

House Engrossed

~~licensing; building permits; temporary permits~~
(now: licensing; building permits)

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2716

AN ACT

AMENDING SECTION 9-835, ARIZONA REVISED STATUTES; AMENDING TITLE 9,
CHAPTER 7, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION
9-835.01; RELATING TO BUILDING PERMITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-835, Arizona Revised Statutes, is amended to
3 read:

4 9-835. Licensing time frames; compliance; consequence for
5 failure to comply with time frame; exemptions;
6 definitions

7 A. For any new ordinance or code requiring a license, a
8 municipality shall have in place an overall time frame during which the
9 municipality will either grant or deny each type of license that it
10 issues. The overall time frame for each type of license shall state
11 separately the administrative completeness review time frame and the
12 substantive review time frame and shall be posted on the municipality's
13 website or the website of an association of cities and towns if the
14 municipality does not have a website.

15 B. ~~On or before December 31, 2012,~~ A municipality that issues
16 licenses required under existing ordinances or codes shall have in place
17 an overall time frame during which the municipality will either grant or
18 deny each type of license that it issues. The overall time frame for each
19 type of license shall state separately the administrative completeness
20 review time frame and the substantive review time frame and shall be
21 posted on the municipality's website or the website of an association of
22 cities and towns if the municipality does not have a
23 website. Municipalities shall prioritize the establishment of time frames
24 for those licenses that have the greatest impact on the public.

25 C. In establishing time frames, municipalities shall consider all
26 of the following:

- 27 1. The complexity of the licensing subject matter.
- 28 2. The resources of the municipality.
- 29 3. The economic impact of delay on the regulated community.
- 30 4. The impact of the licensing decision on public health and
31 safety.
- 32 5. The possible use of volunteers with expertise in the subject
33 matter area.
- 34 6. The possible increased use of general licenses for similar types
35 of licensed businesses or facilities.
- 36 7. The possible increased cooperation between the municipality and
37 the regulated community.
- 38 8. Increased municipal flexibility in structuring the licensing
39 process and personnel including:
 - 40 (a) Adult businesses and other licenses that are related to the
41 first amendment.
 - 42 (b) Master planned communities.
 - 43 (c) Suspension of the substantive and overall time frames for
44 purposes including delays caused by the need for public hearings, state or

1 federal licenses or approvals from public utilities on residential or
2 commercial development projects.

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

6 D. A municipality shall issue a written or electronic notice of
7 administrative completeness or deficiencies to an applicant for a license
8 within the administrative completeness review time frame. If the permit
9 sought requires approval of more than one department of the municipality,
10 each department may issue a written or electronic notice of administrative
11 completeness or deficiencies.

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

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

37 G. During the substantive review time frame, a municipality may
38 make one comprehensive written or electronic request for corrections. If
39 the municipality identifies legal requirements that were not included in
40 the comprehensive request for corrections, the municipality may amend the
41 comprehensive request for corrections once to include the legal
42 requirements and the legal authority for the requirements. If the permit
43 sought requires approval of more than one department of the municipality,
44 each department may issue a comprehensive written or electronic request
45 for corrections. If the applicant fails to resolve an issue identified in

1 a request for corrections, the municipality may make supplemental written
2 or electronic requests for corrections that are limited to issues
3 previously identified in a comprehensive request for corrections. If a
4 municipality issues a comprehensive written or electronic request or a
5 supplemental request for corrections, the substantive review time frame
6 and the overall time frame are suspended from the date the request is
7 issued until the date that the municipality receives the corrections from
8 the applicant. If an applicant requests significant changes, alterations,
9 additions or amendments to an application that are consistent with the
10 purposes of the original application and that are not in response to the
11 request for corrections, a municipality may make one additional
12 comprehensive written or electronic request for corrections and may have
13 ~~no~~ NOT more than an additional fifty ~~per cent~~ PERCENT of the substantive
14 review time frame as established by the municipality for that license to
15 grant or deny the license. Nothing shall prevent communication between a
16 municipality and an applicant regarding a comprehensive written or
17 electronic request for corrections or a supplemental request for
18 corrections. A municipality may consider an application withdrawn if, by
19 thirty days or more after the date of notice, as established by the
20 municipality, the applicant does not supply the documentation or
21 information requested or an explanation of why the information cannot be
22 provided within the established time period.

23 H. Nothing shall prevent the municipality from continuing to
24 process the application during the suspension of the substantive review
25 time frame and overall time frame.

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

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

38 1. Justification for the denial or withdrawal with references to
39 the statutes, ordinances, codes or substantive policy statements on which
40 the denial or withdrawal is based.

