

REFERENCE TITLE: **municipal zoning; by right housing**

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

HB 2674

Introduced by
Representatives Kaiser: Chávez

AN ACT

AMENDING SECTIONS 9-462.01, 9-462.03 AND 9-462.04, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-462.09; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.48; REPEALING SECTION 9-805, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 9-805; AMENDING SECTIONS 9-831, 9-832, 9-834, 9-835 AND 9-837, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-462.01, Arizona Revised Statutes, is amended
3 to read:

4 9-462.01. Zoning regulations; public hearing; definitions

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

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

10 2. Regulate signs and billboards.

11 3. Regulate the location, height, bulk, number of stories and size
12 of buildings and structures, the size and use of lots, yards, courts and
13 other open spaces, the percentage of a lot that may be occupied by a
14 building or structure **OTHER THAN A SINGLE-FAMILY DWELLING**, access to
15 incident solar energy and the intensity of land use.

16 4. Establish requirements for off-street parking and loading.

17 5. Establish and maintain building setback lines. **MINIMUM SIDE**
18 **YARD SETBACKS FOR LOTS WITH SINGLE-FAMILY DWELLINGS MAY NOT EXCEED FIVE**
19 **FEET.**

20 6. Create civic districts around civic centers, public parks,
21 public buildings or public grounds and establish regulations for the civic
22 districts.

23 7. Require as a condition of rezoning public dedication of
24 rights-of-way as streets, alleys, public ways, drainage and public
25 utilities as are reasonably required by or related to the effect of the
26 rezoning.

27 8. Establish floodplain zoning districts and regulations to protect
28 life and property from the hazards of periodic inundation. Regulations
29 may include variable lot sizes, special grading or drainage requirements,
30 or other requirements deemed necessary for the public health, safety or
31 general welfare.

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

38 10. Establish districts of historical significance provided that:

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

1 (b) A plan for the preservation of districts of historical
2 significance shall identify districts of special historical significance,
3 state the objectives to be sought concerning the development or
4 preservation of sites, area and structures within the district, and
5 formulate a program for public action, including providing public
6 facilities and regulating private development and demolition necessary to
7 realize these objectives.

8 (c) The ordinance establishing districts of historical significance
9 shall set forth standards necessary to preserve the historical character
10 of the area so designated.

11 (d) The ordinances may designate or authorize any committee,
12 commission, department or person to designate structures or sites of
13 special historical significance in accordance with criteria contained in
14 the ordinance, and no designation shall be made except after a public
15 hearing on notice of the owners of record of the property designated of
16 special historical significance. The ordinances may require that special
17 permission be obtained for any development respecting the structures or
18 sites.

19 11. Establish age-specific community zoning districts in which
20 residency is restricted to a head of a household or spouse who must be of
21 a specific age or older and in which minors are prohibited from living in
22 the home. Age-specific community zoning districts shall not be overlaid
23 over property without the permission of all owners of property included as
24 part of the district unless all of the property in the district has been
25 developed, advertised and sold or rented under specific age restrictions.
26 The establishment of age-specific community zoning districts is subject to
27 all of the public notice requirements and other procedures prescribed by
28 this article.

29 12. Establish procedures, methods and standards for the transfer of
30 development rights within its jurisdiction. Any proposed transfer of
31 development rights from the sending property or to the receiving property
32 shall be subject to the notice and hearing requirements of section
33 9-462.04 and shall be subject to the approval and consent of the property
34 owners of both the sending and receiving property. Before any transfer of
35 development rights, a municipality shall adopt an ordinance providing for:

36 (a) The issuance and recordation of the instruments necessary to
37 sever development rights from the sending property and to affix
38 development rights to the receiving property. These instruments shall be
39 executed by the affected property owners and lienholders.

40 (b) The preservation of the character of the sending property and
41 assurance that the prohibitions against the use and development of the
42 sending property shall bind the landowner and every successor in interest
43 to the landowner.

1 (c) The severance of transferable development rights from the
2 sending property and the delayed transfer of development rights to a
3 receiving property.

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

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

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

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

17 B. For the purposes of subsection A of this section, the
18 legislative body may divide a municipality, or portion of a municipality,
19 into zones of the number, shape and area it deems best suited to carry out
20 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

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

24 1. Within individual zones, there may be uses permitted on a
25 conditional basis under which additional requirements must be met,
26 including requiring site plan review and approval by the planning agency.
27 The conditional uses are generally characterized by any of the following:

- 28 (a) Infrequency of use.
- 29 (b) High degree of traffic generation.
- 30 (c) Requirement of large land area.

31 2. Within residential zones, the regulations may ~~permit~~ ALLOW
32 modifications to minimum yard lot area and height requirements.

33 D. To carry out the purposes of this article and articles 6 and 6.2
34 of this chapter, the legislative body may adopt overlay zoning districts
35 and regulations applicable to particular buildings, structures and land
36 within individual zones. For the purposes of this subsection, "overlay
37 zoning district" means a special zoning district that includes regulations
38 that modify regulations in another zoning district with which the overlay
39 zoning district is combined. Overlay zoning districts and regulations
40 shall be adopted pursuant to section 9-462.04.

41 E. The legislative body may approve a change of zone conditioned on
42 a schedule for development of the specific use or uses for which rezoning
43 is requested. If, at the expiration of this period, the property has not
44 been improved for the use for which it was conditionally approved, the
45 legislative body, after notification by certified mail to the owner and

1 applicant who requested the rezoning, shall schedule a public hearing to
2 take administrative action to extend, remove or determine compliance with
3 the schedule for development or take legislative action to cause the
4 property to revert to its former zoning classification.

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

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

32 1. "Agricultural composting" means the controlled biological
33 decomposition of organic solid waste under in-vessel anaerobic or aerobic
34 conditions where all or part of the materials are generated on the
35 farmland or will be used on the farmland associated with the agricultural
36 composting operation.

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

39 H. A municipality may not adopt a land use regulation or impose any
40 condition for ~~issuance of~~ ISSUING a building or use permit or other
41 approval that violates section 9-461.16.

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

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

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

8 L. IN EXERCISING ITS DELEGATED LEGISLATIVE AUTHORITY, A
9 MUNICIPALITY SHALL ENSURE THAT IT PROVIDES AN ADEQUATE SUPPLY OF HOUSING
10 THROUGHOUT THE MUNICIPALITY BY COMPLYING WITH THE REQUIREMENTS PRESCRIBED
11 IN SECTION 9-462.09.

