

Senate Engrossed

municipal development; permits; review

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1665

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-469; AMENDING SECTION 9-835, ARIZONA REVISED STATUTES;
RELATING TO MUNICIPAL BUILDING PERMITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6.4, Arizona Revised
3 Statutes, is amended by adding section 9-469, to read:

4 9-469. Building permits; inspections; third-party review;
5 appeals; immunity; definition

6 A. IF A MUNICIPALITY DOES NOT APPROVE, CONDITIONALLY APPROVE OR
7 RESPOND WITH REQUIRED REVISIONS TO AN APPLICATION FOR A SINGLE-FAMILY
8 RESIDENTIAL BUILDING PERMIT WITHIN FIFTEEN WORKING DAYS AFTER THE DATE THE
9 APPLICATION IS SUBMITTED, ANY REQUIRED REVIEW OF THE APPLICATION MAY BE
10 PERFORMED BY A QUALIFIED THIRD PARTY SELECTED BY THE APPLICANT. THE
11 QUALIFIED THIRD PARTY SELECTED BY THE APPLICANT MAY NOT BE THE APPLICANT,
12 A PERSON WHOSE WORK IS THE SUBJECT OF THE APPLICATION OR A PERSON WITH A
13 FINANCIAL INTEREST IN THE WORK THAT IS THE SUBJECT OF THE APPLICATION. A
14 QUALIFIED THIRD PARTY SELECTED BY THE APPLICANT MAY BE ANY OF THE
15 FOLLOWING:

16 1. A PERSON WHO IS EMPLOYED BY A THIRD-PARTY VENDOR IDENTIFIED ON A
17 LIST OF APPROVED VENDORS BY THE MUNICIPALITY IF THE LIST OF APPROVED
18 VENDORS HAS MORE THAN ONE VENDOR.

19 2. A PERSON WHO IS EMPLOYED BY ANOTHER MUNICIPALITY TO REVIEW
20 RESIDENTIAL BUILDING PERMIT APPLICATIONS.

21 3. AN ENGINEER OR ARCHITECT WHO IS REGISTERED PURSUANT TO TITLE 32,
22 CHAPTER 1.

23 4. A PERSON WHO IS CERTIFIED BY AN INTERNATIONAL COUNCIL ON MODEL
24 CODES AND STANDARDS FOR BUILDING SAFETY.

25 B. IF A MUNICIPALITY DOES NOT CONDUCT AN INSPECTION REQUIRED AS A
26 CONDITION OF OBTAINING A CERTIFICATE OF OCCUPANCY FOR A SINGLE-FAMILY
27 RESIDENTIAL DWELLING UNIT WITHIN TWO WORKING DAYS AFTER AN INSPECTION
28 REQUEST, ANY REQUIRED INSPECTION MAY BE PERFORMED BY A QUALIFIED THIRD
29 PARTY SELECTED BY THE APPLICANT. THE QUALIFIED THIRD PARTY SELECTED BY
30 THE APPLICANT MAY NOT BE THE APPLICANT OR A PERSON WHOSE WORK IS THE
31 SUBJECT OF THE APPLICATION. A QUALIFIED THIRD PARTY SELECTED BY THE
32 APPLICANT TO PERFORM THE INSPECTION MAY BE ANY OF THE FOLLOWING:

33 1. A PERSON WHO IS CERTIFIED TO INSPECT BUILDINGS BY AN
34 INTERNATIONAL COUNCIL ON MODEL CODES AND STANDARDS FOR BUILDING SAFETY.

35 2. A PERSON WHO IS EMPLOYED BY THE MUNICIPALITY AS A BUILDING
36 INSPECTOR.

37 3. A PERSON WHO IS EMPLOYED BY ANOTHER MUNICIPALITY AS A BUILDING
38 INSPECTOR.

39 4. AN ENGINEER OR ARCHITECT WHO IS REGISTERED PURSUANT TO TITLE 32,
40 CHAPTER 1.

41 C. A THIRD PARTY WHO REVIEWS A SINGLE-FAMILY RESIDENTIAL BUILDING
42 PERMIT APPLICATION OR WHO PERFORMS AN INSPECTION REQUIRED TO OBTAIN A
43 SINGLE-FAMILY RESIDENTIAL DWELLING UNIT CERTIFICATE OF OCCUPANCY SHALL DO
44 BOTH OF THE FOLLOWING:

1 1. REVIEW THE APPLICATION OR CONDUCT THE INSPECTION AND TAKE ALL
2 OTHER RELATED ACTIONS IN ACCORDANCE WITH ALL REQUIREMENTS ADOPTED BY THE
3 MUNICIPALITY WHERE THE APPLICATION WAS SUBMITTED.