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

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

5 K. If a municipality does not issue the applicant the written or
6 electronic notice granting or denying a license within the overall time
7 frame or within the mutually agreed on time frame extension, the
8 municipality shall refund to the applicant all fees charged for reviewing
9 and acting on the application for the license and shall excuse payment of
10 any fees that have not yet been paid. The municipality shall not require
11 an applicant to submit an application for a refund pursuant to this
12 subsection. The refund shall be made within thirty working days after the
13 expiration of the overall time frame or the time frame extension. The
14 municipality shall continue to process the application. Notwithstanding
15 any other statute, the municipality shall make the refund from the fund in
16 which the application fees were originally deposited. The right to
17 receive a refund of fees charged for reviewing and acting on the
18 application for the license may not be waived by an applicant.

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

26 M. If an application for a license is withdrawn and the applicant
27 resubmits the application for the same purpose, the municipality shall not
28 assess any additional application fees that exceed fifty ~~per cent~~ PERCENT
29 of the original ~~applicant~~ APPLICATION fees that have not been refunded to
30 the applicant. This subsection does not apply to license applications
31 that were denied for disqualifying criminal convictions or that were
32 submitted fraudulently.

33 N. EXCEPT AS PROVIDED IN SECTION 9-835.01, this section does not
34 apply to a license that is either:

35 1. Issued within seven working days after receipt of the initial
36 application or a permit that expires within twenty-one working days after
37 issuance.

38 2. Necessary for the construction or development of a residential
39 lot, including swimming pools, hardscape and property walls, ~~subdivisions~~
40 A SUBDIVISION or A master planned community.

41 O. IN DETERMINING THE ORDER IN WHICH THE MUNICIPALITY WILL REVIEW
42 AN APPLICATION FOR A LICENSE, THE MUNICIPALITY MAY NOT PRIORITIZE
43 APPLICATIONS FOR A LICENSE THAT IS SUBJECT TO THIS SECTION OVER
44 APPLICATIONS FOR A LICENSE TO WHICH THIS SECTION DOES NOT APPLY BUT MAY

1 PRIORITIZE APPLICATIONS BASED ON THE ORDER THAT THE MUNICIPALITY RECEIVED
2 THE APPLICATIONS.

3 ~~0.~~ P. For the purposes of this section:

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

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

21 Sec. 2. Title 9, chapter 7, article 4, Arizona Revised Statutes, is
22 amended by adding section 9-835.01, to read:

23 9-835.01. Building permits; standard plans; issuance;
24 definitions

25 A. IF A MUNICIPALITY REQUIRES A BUILDING PERMIT FOR THE
26 CONSTRUCTION OF ANY SINGLE-FAMILY DWELLING, THE MUNICIPALITY SHALL ISSUE
27 THE BUILDING PERMIT WITHIN SEVEN BUSINESS DAYS AFTER THE APPLICANT SUBMITS
28 AN ADMINISTRATIVELY COMPLETE APPLICATION IF THE APPLICANT HAS SATISFIED
29 THE FOLLOWING REQUIREMENTS:

30 1. THE MUNICIPALITY HAS APPROVED CONSTRUCTION DOCUMENTS FOR THE
31 DWELLING TO BE CONSTRUCTED.

32 2. THE MUNICIPALITY HAS APPROVED VERTICAL CONSTRUCTION ACTIVITIES
33 TO BEGIN IN THE SUBDIVISION IN WHICH THE DWELLING IS TO BE CONSTRUCTED OR,
34 IF THE DWELLING IS NOT TO BE CONSTRUCTED IN A SUBDIVISION, ON THE
35 INDIVIDUAL LOT ON WHICH THE DWELLING IS TO BE CONSTRUCTED.

36 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, IF THE
37 MUNICIPALITY FAILS TO ISSUE THE BUILDING PERMIT WITHIN SEVEN BUSINESS
38 DAYS, THE APPLICANT MAY IMMEDIATELY COMMENCE WITH CONSTRUCTION, AND THE
39 MUNICIPALITY SHALL ISSUE THE BUILDING PERMIT AS SOON AS PRACTICABLE.

