential zoning districts;
15 amendment; objection; findings; action to
16 challenge findings; public hearing;
17 applicability; definitions

18 A. HOUSING SUPPLY AND AFFORDABILITY ARE OF STATEWIDE CONCERN.
19 REGULATION OF HOUSING WITHIN RESIDENTIAL ZONING DISTRICTS AND THROUGH
20 AMENDMENTS TO OTHER ZONING DISTRICTS IS NOT SUBJECT TO FURTHER REGULATION
21 BY A CITY OR TOWN, INCLUDING A CHARTER CITY.

22 B. NOTWITHSTANDING ANY OTHER LAW, ON OR BEFORE JANUARY 1, 2024, A
23 MUNICIPALITY SHALL ADOPT AN AMENDMENT TO ITS ZONING ORDINANCE THAT REQUIRES
24 THE MUNICIPALITY, ON ANY REZONING OF LAND TO RESIDENTIAL USE, TO DETERMINE
25 WHETHER THE APPLICATION TO REZONE IS ADMINISTRATIVELY COMPLETE WITHIN
26 THIRTY DAYS AFTER RECEIVING THE APPLICATION. IF THE MUNICIPALITY
27 DETERMINES THAT THE APPLICATION IS NOT ADMINISTRATIVELY COMPLETE, THE
28 MUNICIPALITY SHALL FOLLOW THE PROCEDURES PRESCRIBED IN SECTION 9-835,
29 SUBSECTION E UNTIL THE APPLICATION IS ADMINISTRATIVELY COMPLETE. THE
30 MUNICIPALITY SHALL DETERMINE WHETHER A RESUBMITTED APPLICATION IS
31 ADMINISTRATIVELY COMPLETE WITHIN FIFTEEN DAYS AFTER RECEIPT. AFTER A
32 DETERMINATION THAT THE APPLICATION IS ADMINISTRATIVELY COMPLETE, THE

1 MUNICIPALITY SHALL APPROVE THE APPLICATION WITHIN ONE HUNDRED EIGHTY DAYS,
2 UNLESS A PROPERTY OWNER WITHIN THE ZONING AREA DEMONSTRATES BY CLEAR AND
3 CONVINCING EVIDENCE THAT THE PROPOSED HOUSING UNITS WILL CREATE AN
4 OBJECTIVE EXTERNALITY TO THE PROPERTY OWNER WHILE ON THE OWNER'S PROPERTY
5 THAT HAS NOT BEEN MITIGATED.

6 C. IF THE MUNICIPALITY FINDS THAT THE OWNER OF PROPERTY WITHIN THE
7 ZONING AREA PROVED BY CLEAR AND CONVINCING EVIDENCE AN OBJECTIVE
8 EXTERNALITY TO THE PROPERTY OWNER WHILE ON THE OWNER'S PROPERTY, THE
9 MUNICIPALITY SHALL SPECIFICALLY IDENTIFY THE LEAST RESTRICTIVE MEANS TO
10 SUFFICIENTLY MITIGATE THE IDENTIFIED OBJECTIVE EXTERNALITY AND
11 CONDITIONALLY APPROVE THE APPLICATION SUBJECT TO THE SPECIFICALLY
12 IDENTIFIED MITIGATION MEASURES. THE MUNICIPALITY'S IDENTIFIED OBJECTIVE
13 EXTERNALITIES, INCLUDING ANY MITIGATION MEASURES PRESCRIBED BY CODE,
14 ORDINANCE, STANDARD, REGULATION OR OTHER LEGAL REQUIREMENT MAY NOT CREATE
15 AN UNDUE BURDEN ON THE DEVELOPMENT AND CONSTRUCTION OF NEW HOUSING UNITS.