12 ~~L.~~ M. For the purposes of this section:

13 1. "Development rights" means the maximum development that would be
14 allowed on the sending property under any general or specific plan and
15 local zoning ordinance of a municipality in effect on the date the
16 municipality adopts an ordinance pursuant to subsection A, paragraph 12 of
17 this section respecting the permissible use, area, bulk or height of
18 improvements made to the lot or parcel. Development rights may be
19 calculated and allocated in accordance with factors, including dwelling
20 units, area, floor area, floor area ratio, height limitations, traffic
21 generation or any other criteria that will quantify a value for the
22 development rights in a manner that will carry out the objectives of this
23 section.

24 2. "Receiving property" means a lot or parcel within which
25 development rights are increased pursuant to a transfer of development
26 rights. Receiving property shall be appropriate and suitable for
27 development and shall be sufficient to accommodate the transferable
28 development rights of the sending property without substantial adverse
29 environmental, economic or social impact to the receiving property or to
30 neighboring property.

31 3. "Sending property" means a lot or parcel with special
32 characteristics, including farmland, woodland, desert land, mountain land,
33 floodplain, natural habitats, recreation or parkland, including golf
34 course area, or land that has unique aesthetic, architectural or historic
35 value that a municipality desires to protect from future development.

36 4. "Transfer of development rights" means the process by which
37 development rights from a sending property are affixed to one or more
38 receiving properties.

39 Sec. 2. Section 9-462.03, Arizona Revised Statutes, is amended to
40 read:

41 9-462.03. Amendment procedure

42 A. The governing body of the municipality shall adopt by ordinance
43 a citizen review process that applies to all rezoning and specific plan
44 applications that require a public hearing. The citizen review process
45 shall include at least the following requirements:

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

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

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

8 B. EXCEPT AS PRESCRIBED IN SECTION 9-462.09, a zoning ordinance
9 that changes any property from one zone to another, that imposes any
10 regulation not previously imposed or that removes or modifies any such
11 regulation previously imposed must be adopted following the procedure
12 prescribed in the citizen review process and in the manner set forth in
13 section 9-462.04.

14 Sec. 3. Section 9-462.04, Arizona Revised Statutes, is amended to
15 read:

16 9-462.04. Public hearing required; definition

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

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

31 2. In proceedings involving rezoning of land that abuts other
32 municipalities or unincorporated areas of the county or a combination of a
33 municipality and an unincorporated area, copies of the notice of public
34 hearing shall be transmitted to the planning agency of the governmental
35 unit abutting such land. In proceedings involving rezoning of land that
36 is located within the territory in the vicinity of a military airport or
37 ancillary military facility as defined in section 28-8461, the
38 municipality shall send copies of the notice of public hearing by first
39 class mail to the military airport. In addition to notice by publication,
40 a municipality may give notice of the hearing in any other manner that the
41 municipality deems necessary or desirable.

42 3. In proceedings that are not initiated by the property owner
43 involving rezoning of land that may change the zoning classification,
44 notice by first class mail shall be sent to each real property owner, as
45 shown on the last assessment of the property, of the area to be rezoned

1 and all property owners, as shown on the last assessment of the property,
2 within three hundred feet of the property to be rezoned.

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

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

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

11 (c) An increase or reduction in the allowable number of stories of
12 buildings.

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

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

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

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

22 (b) If the municipality issues utility bills or other mass mailings
23 that periodically include notices or other informational or advertising
24 materials, the municipality shall include notice of the changes with such
25 utility bills or other mailings.

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

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

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

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

1 C. After the hearing, the planning commission or hearing officer
2 shall render a decision in the form of a written recommendation to the
3 governing body. The recommendation shall include the reasons for the
4 recommendation and be transmitted to the governing body in the form and
5 manner prescribed by the governing body.

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

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

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

38 G. If there is no planning commission or hearing officer, the
39 governing body of the municipality shall perform the functions assigned to
40 the planning commission or hearing officer.

41 H. If the owners of twenty percent or more of the property by area
42 and number of lots, tracts and condominium units within the zoning area of
43 the affected property file a protest in writing against a proposed
44 amendment, the change shall not become effective except by the favorable
45 vote of three-fourths of all members of the governing body of the

1 municipality. If any members of the governing body are unable to vote on
2 such a question because of a conflict of interest, then the required
3 number of votes for passage of the question shall be three-fourths of the
4 remaining membership of the governing body, ~~provided that~~ IF such required
5 number of votes ~~shall~~ IS not ~~be~~ less than a majority of the full
6 membership of the legally established governing body. For the purposes of
7 this subsection, the vote shall be rounded to the nearest whole number. A
8 protest filed pursuant to this subsection shall be signed by the property
9 owners opposing the proposed amendment and filed in the office of the
10 clerk of the municipality not later than 12:00 noon one business day
11 before the date on which the governing body will vote on the proposed
12 amendment or on an earlier time and date established by the governing
13 body.

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

18 J. Notwithstanding section 19-142, subsection B, a decision by the
19 governing body involving rezoning ~~of~~ land that is not owned by the
20 municipality and that changes the zoning classification of such land may
21 not be enacted as an emergency measure and the change shall not be
22 effective for at least thirty days after final approval of the change in
23 classification by the governing body.

24 K. EXCEPT AS OTHERWISE PROVIDED, THIS SECTION DOES NOT APPLY TO ANY
25 ZONING ORDINANCE OR PART OF ANY ZONING ORDINANCE ADOPTED PURSUANT TO
26 SECTION 9-462.09.

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

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

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

33 Sec. 4. Title 9, chapter 4, article 6.1, Arizona Revised Statutes,
34 is amended by adding section 9-462.09, to read:

35 9-462.09. Residential zoning districts; by right housing;
36 state preemption; definitions

37 A. HOUSING SUPPLY AND AFFORDABILITY ARE MATTERS OF STATEWIDE
38 CONCERN. ALL LOCAL LAWS, ORDINANCES AND CHARTER PROVISIONS THAT ARE
39 CONTRARY TO, INCONSISTENT WITH OR MORE RESTRICTIVE THAN THIS SECTION ARE
40 PREEMPTED, AND A MUNICIPALITY MAY NOT BY LAW, ORDINANCE OR CHARTER
41 PROVISION REGULATE, RESTRICT OR LIMIT RESIDENTIAL ZONING, RESIDENTIAL
42 CONSTRUCTION OR RESIDENTIAL DEVELOPMENT STANDARDS, EXCEPT AS EXPRESSLY
43 AUTHORIZED BY THIS CHAPTER OR CHAPTER 7, ARTICLE 4 OF THIS TITLE.
44 REGULATION OF HOUSING WITHIN RESIDENTIAL ZONING DISTRICTS AND THROUGH
45 AMENDMENTS TO OTHER ZONING DISTRICTS IS NOT SUBJECT TO FURTHER REGULATION