4 2. PROVIDE NOTICE TO THE MUNICIPALITY OF THE RESULTS OF THE REVIEW
5 OR INSPECTION.

6 D. A MUNICIPALITY MAY PRESCRIBE A REASONABLE FORMAT FOR THE NOTICE
7 REQUIRED BY SUBSECTION C OF THIS SECTION.

8 E. A MUNICIPALITY MAY NOT REQUEST OR REQUIRE AN APPLICANT TO WAIVE
9 A DEADLINE OR OTHER PROCEDURE REQUIRED BY THIS SECTION.

10 F. A PERSON MAY APPEAL TO THE GOVERNING BODY OF THE MUNICIPALITY
11 ANY OF THE FOLLOWING:

12 1. A DECISION BY THE MUNICIPALITY TO APPROVE, CONDITIONALLY APPROVE
13 OR DENY A SINGLE-FAMILY RESIDENTIAL BUILDING PERMIT APPLICATION.

14 2. A DECISION MADE BY A QUALIFIED THIRD PARTY AUTHORIZED IN
15 SUBSECTION A OF THIS SECTION TO REVIEW A SINGLE-FAMILY RESIDENTIAL
16 BUILDING PERMIT APPLICATION.

17 3. THE RESULTS OF AN INSPECTION CONDUCTED BY THE MUNICIPALITY.

18 4. THE RESULTS OF AN INSPECTION CONDUCTED BY A QUALIFIED THIRD
19 PARTY AUTHORIZED BY SUBSECTION B OF THIS SECTION TO CONDUCT AN INSPECTION.

20 G. AN APPEAL FILED PURSUANT TO SUBSECTION F OF THIS SECTION SHALL
21 BE FILED IN THE MANNER REQUIRED BY THE MUNICIPALITY WITHIN FIFTEEN DAYS
22 AFTER THE DATE THE DECISION BEING APPEALED WAS MADE. IF THE GOVERNING
23 BODY HEARING THE APPEAL DOES NOT AFFIRM THE DECISION BEING APPEALED WITHIN
24 SIXTY DAYS AFTER THE APPEAL IS FILED, THE APPLICATION THAT IS THE SUBJECT
25 OF THE APPEAL SHALL BE DEEMED APPROVED OR THE INSPECTION THAT IS THE
26 SUBJECT OF THE APPEAL IS WAIVED.

27 H. A MUNICIPALITY THAT ISSUES A PERMIT, APPROVAL OR CERTIFICATE OF
28 OCCUPANCY AFTER A THIRD-PARTY PLAN REVIEW OR INSPECTION PURSUANT TO THIS
29 SECTION SHALL HAVE IMMUNITY AS PRESCRIBED IN SECTIONS 12-820.01 AND
30 12-820.02.

31 I. FOR THE PURPOSES OF THIS SECTION, "APPLICATION":

32 1. MEANS A PLAN, PERMIT OR OTHER DOCUMENT THAT IS RELATED TO
33 BUILDING CONSTRUCTION AND THAT IS NECESSARY FOR THE CONSTRUCTION OF A
34 SINGLE-FAMILY RESIDENTIAL DWELLING UNIT.

35 2. DOES NOT INCLUDE A CERTIFICATE OF OCCUPANCY.

36 Sec. 2. Section 9-835, Arizona Revised Statutes, is amended to
37 read:

38 9-835. Licensing time frames; compliance; consequence for
39 failure to comply with time frame; exemptions

40 A. For any new ordinance or code requiring a license, a
41 municipality shall have in place an overall time frame during which the
42 municipality will either grant or deny each type of license that it
43 issues. The overall time frame for each type of license shall state
44 separately the administrative completeness review time frame and the
45 substantive review time frame and shall be posted on the municipality's

1 website or the website of an association of cities and towns if the
2 municipality does not have a website.

3 B. ~~On or before December 31, 2012,~~ A municipality that issues
4 licenses required under existing ordinances or codes shall have in place
5 an overall time frame during which the municipality will either grant or
6 deny each type of license that it issues. The overall time frame for each
7 type of license shall state separately the administrative completeness
8 review time frame and the substantive review time frame and shall be
9 posted on the municipality's website or the website of an association of
10 cities and towns if the municipality does not have a
11 website. Municipalities shall prioritize the establishment of time frames
12 for those licenses that have the greatest impact on the public.