16 D. FOLLOWING THE MUNICIPALITY'S FINDINGS, THE APPLICANT MAY BRING AN
17 ACTION IN SUPERIOR COURT TO CHALLENGE THE FINDINGS THAT THE OWNER OF
18 PROPERTY WITHIN THE ZONING AREA MET THE BURDEN OF SHOWING BY CLEAR AND
19 CONVINCING EVIDENCE THAT THE PROPOSED DEVELOPMENT WILL CREATE AN OBJECTIVE
20 EXTERNALITY TO THE PROPERTY OWNER WHILE ON THE OWNER'S PROPERTY AND THE
21 MUNICIPALITY'S SPECIFICALLY IDENTIFIED LEAST RESTRICTIVE MEANS OF
22 MITIGATING THE IDENTIFIED OBJECTIVE EXTERNALITY.

23 E. IN ANY JUDICIAL ACTION BROUGHT PURSUANT TO THIS SECTION, THE
24 TRIAL SHALL BE DE NOVO AND THE COURT MAY NOT USE ANY DEFERENTIAL STANDARD
25 TO THE FINDINGS OF THE MUNICIPALITY.

26 F. THE MUNICIPALITY MAY REQUIRE THE PROJECT THAT IS THE SUBJECT OF
27 THE REZONING REQUEST TO ADDRESS ANY IMPACTS ON THE MUNICIPALITY'S
28 INFRASTRUCTURE RELATED TO TRAFFIC, STORMWATER RUNOFF, WATER SERVICES AND
29 WASTEWATER SERVICE, AND PAY ANY DEVELOPMENT FEES ADOPTED AND COLLECTED
30 PURSUANT TO SECTION 9-463.05.

1 G. THE APPLICATION FOR CHANGES TO THE MUNICIPALITY'S ZONING
2 ORDINANCE SHALL BE ADOPTED FOLLOWING A PUBLIC HEARING BEFORE THE GOVERNING
3 BOARD OF THE MUNICIPALITY. NOTICE AND PLACE OF THE PUBLIC HEARING,
4 INCLUDING A GENERAL EXPLANATION OF THE MATTER TO BE CONSIDERED, SHALL BE
5 PROVIDED IN ACCORDANCE WITH SECTION 9-462.04, SUBSECTION A. THE APPLICANT
6 SHALL COMPLY WITH ANY OTHER NOTICE REQUIREMENTS ADOPTED BY THE MUNICIPALITY
7 IN ACCORDANCE WITH STATE LAW. THE MUNICIPALITY, AT ITS DISCRETION, MAY
8 REQUIRE A PUBLIC HEARING BEFORE A PLANNING AND ZONING COMMISSION IF THE
9 REQUIRED HEARINGS TAKE PLACE WITHIN THE TIME FRAMES REQUIRED BY THIS
10 SECTION.

11 H. THIS SECTION DOES NOT APPLY TO:

12 1. ANY LAND WITHIN AN AREA THAT IS DESIGNATED AS A DISTRICT OF
13 HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01, SUBSECTION A,
14 PARAGRAPH 10.

15 2. AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER
16 OF HISTORIC PLACES.

17 3. THE IMMEDIATE VICINITY OF A MUNICIPAL, FEDERAL AVIATION
18 ADMINISTRATION COMMERCIALY LICENSED, GENERAL AVIATION OR MILITARY AIRPORT
19 OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461.

20 4. A MUNICIPALITY THAT IS LOCATED ON TRIBAL LAND OR THAT HAS A
21 POPULATION OF LESS THAN TWENTY-FIVE THOUSAND PERSONS.

22 I. FOR THE PURPOSES OF THIS SECTION:

23 1. "ADMINISTRATIVELY COMPLETE" MEANS THAT THE APPLICANT HAS PROVIDED
24 ALL NECESSARY INFORMATION AND COMPLETED ALL REQUIRED FORMS FOR THE
25 APPLICANT TO PROVIDE THE REQUIRED NOTICE TO PROPERTY OWNERS WITHIN THE
26 ZONING AREA AND THE MUNICIPALITY TO REVIEW AND APPROVE THE APPLICATION.