1 BY A CITY, TOWN OR POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A
2 CHARTER CITY.

3 B. NOTWITHSTANDING ANY OTHER LAW, INCLUDING ANY ORDINANCE OR
4 CHARTER PROVISION, ON OR BEFORE JANUARY 1, 2023, A MUNICIPALITY SHALL
5 ALLOW THE FOLLOWING BY RIGHT:

6 1. ON ANY LAND LOCATED IN ANY EXISTING AGRICULTURAL OR
7 SINGLE-FAMILY RESIDENTIAL DISTRICT OR ON ANY LAND DESIGNATED BY THE
8 MUNICIPALITY'S MOST RECENT GENERAL PLAN AS SUPPORTING SINGLE-FAMILY
9 DWELLINGS, THE CONSTRUCTION OF EIGHT SINGLE-FAMILY DWELLING UNITS PER ACRE
10 OR TWELVE TWO-FAMILY DWELLING UNITS PER ACRE. IF THE EXISTING ZONING
11 DISTRICT IN WHICH THE HOUSING SITE IS LOCATED ALLOWS FOR A GREATER DENSITY
12 PURSUANT TO THE MUNICIPALITY'S ADOPTED ZONING ORDINANCE OR GENERAL PLAN,
13 THE MUNICIPALITY SHALL ALLOW CONSTRUCTION OF SINGLE-FAMILY AND TWO-FAMILY
14 UNITS IN ACCORDANCE WITH THE ADOPTED DENSITY. THE MUNICIPALITY SHALL
15 ALLOW ANY REQUESTED DEVELOPMENT STANDARDS TO ACCOMMODATE THIS DENSITY.

16 2. IN ANY EXISTING AGRICULTURAL OR MULTIFAMILY RESIDENTIAL DISTRICT
17 OR ANY LAND DESIGNATED BY THE MUNICIPALITY'S MOST RECENT GENERAL PLAN AS
18 SUPPORTING MULTIFAMILY CONSTRUCTION, THE CONSTRUCTION OF MULTIFAMILY
19 DWELLING UNITS WITH THE FOLLOWING DEVELOPMENT STANDARDS:

20 (a) THE GREATER OF THE HIGHEST ALLOWED HEIGHT FOR THE SITE OF THE
21 HOUSING DEVELOPMENT, THE HIGHEST ALLOWED HEIGHT FOR A COMMERCIAL OR
22 RESIDENTIAL USE WITHIN ONE MILE OF THE SITE OF THE HOUSING DEVELOPMENT OR
23 FIFTY-FIVE FEET. IF THE HOUSING DEVELOPMENT IS LOCATED WITHIN ONE-HALF
24 MILE OF A RAIL STOP, BUS STOP, FREEWAY OR MAJOR ARTERIAL ROADWAY, THE
25 MAXIMUM HEIGHT LIMITATION MAY NOT BE LESS THAN SEVENTY-FIVE FEET.

26 (b) THE DENSITY LIMIT APPLICABLE TO THE MULTIFAMILY DEVELOPMENT
27 SHALL BE THE GREATEST ALLOWED DENSITY FOR A MIXED USE OR RESIDENTIAL USE
28 WITHIN ONE MILE OF THE SITE OF THE MULTIFAMILY DEVELOPMENT, OR, IF THERE
29 IS NOT A MULTIFAMILY DEVELOPMENT WITHIN ONE MILE OF THE SITE, THE NEAREST
30 MULTIFAMILY DEVELOPMENT.

31 3. IN ANY COMMERCIAL OR MIXED-USE DISTRICT OR ON ANY LAND
32 DESIGNATED BY THE MUNICIPALITY'S GENERAL PLAN AS SUPPORTING COMMERCIAL
33 USES, THE CONSTRUCTION OF SINGLE-FAMILY, TWO-FAMILY AND MULTIFAMILY UNITS
34 TO THE DENSITIES AND DEVELOPMENT STANDARDS IN PARAGRAPHS 1 AND 2 OF THIS
35 SUBSECTION UNLESS THE SITE OF THE HOUSING DEVELOPMENT IS ADJACENT TO ANY
36 SITE THAT IS AN EXISTING INDUSTRIAL USE.

37 C. THE MUNICIPALITY MAY NOT REQUIRE A GENERAL PLAN AMENDMENT, USE
38 PERMIT OR REVIEW BY A BOARD OR COMMISSION FOR AN APPLICANT TO CONSTRUCT BY
39 RIGHT HOUSING PURSUANT TO THIS SECTION.

40 D. IF AN APPLICANT PROPOSES ANY AMENDMENT TO A MUNICIPALITY'S
41 ZONING ORDINANCE THAT CHANGES A LAND USE DESIGNATION FROM AN INDUSTRIAL
42 USE OR A LAND USE OTHER THAN AGRICULTURAL, COMMERCIAL OR RESIDENTIAL TO
43 RESIDENTIAL, CHANGES THE ALLOWED DENSITY OR CHANGES THE APPLICABLE
44 DEVELOPMENT STANDARDS FOR THE PURPOSE OF CONSTRUCTING SINGLE-FAMILY,
45 TWO-FAMILY OR MULTIFAMILY HOUSING UNITS, THE MUNICIPALITY SHALL DETERMINE

1 WHETHER THE APPLICATION IS ADMINISTRATIVELY COMPLETE WITHIN THIRTY DAYS
2 AFTER RECEIVING THE APPLICATION. IF THE MUNICIPALITY DETERMINES THAT THE
3 APPLICATION IS NOT ADMINISTRATIVELY COMPLETE, THE MUNICIPALITY SHALL
4 FOLLOW THE PROCEDURES IN SECTION 9-835, SUBSECTION E UNTIL THE APPLICATION
5 IS ADMINISTRATIVELY COMPLETE. THE MUNICIPALITY SHALL DETERMINE WHETHER A
6 RESUBMITTED APPLICATION IS ADMINISTRATIVELY COMPLETE WITHIN FIFTEEN DAYS
7 AFTER RECEIPT. FOLLOWING A DETERMINATION THAT THE APPLICATION IS
8 ADMINISTRATIVELY COMPLETE, THE MUNICIPALITY SHALL APPROVE THE APPLICATION
9 WITHIN NINETY DAYS, UNLESS A PROPERTY OWNER WITHIN THE ZONING AREA
10 DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPOSED HOUSING
11 UNITS WILL CREATE AN OBJECTIVE EXTERNALITY THAT HAS NOT BEEN MITIGATED TO
12 THE PROPERTY OWNER WHILE ON THE OWNER'S PROPERTY. AN APPLICANT SHALL BE
13 DEEMED TO HAVE MITIGATED ANY OBJECTIVE EXTERNALITIES RELATED TO WATER
14 RUNOFF, TRAFFIC OR PARKING IF THE MUNICIPALITY HAS AN ADOPTED CODE,
15 ORDINANCE, STANDARD, REGULATION OR OTHER LEGAL REQUIREMENT FOR GRADING AND
16 DRAINAGE AND FOR REQUIRED STREET IMPROVEMENTS, INCLUDING STORMWATER AND
17 STREET IMPROVEMENT DEVELOPMENT FEES ADOPTED PURSUANT TO SECTION 9-463.05.
18 THE MUNICIPALITY'S IDENTIFIED OBJECTIVE EXTERNALITIES, INCLUDING ANY
19 MITIGATION MEASURES PRESCRIBED BY CODE, ORDINANCE, STANDARD, REGULATION OR
20 OTHER LEGAL REQUIREMENT MAY NOT CREATE AN UNDUE BURDEN ON THE DEVELOPMENT
21 AND CONSTRUCTION OF NEW HOUSING UNITS.