40 C. IF THE MUNICIPALITY HAS NOT YET APPROVED VERTICAL CONSTRUCTION
41 ACTIVITIES IN THE SUBDIVISION IN WHICH THE DWELLING IS TO BE CONSTRUCTED
42 OR, IF THE DWELLING IS NOT TO BE CONSTRUCTED IN A SUBDIVISION, ON THE
43 INDIVIDUAL LOT ON WHICH THE DWELLING IS TO BE CONSTRUCTED, THE
44 MUNICIPALITY SHALL APPROVE THE BUILDING PERMIT PENDING APPROVAL OF
45 VERTICAL CONSTRUCTION ACTIVITIES AND ISSUE THE BUILDING PERMIT AS SOON AS

1 PRACTICABLE ON APPROVAL OF VERTICAL CONSTRUCTION ACTIVITIES. UNLESS
2 OTHERWISE AUTHORIZED BY THE MUNICIPALITY OR THIS SECTION, AN APPLICANT MAY
3 NOT COMMENCE CONSTRUCTION UNTIL VERTICAL CONSTRUCTION ACTIVITIES HAVE BEEN
4 APPROVED BY THE MUNICIPALITY AND THE BUILDING PERMIT IS ISSUED.

5 D. NOTWITHSTANDING ANY OTHER LEGAL REQUIREMENT, CONSTRUCTION OF THE
6 DWELLING THAT IS THE SUBJECT OF THE BUILDING PERMIT MAY IMMEDIATELY
7 COMMENCE ON ISSUANCE OF THE BUILDING PERMIT OR EXPIRATION OF THE TIME
8 FRAME REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION FOR THE
9 MUNICIPALITY TO ISSUE THE BUILDING PERMIT. THE MUNICIPALITY MAY NOT ISSUE
10 ANY FINE, PENALTY OR OTHER ACTION IN RESPONSE TO CONSTRUCTION COMMENCING
11 UNDER THIS SECTION.

12 E. THIS SECTION DOES NOT PROHIBIT A MUNICIPALITY FROM:

13 1. OFFERING EXPEDITED PERMIT APPLICATIONS.

14 2. ADOPTING REASONABLE REGULATION FOR ISSUING A CERTIFICATE OF
15 OCCUPANCY, INCLUDING REQUIRING ANY COMPLETED CONSTRUCTION THAT POSES A
16 LIFE AND SAFETY HAZARD OR THAT DOES NOT COMPLY WITH THE MUNICIPALITY'S
17 REQUIREMENTS FOR APPROVING A BUILDING PERMIT TO BE CORRECTED BEFORE
18 ISSUING THE CERTIFICATE OF OCCUPANCY.

19 F. THE MUNICIPALITY'S SUBSTANTIVE REVIEW OF AN APPLICATION FOR A
20 BUILDING PERMIT AND CALCULATION OF TIME TO ISSUE THE PERMIT SHALL COMPLY
21 WITH THE REQUIREMENTS OF SECTION 9-835, SUBSECTIONS G AND H.

22 G. FOR PURPOSES OF THIS SECTION:

23 1. "ADMINISTRATIVELY COMPLETE" MEANS ONLY THE INFORMATION AND
24 DOCUMENTS NECESSARY TO DEMONSTRATE THAT THE CONSTRUCTION DOCUMENTS FOR THE
25 DWELLING HAVE BEEN APPROVED FOR CONSTRUCTION ON THE LOT THAT IS THE
26 SUBJECT OF THE BUILDING PERMIT APPLICATION AND MEETS ALL SETBACK
27 REQUIREMENTS.

28 2. "BUILDING PERMIT" MEANS AN OFFICIAL DOCUMENT OR CERTIFICATE
29 ISSUED BY THE MUNICIPALITY THAT AUTHORIZES PERFORMANCE OF CONSTRUCTION
30 ACTIVITIES.

31 3. "CERTIFICATE OF OCCUPANCY" MEANS AN OFFICIAL DOCUMENT OR
32 CERTIFICATE ISSUED BY A MUNICIPALITY THAT AUTHORIZES THE USE OR OCCUPANCY
33 OF A COMPLETED DWELLING.

34 4. "CONSTRUCTION DOCUMENTS":

35 (a) MEANS WRITTEN, GRAPHIC AND PICTORIAL DOCUMENTS PREPARED OR
36 ASSEMBLED TO DESCRIBE THE DESIGN, LOCATION AND PHYSICAL CHARACTERISTICS OF
37 THE ELEMENTS OF A DWELLING NECESSARY TO OBTAIN A BUILDING PERMIT,
38 INCLUDING DOCUMENTS AUTHORIZED BY THE MUNICIPALITY TO BE USED IN
39 CONSTRUCTION OF A DWELLING ON A REPETITIVE BASIS.

40 (b) DOES NOT INCLUDE A SITE PLAN OR PLOT PLAN.

41 H. THIS SECTION DOES NOT APPLY TO ANY SINGLE-FAMILY DWELLING THAT
42 IS SUBJECT TO A MUNICIPALITY'S HILLSIDE DEVELOPMENT ORDINANCE OR IS
43 REQUIRED TO PARTICIPATE IN THE NATIONAL FLOOD INSURANCE PROGRAM.