13 C. In establishing time frames, municipalities shall consider all
14 of the following:

- 15 1. The complexity of the licensing subject matter.
- 16 2. The resources of the municipality.
- 17 3. The economic impact of delay on the regulated community.
- 18 4. The impact of the licensing decision on public health and
19 safety.
- 20 5. The possible use of volunteers with expertise in the subject
21 matter area.
- 22 6. The possible increased use of general licenses for similar types
23 of licensed businesses or facilities.
- 24 7. The possible increased cooperation between the municipality and
25 the regulated community.
- 26 8. Increased municipal flexibility in structuring the licensing
27 process and personnel including:
 - 28 (a) Adult businesses and other licenses that are related to the
29 first amendment.
 - 30 (b) Master planned communities.
 - 31 (c) Suspension of the substantive and overall time frames for
32 purposes including delays caused by the need for public hearings, state or
33 federal licenses or approvals from public utilities on residential or
34 commercial development projects.
- 35 9. That the substantive review time frames and overall time frames
36 do not include the time required for an applicant to obtain other
37 nonmunicipal licenses or to participate in meetings as required by law.

38 **10. THE TIME FRAMES PRESCRIBED IN SECTION 9-469.**

39 D. A municipality shall issue a written or electronic notice of
40 administrative completeness or deficiencies to an applicant for a license
41 within the administrative completeness review time frame. If the permit
42 sought requires approval of more than one department of the municipality,
43 each department may issue a written or electronic notice of administrative
44 completeness or deficiencies.

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

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

27 G. During the substantive review time frame, a municipality may
28 make one comprehensive written or electronic request for corrections. If
29 the municipality identifies legal requirements that were not included in
30 the comprehensive request for corrections, the municipality may amend the
31 comprehensive request for corrections once to include the legal
32 requirements and the legal authority for the requirements. **WITHIN TEN
33 WORKING DAYS AFTER A REQUEST BY THE APPLICANT, THE MUNICIPALITY SHALL MEET
34 OR DISCUSS WITH THE APPLICANT THE REQUEST FOR CORRECTIONS AND PROVIDE
35 SUFFICIENT INFORMATION AND INSTRUCTION TO ALLOW THE APPLICANT TO PROVIDE
36 THE REQUESTED CORRECTIONS.** If the permit sought requires approval of more
37 than one department of the municipality, each department may issue a
38 comprehensive written or electronic request for corrections. If the
39 applicant fails to resolve an issue identified in a request for
40 corrections, the municipality may make supplemental written or electronic
41 requests for corrections that are limited to issues previously identified
42 in a comprehensive request for corrections. If a municipality issues a
43 comprehensive written or electronic request or a supplemental request for
44 corrections, the substantive review time frame and the overall time frame
45 are suspended from the date the request is issued until the date that the

1 municipality receives the corrections from the applicant. If an applicant
2 requests significant changes, alterations, additions or amendments to an
3 application that are consistent with the purposes of the original
4 application and that are not in response to the request for corrections, a
5 municipality may make one additional comprehensive written or electronic
6 request for corrections and may have ~~no~~ NOT more than an additional fifty
7 ~~per cent~~ PERCENT of the substantive review time frame as established by
8 the municipality for that license to grant or deny the license. Nothing
9 shall prevent communication between a municipality and an applicant
10 regarding a comprehensive written or electronic request for corrections or
11 a supplemental request for corrections. EXCEPT FOR AN APPLICATION
12 SUBMITTED FOR A CHANGE IN ZONING PURSUANT TO CHAPTER 4, ARTICLE 6.1 OF
13 THIS TITLE, A MUNICIPALITY MAY NOT DENY A LICENSE APPLICATION THAT IS
14 NECESSARY FOR LAND DEVELOPMENT OR BUILDING CONSTRUCTION UNLESS THE
15 MUNICIPALITY CONSIDERS THE APPLICATION WITHDRAWN. A municipality may
16 consider an application withdrawn if, by thirty days or more after the
17 date of notice, as established by the municipality, the applicant does not
18 supply the documentation or information requested or an explanation of why
19 the information cannot be provided within the established time period.

20 H. Nothing shall prevent the municipality from continuing to
21 process the application during the suspension of the substantive review
22 time frame and overall time frame.

23 I. By mutual written or electronic agreement, a municipality and an
24 applicant for a license may extend the substantive review time frame and
25 the overall time frame. An extension of the substantive review time frame
26 and the overall time frame may not exceed fifty ~~per cent~~ PERCENT of the
27 overall time frame.