22 E. THE APPLICATION FOR CHANGES TO THE MUNICIPALITY'S ZONING
23 ORDINANCE REQUIRED BY SUBSECTION D OF THIS SECTION SHALL BE ADOPTED AFTER
24 A PUBLIC HEARING BEFORE THE GOVERNING BODY OF THE MUNICIPALITY. NOTICE
25 AND PLACE OF THE PUBLIC HEARING, INCLUDING A GENERAL EXPLANATION OF THE
26 MATTER TO BE CONSIDERED, SHALL BE PROVIDED IN ACCORDANCE WITH SECTION
27 9-462.04, SUBSECTION A.

28 F. IF THE MUNICIPALITY FINDS THAT THE OWNER OF PROPERTY WITHIN THE
29 ZONING AREA PROVED BY CLEAR AND CONVINCING EVIDENCE AN OBJECTIVE
30 EXTERNALITY EXISTS THAT THE APPLICANT HAS NOT ALREADY MITIGATED PURSUANT
31 TO SUBSECTION D OF THIS SECTION, TO THE PROPERTY OWNER WHILE ON THE
32 OWNER'S PROPERTY THE MUNICIPALITY SHALL SPECIFICALLY IDENTIFY THE LEAST
33 RESTRICTIVE MEANS TO SUFFICIENTLY MITIGATE THE IDENTIFIED OBJECTIVE
34 EXTERNALITY AND CONDITIONALLY APPROVE THE APPLICATION SUBJECT TO THE
35 SPECIFICALLY IDENTIFIED MITIGATION MEASURES.

36 G. AN APPLICANT AGGRIEVED BY A DECISION OF A MUNICIPALITY PURSUANT
37 TO THIS SECTION, WITHIN THIRTY DAYS AFTER RECEIVING NOTICE OF SUCH
38 DECISION, MAY FILE IN THE SUPERIOR COURT A COMPLAINT FOR A TRIAL DE NOVO.

39 H. IN ANY JUDICIAL ACTION BROUGHT PURSUANT TO THIS SECTION, THE
40 COURT MAY NOT DEFER TO ANY FINDINGS OF FACT OR CONCLUSIONS OF LAW MADE BY
41 THE MUNICIPALITY. THE MUNICIPALITY SHALL HAVE THE BURDEN OF PROVING BY
42 CLEAR AND CONVINCING EVIDENCE THAT THE PROPOSED DEVELOPMENT WILL CREATE AN
43 OBJECTIVE EXTERNALITY TO A PROPERTY OWNER WHILE ON THE OWNER'S PROPERTY
44 AND THAT THE MUNICIPALITY HAS SPECIFICALLY IDENTIFIED THE LEAST
45 RESTRICTIVE MEANS OF MITIGATING THE IDENTIFIED OBJECTIVE EXTERNALITY.

1 I. THIS SECTION DOES NOT APPLY TO ANY LAND WITHIN THE IMMEDIATE
2 VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED
3 IN SECTION 28-8461.

4 J. FOR THE PURPOSES OF THIS SECTION:

5 1. "ADMINISTRATIVELY COMPLETE" MEANS THAT THE APPLICANT HAS
6 PROVIDED ALL INFORMATION REASONABLY NECESSARY FOR THE MUNICIPALITY TO
7 ASSESS THE APPLICANT'S COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

8 2. "DEVELOPMENT STANDARDS" INCLUDES:

9 (a) LOT AREA.
10 (b) LOT WIDTH.
11 (c) BUILDING SETBACKS.
12 (d) BUILDING HEIGHT.
13 (e) LOT COVERAGE.
14 (f) PERCENTAGE OF OPEN SPACE.
15 (g) ANY OTHER REGULATION PERTAINING TO MODIFICATIONS OF LAND,
16 DESIGNATIONS OF LOTS, THE SIZE AND LOCATION OF A STRUCTURE RELATIVE TO A
17 LOT OR ANY OTHER REGULATION RELATED TO THE DEVELOPMENT OF A LOT OR
18 SUBDIVISION OR THE CONSTRUCTION OF A BUILDING ON A LOT.

19 3. "EXTERNALITY":

20 (a) MEANS THE EFFECT BEYOND THE PROPERTY LINES OF THE PROPOSED
21 DEVELOPMENT ON PROPERTY OWNERS WITHIN THE ZONING AREA WHILE ON THE OWNER'S
22 PROPERTY RELATED TO LIGHT, NOISE, ODOR, WATER RUNOFF, TRAFFIC AND PARKING.
23 (b) DOES NOT INCLUDE ANY OF THE EFFECTS IN SUBDIVISION (a) OF THIS
24 PARAGRAPH THAT ARE WHOLLY CONTAINED WITHIN THE PROPERTY LINES OF THE AREA
25 OF THE PROPOSED DEVELOPMENT.

26 4. "GREATEST ALLOWED DENSITY" MEANS THE MAXIMUM ALLOWABLE GROSS
27 RESIDENTIAL DENSITY, INCLUDING ANY DENSITY THAT REQUIRES CONDITIONAL
28 APPROVAL, ALLOWABLE PURSUANT TO THE MUNICIPALITY'S ADOPTED ZONING
29 ORDINANCE OR ANY SPECIFIC PLAN ADOPTED BY THE MUNICIPALITY'S GOVERNING
30 BOARD THAT APPLIES TO THE SITE OF THE HOUSING DEVELOPMENT, WHICHEVER IS
31 GREATER.

32 5. "HIGHEST ALLOWED HEIGHT" MEANS THE TALLEST HEIGHT, INCLUDING ANY
33 HEIGHT THAT REQUIRES CONDITIONAL APPROVAL, ALLOWABLE PURSUANT TO THE
34 MUNICIPALITY'S ADOPTED ZONING ORDINANCE OR ANY SPECIFIC PLAN ADOPTED BY
35 THE MUNICIPALITY'S GOVERNING BOARD THAT APPLIES TO THE SITE OF THE HOUSING
36 DEVELOPMENT, WHICHEVER IS GREATER.