27 2. "EXTERNALITY":

28 (a) MEANS THE EFFECT BEYOND THE PROPERTY LINES OF THE PROPOSED
29 DEVELOPMENT ON PROPERTY OWNERS WITHIN THE ZONING AREA WHILE ON THE OWNER'S
30 PROPERTY RELATED TO LIGHT, NOISE, ODOR, WATER RUNOFF, TRAFFIC AND PARKING.

1 (b) DOES NOT INCLUDE ANY OF THE EFFECTS PURSUANT TO SUBDIVISION (a)
2 OF THIS PARAGRAPH THAT ARE WHOLLY CONTAINED WITHIN THE PROPERTY LINES OF
3 THE AREA OF THE PROPOSED DEVELOPMENT.

4 3. "LIGHT" MEANS THE PROPORTION OF NATURAL LIGHT THAT A BUILDING
5 SHOULD EXPECT TO RECEIVE.

6 4. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT BY
7 A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY
8 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION THAT
9 IS AVAILABLE AND KNOWABLE BY BOTH AN APPLICANT OR PROPONENT AND A MUNICIPAL
10 EMPLOYEE OR OFFICIAL.

11 5. "ZONING AREA" HAS THE SAME MEANING PRESCRIBED IN SECTION
12 9-462.04.

13 Sec. 6. Section 9-831, Arizona Revised Statutes, is amended to read:

14 9-831. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Fire and life safety inspection" means an inspection of a
17 regulated person or facility conducted to ensure fire safety compliance.

18 2. "Food and swimming pool inspection" means an inspection of a
19 regulated person or facility conducted to ensure the safety of food
20 services, swimming pools and other bathing places.

21 3. "License":

22 (a) Includes the whole or part of any municipal permit, certificate,
23 approval, registration, charter or similar form of permission required by
24 law. ~~license~~

25 (b) Does not include a transaction privilege tax license.

26 4. "Licensing" includes the municipal process respecting the grant,
27 denial, renewal, revocation, suspension, annulment, withdrawal or amendment
28 of a license.

29 5. "Municipal" or "municipality" means an incorporated city or town.

30 6. "Person" means an individual, partnership, corporation,
31 association, governmental subdivision or unit of a governmental subdivision
32 or a public or private organization of any character.

1 7. "Request for corrections" means a request for technical or
2 clarifying corrections from an applicant who has submitted an
3 administratively complete application for a license.

4 8. "Substantive policy statement":

5 (a) Means a written expression that is only advisory and that
6 informs the general public of a municipality's current approach to, or
7 opinion of, the requirements of the ordinances or codes, including, if
8 appropriate, the municipality's current practice, procedure or method of
9 action based on that approach or opinion. ~~A substantive policy statement~~

10 (b) Does not include internal procedural documents that only affect
11 the internal procedures of the municipality and that do not impose
12 additional requirements or penalties on regulated parties or confidential
13 information.

14 9. "Working day" means a ~~twenty-four hour~~ TWENTY-FOUR-HOUR period
15 excluding weekends and THE legal holidays PRESCRIBED IN SECTION 1-301.

16 Sec. 7. Section 9-835, Arizona Revised Statutes, is amended to read:

17 9-835. Licensing time frames; compliance; consequence for
18 failure to comply with time frame; exemptions;
19 definitions

20 A. For any new ordinance or code requiring a license, a municipality
21 shall have in place an overall time frame during which the municipality
22 will either grant or deny each type of license that it issues. The overall
23 time frame for each type of license shall state separately the
24 administrative completeness review time frame and the substantive review
25 time frame and shall be posted on the municipality's website or the website
26 of an association of cities and towns if the municipality does not have a
27 website.

28 B. ~~On or before December 31, 2012,~~ A municipality that issues
29 licenses required under existing ordinances or codes shall have in place an
30 overall time frame during which the municipality will either grant or deny
31 each type of license that it issues. The overall time frame for each type
32 of license shall state separately the administrative completeness review

1 time frame and the substantive review time frame and shall be posted on the
2 municipality's website or the website of an association of cities and towns
3 if the municipality does not have a website. Municipalities shall
4 prioritize the establishment of time frames for those licenses that have
5 the greatest impact on the public.