28 J. Unless a municipality and an applicant for a license mutually
29 agree to extend the substantive review time frame and the overall time
30 frame pursuant to subsection I of this section, a municipality shall issue
31 a written or electronic notice granting or denying a license to an
32 applicant. If a municipality denies or withdraws an application for a
33 license, the municipality shall include in the written or electronic
34 notice at least the following information:

35 1. Justification for the denial or withdrawal with references to
36 the statutes, ordinances, codes or substantive policy statements on which
37 the denial or withdrawal is based.

38 2. An explanation of the applicant's right to appeal the denial or
39 withdrawal. The explanation shall include the number of working days in
40 which the applicant must file a protest challenging the denial or
41 withdrawal and the name and telephone number of a municipal contact person
42 who can answer questions regarding the appeals process.

43 3. An explanation of the applicant's right to resubmit the
44 application, the total amount of fees that will be assessed if the

1 applicant resubmits the application and the method in which those fees
2 were calculated.

3 K. If a municipality MAKES MORE THAN ONE COMPREHENSIVE WRITTEN OR
4 ELECTRONIC REQUEST FOR CORRECTIONS AND ONE SUPPLEMENTAL WRITTEN OR
5 ELECTRONIC REQUEST FOR CORRECTIONS LIMITED TO PREVIOUSLY IDENTIFIED ISSUES
6 OR IN RESPONSE TO MODIFICATIONS MADE BY THE APPLICANT OR does not issue
7 the applicant the written or electronic notice granting, **CONDITIONALLY**
8 **GRANTING** or denying a license within the overall time frame or within the
9 mutually agreed on time frame extension, the municipality shall refund to
10 the applicant all fees charged for reviewing and acting on the application
11 for the license, ~~and~~ shall excuse payment of any fees that have not yet
12 been paid **AND SHALL PAY ANY MONETARY DAMAGES RESULTING FROM THE DELAY.**
13 The municipality shall not require an applicant to submit an application
14 for a refund pursuant to this subsection **BUT MAY REQUIRE EVIDENCE OF**
15 **MONETARY DAMAGES.** The refund shall be made within thirty working days
16 after the expiration of the overall time frame or the time frame extension
17 **AND THE PAYMENT FOR MONETARY DAMAGES SHALL BE MADE WITHIN THIRTY WORKING**
18 **DAYS AFTER THE APPLICANT PROVIDES THE REQUIRED EVIDENCE.** The municipality
19 shall continue to process the application. Notwithstanding any other
20 statute, the municipality shall make the refund from the fund in which the
21 application fees were originally deposited. The right to receive a refund
22 of fees charged for reviewing and acting on the application for the
23 license may not be waived by an applicant.

24 L. If an application for a license is denied and the applicant
25 resubmits the application for the same purposes with only revisions or
26 corrections to the original application, the municipality shall not assess
27 any additional application fees that exceed the cost of processing the
28 resubmitted revisions or corrections. This subsection does not apply to
29 license applications that were denied for disqualifying criminal
30 convictions or that were submitted fraudulently.

31 M. If an application for a license is withdrawn and the applicant
32 resubmits the application for the same purpose, the municipality shall not
33 assess any additional application fees that exceed fifty ~~percent~~ **PERCENT**
34 of the original ~~applicant~~ **APPLICATION** fees that have not been refunded to
35 the applicant. This subsection does not apply to license applications
36 that were denied for disqualifying criminal convictions or that were
37 submitted fraudulently.

38 N. This section does not apply to a license that is ~~either:~~
39 ~~1.~~ issued within seven working days after receipt of the initial
40 application or a permit that expires within twenty-one working days after
41 issuance.

42 ~~2. Necessary for the construction or development of a residential~~
43 ~~lot, including swimming pools, hardscape and property walls, subdivisions~~
44 ~~or master planned community.~~

45 ~~0. For the purposes of this section:~~

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

6 ~~2. "Subdivision" means improved or unimproved land or lands divided~~
7 ~~for the purposes of financing, sale or lease, whether immediate or future,~~
8 ~~into four or more lots, tracts or parcels of land, or, if a new street is~~
9 ~~involved, any such property that is divided into two or more lots, tracts~~
10 ~~or parcels of land, or, any such property, the boundaries of which have~~
11 ~~been fixed by a recorded plat, which is divided into more than two parts.~~
12 ~~Subdivision includes any condominium, cooperative, community apartment,~~
13 ~~townhouse or similar project containing four or more parcels, in which an~~
14 ~~undivided interest in the land is coupled with the right of exclusive~~
15 ~~occupancy of any unit located thereon, but plats of such projects need not~~
16 ~~show the buildings or the manner in which the buildings or airspace above~~
17 ~~the property shown on the plat are to be divided.~~