37 6. "INDUSTRIAL USE" INCLUDES UTILITIES, MANUFACTURING, WHOLESALE
38 TRADE, TRANSPORTATION AND WAREHOUSING.

39 7. "LIGHT" MEANS THE PROPORTION OF NATURAL LIGHT THAT A BUILDING
40 SHOULD EXPECT TO RECEIVE.

41 8. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT
42 BY A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY
43 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION
44 AVAILABLE AND KNOWABLE BY BOTH AN APPLICANT OR PROPONENT AND A MUNICIPAL
45 EMPLOYEE OR OFFICIAL.

1 9. "ZONING AREA" HAS THE SAME MEANING PRESCRIBED IN SECTION
2 9-462.04.

3 10. "ZONING DISTRICT" MEANS THE UNDERLYING BASE ZONING DISTRICT.

4 Sec. 5. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
5 amended by adding section 9-500.48, to read:

6 9-500.48. Residential housing design standards; state
7 preemption; enforcement; definitions

8 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPALITY MAY NOT ADOPT OR
9 ENFORCE ANY ORDINANCE, CODE, STANDARD, REGULATION, GUIDELINE, AGREEMENT,
10 STIPULATION OR OTHER LEGAL REQUIREMENT, INCLUDING A ZONING ORDINANCE
11 ADOPTED PURSUANT TO SECTION 9-462.01, RELATED TO OR REGULATING RESIDENTIAL
12 HOUSING DESIGN ELEMENTS. A MUNICIPALITY MAY NOT WITHHOLD A BUILDING
13 PERMIT OR OTHER APPROVAL NECESSARY AS A CONDITION OF CONSTRUCTING
14 RESIDENTIAL HOUSING FOR FAILURE TO COMPLY WITH ANY ORDINANCE, CODE,
15 STANDARD, REGULATION, GUIDELINE, STIPULATION OR OTHER LEGAL REQUIREMENT,
16 INCLUDING A ZONING ORDINANCE ADOPTED PURSUANT TO SECTION 9-462.01, RELATED
17 TO OR REGULATING RESIDENTIAL HOUSING DESIGN ELEMENTS.

18 B. ANY APPLICANT FOR AN APPROVAL NECESSARY TO OBTAIN A BUILDING
19 PERMIT TO CONSTRUCT A SINGLE-FAMILY, TWO-FAMILY OR MULTIFAMILY BUILDING OR
20 ANY HOUSING ORGANIZATION MAY BRING AN ACTION IN SUPERIOR COURT TO ENFORCE
21 THIS SECTION.

22 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO ANY ORDINANCE,
23 CODE, STANDARD, REGULATION, GUIDELINE, STIPULATION OR OTHER LEGAL
24 REQUIREMENT THAT IS:

25 1. A REQUIREMENT OF AN ADOPTED MINIMUM STANDARD BUILDING CODE,
26 INCLUDING ANY LOCAL AMENDMENTS THAT ARE LESS RESTRICTIVE THAN THE
27 UNAMENDED MINIMUM STANDARD BUILDING CODE.

28 2. APPLICABLE SOLELY TO STRUCTURES LOCATED IN AN AREA DESIGNATED AS
29 A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01 OR AN
30 AREA DESIGNATED AS HISTORIC ON A NATIONAL REGISTER OF HISTORIC PLACES.

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

33 4. APPLIED TO MANUFACTURED HOMES IN A MANNER CONSISTENT WITH TITLE
34 41, CHAPTER 37, ARTICLE 3 OR APPLICABLE FEDERAL LAW.

35 5. REQUIRED AS A CONDITION OF PARTICIPATING IN THE NATIONAL FLOOD
36 INSURANCE PROGRAM.

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

39 D. THIS SECTION DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF
40 PRIVATE COVENANTS OR OTHER CONTRACTUAL ELEMENTS AMONG PROPERTY OWNERS
41 RELATING TO DWELLING DESIGN ELEMENTS BY PARTIES OTHER THAN THE
42 MUNICIPALITY.

- 1 E. FOR THE PURPOSES OF THIS SECTION:
2 1. "DESIGN ELEMENTS" MEANS:
3 (a) THE NUMBER AND VARIATIONS OF FLOOR PLANS AND EXTERIOR
4 ELEVATIONS, INCLUDING THE SELECTION OF THE FLOOR PLAN AND ELEVATION TO BE
5 BUILT ON EACH LOT.
6 (b) THE SIZE AND NUMBER OF STORIES OF THE DWELLING, EXCEPT THAT THE
7 HEIGHT OF THE DWELLING MAY BE REGULATED PURSUANT TO SECTIONS 9-462.01 AND
8 9-462.09.
9 (c) EXTERIOR BUILDING COLOR AND MATERIALS.
10 (d) TYPE OF STYLE OF EXTERIOR CLADDING MATERIALS.
11 (e) STYLE, MATERIALS, SHAPE, PITCH AND ARTICULATION OF THE ROOF
12 STRUCTURE.
13 (f) STYLE, MATERIALS, SIZE, SHAPE AND INCLUSION OF PORCHES AND
14 PATIOS.
15 (g) EXTERIOR NONSTRUCTURAL ARCHITECTURAL ORNAMENTATION.
16 (h) LOCATION, ARCHITECTURAL STYLING, MATERIALS AND SIZES OF
17 GARAGES, GARAGE DOORS AND DRIVEWAYS.
18 (i) PLACEMENT AND ORIENTATION OF GARAGE DOORS RELATIVE TO THE FRONT
19 FAÇADE OF THE LIVING SPACE.
20 (j) THE INTERIOR LAYOUT AND SIZE OF ROOMS, INCLUDING THE INTERIOR
21 OF THE GARAGE, HALLWAYS AND FLOOR PLANS.
22 (k) LANDSCAPING AND LANDSCAPING MAINTENANCE REQUIREMENTS, INCLUDING
23 COMMON AREAS AND AREAS MAINTAINED BY THE PROPERTY OWNER, ASSOCIATION OR
24 MEMBERS OF AN ASSOCIATION, EXCEPT THAT A MUNICIPALITY MAY LIMIT
25 LANDSCAPING MATERIALS TO DROUGHT-TOLERANT TREES, PLANTS AND SHRUBS.
26 (l) THE LOCATION, SIZE AND DESIGN OF OPEN SPACE AND AMENITIES,
27 INCLUDING AMENITIES IN COMMON AREAS MAINTAINED BY THE PROPERTY OWNER,
28 ASSOCIATION OR MEMBERS OF AN ASSOCIATION, EXCEPT THAT THE LOCATION AND
29 SIZE OF OPEN SPACE MAY BE REGULATED TO THE EXTENT REQUIRED BY THE
30 MUNICIPALITY SOLELY FOR STORMWATER RETENTION AS OF THE EFFECTIVE DATE OF
31 THIS SECTION.
32 (m) PARKING CANOPIES AND PARKING STRUCTURES.
33 (n) SIDEWALK PLACEMENT AND DESIGN, INCLUDING REQUIRING DETACHED
34 SIDEWALKS, EXCEPT AS REQUIRED BY TITLE 41, CHAPTER 9, ARTICLE 8 AND
35 APPLICABLE FEDERAL LAW.
36 (o) THE DESIGN, DECORATION AND LANDSCAPING OF THE REAR YARD, SIDE
37 YARD AND ANY AREA THAT IS NOT VISIBLE OR ACCESSIBLE TO THE PUBLIC.
38 (p) ANY OTHER ARCHITECTURAL OR AESTHETIC ELEMENT THAT DOES NOT
39 DIRECTLY AFFECT AN OBJECTIVE AND IDENTIFIED HEALTH OR SAFETY CONDITION.
40 2. "HOUSING ORGANIZATION" MEANS A TRADE OR INDUSTRY GROUP WHOSE
41 MEMBERS ARE ENGAGED IN THE DEVELOPMENT OR CONSTRUCTION OF SINGLE-FAMILY,
42 TWO-FAMILY OR MULTIFAMILY HOUSING UNITS.
43 3. "MINIMUM STANDARD BUILDING CODE" MEANS AN UNAMENDED MODEL
44 BUILDING CODE, INCLUDING THE INTERNATIONAL BUILDING CODE AND INTERNATIONAL
45 RESIDENTIAL CODE, HOWEVER DENOMINATED.