6 C. In establishing time frames, municipalities shall consider all of
7 the following:

8 1. The complexity of the licensing subject matter.
9 2. The resources of the municipality.
10 3. The economic impact of delay on the regulated community.
11 4. The impact of the licensing decision on public health and safety.
12 5. The possible use of volunteers with expertise in the subject
13 matter area.

14 6. The possible increased use of general licenses for similar types
15 of licensed businesses or facilities.

16 7. The possible increased cooperation between the municipality and
17 the regulated community.

18 8. Increased municipal flexibility in structuring the licensing
19 process and personnel including:

20 (a) Adult businesses and other licenses that are related to the
21 first amendment.

22 (b) Master planned communities.

23 (c) Suspension of the substantive and overall time frames for
24 purposes including delays caused by the need for public hearings, state or
25 federal licenses or approvals from public utilities on residential or
26 commercial development projects.

27 9. That the substantive review time frames and overall time frames
28 do not include the time required for an applicant to obtain other
29 nonmunicipal licenses or to participate in meetings as required by law.

30 10. THE IMPACT ON THE SUPPLY AND COST OF HOUSING FROM UNNECESSARY
31 DELAYS IN THE APPROVAL AND PERMITTING PROCESS.

1 D. A municipality shall issue a written or electronic notice of
2 administrative completeness or deficiencies to an applicant for a license
3 within the administrative completeness review time frame. If the permit
4 sought requires approval of more than one department of the municipality,
5 each department may issue a written or electronic notice of administrative
6 completeness or deficiencies.

7 E. If a municipality determines that an application for a license is
8 not administratively complete, the municipality shall include a
9 comprehensive list of the specific deficiencies in the written or
10 electronic notice provided pursuant to subsection D of this section. If
11 the municipality issues a written or electronic notice of deficiencies
12 within the administrative completeness time frame, the administrative
13 completeness review time frame and the overall time frame are suspended
14 from the date the notice is issued until the date that the municipality
15 receives the missing information from the applicant. The municipality may
16 issue an additional written or electronic notice of administrative
17 completeness or deficiencies based on the applicant's submission of missing
18 information. If the permit sought requires approval of more than one
19 department of the municipality, each department may issue an additional
20 written or electronic notice of administrative completeness or deficiencies
21 based on the applicant's submission of missing information.

22 F. If a municipality does not issue a written or electronic notice
23 of administrative completeness or deficiencies within the administrative
24 completeness review time frame, the application is deemed administratively
25 complete. If a municipality issues a timely written or electronic notice
26 of deficiencies, an application ~~shall~~ IS not ~~be~~ complete until all
27 requested information has been received by the municipality. A
28 municipality may consider an application withdrawn if, by fifteen days or
29 more after the date of notice, as established by the municipality, the
30 applicant does not supply the documentation or information requested or an
31 explanation of why the information cannot be provided within the
32 established time period.