1 4. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT
2 BY A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY
3 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION
4 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 AN OWNER, ASSOCIATION OR
9 MEMBERS OF AN ASSOCIATION.

10 Sec. 6. Repeal

11 Section 9-805, Arizona Revised Statutes, is repealed.

12 Sec. 7. Title 9, chapter 7, article 1, Arizona Revised Statutes, is
13 amended by adding a new section 9-805, to read:

14 9-805. Building codes; residential buildings; definitions

15 A. A CITY OR TOWN MAY ADOPT A RESIDENTIAL BUILDING CODE, INCLUDING
16 LOCAL AMENDMENTS, THAT REGULATE THE DESIGN AND CONSTRUCTION OF ONE AND
17 TWO-FAMILY DWELLINGS UP TO THREE STORIES ABOVE GRADE PLANE IN HEIGHT WITH
18 A SEPARATE MEANS OF EGRESS AND THE DWELLINGS' ACCESSORY STRUCTURES NOT
19 MORE THAN THREE STORIES ABOVE GRADE PLANE IN HEIGHT IN ACCORDANCE WITH
20 THIS SECTION.

21 B. A CITY'S OR TOWN'S ADOPTED RESIDENTIAL BUILDING CODE MUST COMPLY
22 WITH SECTIONS 9-807 AND 9-808.

23 C. EXCEPT FOR PROVISIONS RELATING TO ENERGY CONSERVATION, ALL
24 REQUIREMENTS IN THE RESIDENTIAL BUILDING CODE, INCLUDING LOCAL AMENDMENTS,
25 SHALL BE ADOPTED FOR THE SOLE PURPOSE OF PROVIDING A REASONABLE LEVEL OF
26 SAFETY AND HEALTH. A CITY OR TOWN MAY NOT ADOPT ANY LOCAL AMENDMENTS THAT
27 ARE MORE STRINGENT OR IMPOSE ADDITIONAL REQUIREMENTS THAN THE MOST RECENT
28 UNAMENDED MODEL CODE UNLESS THE CITY OR TOWN DETERMINES THAT THE LOCAL
29 AMENDMENT IS NECESSARY TO IMMEDIATELY PREVENT AN IMMINENT OBJECTIVE THREAT
30 TO SAFETY OR HEALTH.

31 D. IF A CITY OR TOWN ADOPTS ANY OR PART OF ANY RESIDENTIAL BUILDING
32 CODE OR COMMERCIAL BUILDING CODE RELATED TO ENERGY CONSERVATION WITHIN
33 RESIDENTIAL HOUSING UNITS, THE CODE, INCLUDING ANY LOCAL AMENDMENTS, SHALL
34 BE ADOPTED FOR THE SOLE PURPOSE OF REGULATING THE DESIGN AND CONSTRUCTION
35 OF BUILDINGS FOR THE USE AND CONSERVATION OF ENERGY. BEGINNING JANUARY 1,
36 2023, A CITY OR TOWN SHALL CONDUCT AN ANALYSIS TO DETERMINE THE UPFRONT
37 COST OF ANY PROPOSED CHANGE TO AN ADOPTED CODE AND AN ANALYSIS TO
38 DETERMINE THE ESTIMATED ELECTRICAL ENERGY COST SAVINGS SOLELY FROM THE
39 PROPOSED CHANGES TO THE RESIDENTIAL HOUSING UNIT'S CONSTRUCTION. A CITY
40 OR TOWN MAY NOT ADOPT ANY PROPOSED CHANGE TO AN ADOPTED OR MODEL BUILDING
41 CODE IF THE UPFRONT COST CANNOT BE DEMONSTRATED BY CLEAR AND CONVINCING
42 EVIDENCE TO RESULT IN ELECTRICAL ENERGY COST SAVINGS IN A SUFFICIENT
43 AMOUNT TO RECOVER THE UPFRONT COST WITHIN FIVE YEARS OF ISSUING THE
44 CERTIFICATE OF OCCUPANCY. IF ANY PART OF THE RESIDENTIAL BUILDING CODE,
45 COMMERCIAL BUILDING CODE OR LOCAL AMENDMENT PROVIDES A LIST OF ADDITIONAL

1 BUILDING DESIGN REQUIREMENTS OR MECHANICAL EQUIPMENT EFFICIENCY
2 REQUIREMENTS TO CHOOSE FROM TO COMPLY WITH THIS PART OF THE RESIDENTIAL
3 BUILDING CODE, COMMERCIAL BUILDING CODE OR LOCAL AMENDMENT, THE ENTIRE
4 LIST MAY NOT BE ADOPTED UNLESS ALL OPTIONS MEET THE UPFRONT COST RECOVERY
5 CRITERION DESCRIBED IN THIS SUBSECTION. IN CONDUCTING THIS ANALYSIS, A
6 CITY OR TOWN MAY CONSULT WITH A LOCAL HOUSING ORGANIZATION.

7 E. A CITY OR TOWN MAY NOT ADOPT ANY OTHER CODE, ORDINANCE,
8 STANDARD, GUIDELINE, STIPULATION OR OTHER LEGAL REQUIREMENT REGARDING THE
9 DESIGN OR CONSTRUCTION OF SINGLE-FAMILY AND TWO-FAMILY DWELLINGS RELATED
10 TO USE AND CONSERVATION OF ENERGY OR HEALTH AND SAFETY THAT DO NOT COMPLY
11 WITH THE REQUIREMENTS OF THIS SECTION.

12 F. FOR THE PURPOSES OF THIS SECTION:

13 1. "COMMERCIAL BUILDING CODE" INCLUDES AN INTERNATIONAL BUILDING
14 CODE AND INTERNATIONAL ENERGY CONSERVATION CODE, HOWEVER DENOMINATED.

15 2. "LOCAL HOUSING ORGANIZATION" MEANS A TRADE ASSOCIATION OR
16 INDUSTRY GROUP WHOSE MEMBERS ARE ENGAGED IN THE CONSTRUCTION OF NEW
17 SINGLE-FAMILY OR TWO-FAMILY OR MULTIFAMILY DWELLINGS.

18 3. "OBJECTIVE" MEANS INVOLVING NO PERSONAL OR SUBJECTIVE JUDGMENT
19 BY A MUNICIPAL EMPLOYEE OR OFFICIAL AND BEING UNIFORMLY VERIFIABLE BY
20 REFERENCE TO AN EXTERNAL AND UNIFORM BENCHMARK, STANDARD OR CRITERION
21 AVAILABLE AND KNOWABLE TO A BUILDING APPLICANT OR PROPONENT AND A
22 MUNICIPAL EMPLOYEE OR OFFICIAL.

23 4. "RESIDENTIAL BUILDING CODE" INCLUDES THE INTERNATIONAL
24 RESIDENTIAL CODE AND INTERNATIONAL ENERGY CONSERVATION CODE, HOWEVER
25 DENOMINATED.

26 5. "RESIDENTIAL HOUSING UNITS" INCLUDES SINGLE-FAMILY DWELLING
27 UNITS, TWO-FAMILY DWELLING UNITS AND MULTIFAMILY DWELLING UNITS.

28 Sec. 8. Section 9-831, Arizona Revised Statutes, is amended to
29 read:

30 9-831. Definitions

31 In this article, unless the context otherwise requires:

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

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

37 3. "License":

38 (a) Includes the whole or part of any municipal permit,
39 certificate, approval, registration, charter or similar form of permission
40 required by law. ~~License~~

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

42 4. "Licensing" includes the municipal process respecting the grant,
43 denial, renewal, revocation, suspension, annulment, withdrawal or
44 amendment of a license.

1 5. "Municipal" or "municipality" means an incorporated city or
2 town.

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

8 ~~6.~~ 7. "Person" means an individual, partnership, corporation,
9 association, governmental subdivision or unit of a governmental
10 subdivision or a public or private organization of any character.

11 ~~7.~~ 8. "Request for corrections" means a request for technical or
12 clarifying corrections from an applicant who has submitted an
13 administratively complete application for a license.

14 ~~8.~~ 9. "Substantive policy statement":

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

20 (b) Does not include internal procedural documents that only affect
21 the internal procedures of the municipality and that do not impose
22 additional requirements or penalties on regulated parties or confidential
23 information.

24 ~~9.~~ 10. "Working day" means a ~~twenty-four hour~~ TWENTY-FOUR-HOUR
25 period excluding weekends and legal holidays PURSUANT TO SECTION 1-301.

26 Sec. 9. Section 9-832, Arizona Revised Statutes, is amended to
27 read:

28 9-832. Regulatory bill of rights

29 To ensure fair and open regulation by municipalities, a person:

30 1. Is eligible for reimbursement of fees and other expenses if the
31 person prevails by adjudication on the merits against a municipality in a
32 court proceeding regarding a municipality decision as provided in section
33 12-348.

34 2. Is entitled to receive information and notice regarding
35 inspections as provided in section 9-833.

36 3. Is entitled to have a municipality not base a licensing decision
37 in whole or in part on licensing conditions or requirements that are not
38 OBJECTIVE AND specifically authorized as provided in section 9-834,
39 subsection A.

40 4. May have a municipality approve or deny the person's license
41 application within a predetermined period of time as provided in section
42 9-835.

1 5. Is entitled to receive written or electronic notice from a
2 municipality on denial of a license application that:

3 (a) Justifies the denial with references to the statute, ordinance,
4 code or authorized substantive policy statements on which the denial is
5 based as provided in section 9-835.

6 (b) Explains the applicant's right to appeal the denial as provided
7 in section 9-835.

8 6. Is entitled to receive information regarding the license
9 application process at the time the person obtains an application for a
10 license as provided in section 9-836.

11 7. May inspect all ordinances, codes and substantive policy
12 statements of a municipality, including a directory of documents, at the
13 office of the municipality or on the municipality's website as provided in
14 section 9-837.

15 8. Unless specifically authorized, may expect municipalities to
16 avoid duplication of other laws that do not enhance regulatory clarity and
17 to avoid dual permitting to the maximum extent practicable as provided in
18 section 9-834.

19 9. May file a complaint with the municipality concerning an
20 ordinance, code or substantive policy statement that fails to comply with
21 this section.

22 10. As provided in section 9-834, is entitled to have a
23 municipality not request or initiate discussions about waiving any of the
24 rights prescribed in this section.

25 Sec. 10. Section 9-834, Arizona Revised Statutes, is amended to
26 read:

27 9-834. Prohibited acts by municipalities and employees:
28 enforcement; notice

29 A. A municipality shall not base a licensing decision in whole or
30 in part on a licensing requirement or condition that is not **OBJECTIVE AND**
31 specifically authorized by statute, rule, ordinance or code. A general
32 grant of authority does not constitute a basis for imposing a licensing
33 requirement or condition unless the authority specifically authorizes the
34 requirement or condition.

35 B. Unless specifically authorized, a municipality shall avoid
36 duplication of other laws that do not enhance regulatory clarity and shall
37 avoid dual permitting to the maximum extent practicable.

38 C. This section does not prohibit municipal flexibility to issue
39 licenses or adopt ordinances or codes.

40 D. A municipality shall not request or initiate discussions with a
41 person about waiving that person's rights.

42 E. This section may be enforced in a private civil action and
43 relief may be awarded against a municipality. The court may award
44 reasonable attorney fees, damages and all fees associated with the license

1 application to a party that prevails in an action against a municipality
2 for a violation of this section.