1 G. During the substantive review time frame, a municipality may make
2 one comprehensive written or electronic request for corrections. If the
3 municipality identifies legal requirements that were not included in the
4 comprehensive request for corrections, the municipality may amend the
5 comprehensive request for corrections once to include the legal
6 requirements and the legal authority for the requirements. **WITHIN FIVE**
7 **WORKING DAYS AFTER A REQUEST BY THE APPLICANT, THE MUNICIPALITY SHALL MEET**
8 **OR DISCUSS WITH THE APPLICANT THE REQUEST FOR CORRECTIONS AND PROVIDE**
9 **SUFFICIENT INFORMATION AND INSTRUCTION TO ALLOW THE APPLICANT TO PROVIDE**
10 **THE REQUESTED CORRECTIONS.** If the permit sought requires approval of more
11 than one department of the municipality, each department may issue a
12 comprehensive written or electronic request for corrections. If the
13 applicant fails to resolve an issue identified in a request for
14 corrections, the municipality may make supplemental written or electronic
15 requests for corrections that are limited to issues previously identified
16 in a comprehensive request for corrections. If a municipality issues a
17 comprehensive written or electronic request or a supplemental request for
18 corrections, the substantive review time frame and the overall time frame
19 are suspended from the date the request is issued until the date that the
20 municipality receives the corrections from the applicant. If an applicant
21 requests significant changes, alterations, additions or amendments to an
22 application that are consistent with the purposes of the original
23 application and that are not in response to the request for corrections, a
24 municipality may make one additional comprehensive written or electronic
25 request for corrections and may have ~~no~~ **NOT** more than an additional fifty
26 ~~per cent~~ **PERCENT** of the substantive review time frame as established by the
27 municipality for that license to grant or deny the license. Nothing shall
28 prevent communication between a municipality and an applicant regarding a
29 comprehensive written or electronic request for corrections or a
30 supplemental request for corrections. **EXCEPT FOR AN APPLICATION SUBMITTED**
31 **FOR A CHANGE IN ZONING PURSUANT TO CHAPTER 4, ARTICLE 6.1 OF THIS TITLE OR**
32 **AN APPLICATION RELATED TO A STRUCTURE IN AN AREA DESIGNATED AS A DISTRICT**

1 OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01, SUBSECTION A,
2 PARAGRAPH 10 OR HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES OR A
3 STRUCTURE INDIVIDUALLY DESIGNATED AS A LOCAL, STATE OR NATIONAL HISTORIC
4 LANDMARK, A MUNICIPALITY MAY NOT DENY A LICENSE APPLICATION THAT IS
5 NECESSARY FOR LAND DEVELOPMENT OR BUILDING CONSTRUCTION UNLESS THE
6 MUNICIPALITY CONSIDERS THE APPLICATION WITHDRAWN. A municipality may
7 consider an application withdrawn if, by thirty days or more after the date
8 of notice, as established by the municipality, the applicant does not
9 supply the documentation or information requested or an explanation of why
10 the information cannot be provided within the established time period.

11 H. Nothing shall prevent the municipality from continuing to process
12 the application during the suspension of the substantive review time frame
13 and overall time frame.

14 I. By mutual written or electronic agreement, a municipality and an
15 applicant for a license may extend the substantive review time frame and
16 the overall time frame. An extension of the substantive review time frame
17 and the overall time frame may not exceed fifty ~~per cent~~ PERCENT of the
18 overall time frame.

19 J. Unless a municipality and an applicant for a license mutually
20 agree to extend the substantive review time frame and the overall time
21 frame pursuant to subsection I of this section, a municipality shall issue
22 a written or electronic notice granting or denying a license to an
23 applicant. If a municipality denies or withdraws an application for a
24 license, the municipality shall include in the written or electronic notice
25 at least the following information:

26 1. Justification for the denial or withdrawal with references to the
27 statutes, ordinances, codes or substantive policy statements on which the
28 denial or withdrawal is based.

29 2. An explanation of the applicant's right to appeal the denial or
30 withdrawal. The explanation shall include the number of working days in
31 which the applicant must file a protest challenging the denial or

1 withdrawal and the name and telephone number of a municipal contact person
2 who can answer questions regarding the appeals process.

3 3. An explanation of the applicant's right to resubmit the
4 application, the total amount of fees that will be assessed if the
5 applicant resubmits the application and the method in which those fees were
6 calculated.

7 K. If a municipality does not issue the applicant the written or
8 electronic notice granting, **CONDITIONALLY GRANTING** or denying a license
9 within the overall time frame or within the mutually agreed on time frame
10 extension, the municipality shall refund to the applicant all fees charged
11 for reviewing and acting on the application for the license and shall
12 excuse payment of any fees that have not yet been paid. The municipality
13 shall not require an applicant to submit an application for a refund
14 pursuant to this subsection. The refund shall be made within thirty
15 working days after the expiration of the overall time frame or the time
16 frame extension. The municipality shall continue to process the
17 application. Notwithstanding any other statute, the municipality shall
18 make the refund from the fund in which the application fees were originally
19 deposited. The right to receive a refund of fees charged for reviewing and
20 acting on the application for the license may not be waived by an
21 applicant. **EXCEPT FOR A FINAL CERTIFICATE OF OCCUPANCY OR A FINAL**
22 **INSPECTION FOR LAND DEVELOPMENT OR BUILDING CONSTRUCTION, IF THE**
23 **APPLICATION IS FOR A LICENSE OR APPROVAL THAT IS NECESSARY FOR LAND**
24 **DEVELOPMENT OR BUILDING CONSTRUCTION, THE APPLICATION SHALL BE DEEMED**
25 **APPROVED IF THE MUNICIPALITY DOES NOT ISSUE THE APPLICANT THE WRITTEN OR**
26 **ELECTRONIC NOTICE GRANTING OR CONDITIONALLY GRANTING THE LICENSE OR**
27 **APPROVAL WITHIN THE OVERALL TIME FRAME OR WITHIN THE MUTUALLY AGREED ON**
28 **TIME FRAME EXTENSION. THE MUNICIPALITY MAY RETAIN ALL FEES CHARGED FOR**
29 **REVIEWING AND ACTING ON THE APPLICATION.**

30 L. If an application for a license is denied and the applicant
31 resubmits the application for the same purposes with only revisions or
32 corrections to the original application, the municipality shall not assess

1 any additional application fees that exceed the cost of processing the
2 resubmitted revisions or corrections. This subsection does not apply to
3 license applications that were denied for disqualifying criminal
4 convictions or that were submitted fraudulently.

5 M. If an application for a license is withdrawn and the applicant
6 resubmits the application for the same purpose, the municipality shall not
7 assess any additional application fees that exceed fifty ~~per cent~~ PERCENT
8 of the original ~~applicant~~ APPLICATION fees that have not been refunded to
9 the applicant. This subsection does not apply to license applications that
10 were denied for disqualifying criminal convictions or that were submitted
11 fraudulently.

12 N. This section does not apply to a license that is either:

13 1. Issued within seven working days after receipt of the initial
14 application or a permit that expires within twenty-one working days after
15 issuance.

16 2. Necessary for the construction or development of a residential
17 lot, including swimming pools, hardscape and property walls, ~~subdivisions~~ A
18 SUBDIVISION or A master planned community THAT IS LOCATED IN A MUNICIPALITY
19 LOCATED ON TRIBAL LAND OR IN A MUNICIPALITY WITH A POPULATION OF LESS THAN
20 TWENTY-FIVE THOUSAND PERSONS.

21 O. For the purposes of this section:

22 1. "Master planned community" means development by one or more
23 developers of real estate that consists of residential, commercial,
24 education, health care, open space and recreational components and that is
25 developed pursuant to a long-range, multiphase master plan providing
26 comprehensive land use planning and staged implementation and development.

27 2. "Subdivision" means improved or unimproved land or lands divided
28 for the purposes of financing, sale or lease, whether immediate or future,
29 into four or more lots, tracts or parcels of land, or, if a new street is
30 involved, any such property that is divided into two or more lots, tracts
31 or parcels of land, or, any such property, the boundaries of which have
32 been fixed by a recorded plat, which is divided into more than two parts.

1 Subdivision includes any condominium, cooperative, community apartment,
2 townhouse or similar project containing four or more parcels, in which an
3 undivided interest in the land is coupled with the right of exclusive
4 occupancy of any unit located thereon, but plats of such projects need not
5 show the buildings or the manner in which the buildings or airspace above
6 the property shown on the plat are to be divided."

7 Amend title to conform

STEVE KAISER

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