3 F. A municipal employee may not intentionally or knowingly violate
4 this section. A violation of this section is cause for disciplinary
5 action or dismissal pursuant to the municipality's adopted personnel
6 policy.

7 G. This section does not abrogate the immunity provided by section
8 12-820.01 or 12-820.02.

9 H. A municipality shall prominently print the provisions of
10 subsections A, B, C, D, E, F and G of this section on all license
11 applications.

12 I. The ~~licensing~~ LICENSE application may be in either print or
13 electronic format.

14 Sec. 11. Section 9-835, Arizona Revised Statutes, is amended to
15 read:

16 9-835. Licensing time frames; compliance; consequence for
17 failure to comply with time frame; exemptions;
18 definition

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

27 B. ~~On or before December 31, 2012;~~ A municipality that issues
28 licenses required under existing ordinances or codes shall have in place
29 an overall time frame during which the municipality will either grant or
30 deny each type of license that it issues. The overall time frame for each
31 type of license shall state separately the administrative completeness
32 review time frame and the substantive review time frame and shall be
33 posted on the municipality's website or the website of an association of
34 cities and towns if the municipality does not have a website.
35 Municipalities shall prioritize ~~the establishment of~~ ESTABLISHING time
36 frames for those licenses that have the greatest impact on the public.

37 C. In establishing time frames, municipalities shall consider all
38 of the following:

- 39 1. The complexity of the licensing subject matter.
- 40 2. The resources of the municipality.
- 41 3. The economic impact of delay on the regulated community.
- 42 4. The impact of the licensing decision on public health and
43 safety.
- 44 5. The possible use of volunteers with expertise in the subject
45 matter area.

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

3 7. The possible increased cooperation between the municipality and
4 the regulated community.

5 8. Increased municipal flexibility in structuring the licensing
6 process and personnel including:

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

9 (b) Master planned communities.

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

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

17 10. THE IMPACT ON THE SUPPLY AND COST OF HOUSING OF UNNECESSARY
18 DELAYS IN THE APPROVAL AND PERMITTING PROCESS.

19 D. A municipality shall issue a written or electronic notice of
20 administrative completeness or deficiencies to an applicant for a license
21 within the administrative completeness review time frame. If the permit
22 sought requires approval of more than one department of the municipality,
23 each department may issue a written or electronic notice of administrative
24 completeness or deficiencies.

25 E. If a municipality determines that an application for a license
26 is not administratively complete, the municipality shall include a
27 comprehensive list of the specific deficiencies in the written or
28 electronic notice provided pursuant to subsection D of this section. If
29 the municipality issues a written or electronic notice of deficiencies
30 within the administrative completeness time frame, the administrative
31 completeness review time frame and the overall time frame are suspended
32 from the date the notice is issued until the date that the municipality
33 receives the missing information from the applicant. The municipality may
34 issue an additional written or electronic notice of administrative
35 completeness or deficiencies based on the applicant's submission of
36 missing information. If the permit sought requires approval of more than
37 one department of the municipality, each department may issue an
38 additional written or electronic notice of administrative completeness or
39 deficiencies based on the applicant's submission of missing information.

40 F. If a municipality does not issue a written or electronic notice
41 of administrative completeness or deficiencies within the administrative
42 completeness review time frame, the application is deemed administratively
43 complete. If a municipality issues a timely written or electronic notice
44 of deficiencies, an application ~~shall~~ IS not ~~be~~ complete until all
45 requested information has been received by the municipality. A

1 municipality may consider an application withdrawn if, by fifteen days or
 2 more after the date of notice, as established by the municipality, the
 3 applicant does not supply the documentation or information requested or an
 4 explanation of why the information cannot be provided within the
 5 established time period.

6 G. During the substantive review time frame, a municipality may
 7 make one comprehensive written or electronic request for corrections. If
 8 the municipality identifies legal requirements that were not included in
 9 the comprehensive request for corrections, the municipality may amend the
 10 comprehensive request for corrections once to include the legal
 11 requirements and the legal authority for the requirements. **WITHIN FIVE**
 12 **WORKING DAYS AFTER A REQUEST BY THE APPLICANT, THE MUNICIPALITY SHALL MEET**
 13 **OR DISCUSS WITH THE APPLICANT THE REQUEST FOR CORRECTIONS AND PROVIDE**
 14 **SUFFICIENT INFORMATION AND INSTRUCTION TO ALLOW THE APPLICANT TO PROVIDE**
 15 **THE REQUESTED CORRECTIONS.** If the permit sought requires approval of more
 16 than one department of the municipality, each department may issue a
 17 comprehensive written or electronic request for corrections. If the
 18 applicant fails to resolve an issue identified in a request for
 19 corrections, the municipality may make supplemental written or electronic
 20 requests for corrections that are limited to issues previously identified
 21 in a comprehensive request for corrections. If a municipality issues a
 22 comprehensive written or electronic request or a supplemental request for
 23 corrections, the substantive review time frame and the overall time frame
 24 are suspended from the date the request is issued until the date that the
 25 municipality receives the corrections from the applicant. If an applicant
 26 requests significant changes, alterations, additions or amendments to an
 27 application that are consistent with the purposes of the original
 28 application and that are not in response to the request for corrections, a
 29 municipality may make one additional comprehensive written or electronic
 30 request for corrections and may have ~~no~~ **NOT** more than an additional fifty
 31 ~~per cent~~ **PERCENT** of the substantive review time frame as established by
 32 the municipality for that license to grant or deny the license. Nothing
 33 shall prevent communication between a municipality and an applicant
 34 regarding a comprehensive written or electronic request for corrections or
 35 a supplemental request for corrections. A municipality may consider an
 36 application withdrawn if, by thirty days or more after the date of notice,
 37 as established by the municipality, the applicant does not supply the
 38 documentation or information requested or an explanation of why the
 39 information cannot be provided within the established time period. **EXCEPT**
 40 **FOR AN APPLICATION SUBMITTED FOR A CHANGE IN ZONING PURSUANT TO TITLE 9,**
 41 **CHAPTER 4, ARTICLE 6.1, A MUNICIPALITY MAY NOT DENY A LICENSE APPLICATION**
 42 **THAT IS NECESSARY FOR LAND DEVELOPMENT OR BUILDING CONSTRUCTION UNLESS THE**
 43 **MUNICIPALITY CONSIDERS THE APPLICATION WITHDRAWN.**

1 H. Nothing shall prevent the municipality from continuing to
2 process the application during the suspension of the substantive review
3 time frame and overall time frame.

4 I. By mutual written or electronic agreement, a municipality and an
5 applicant for a license may extend the substantive review time frame and
6 the overall time frame. An extension of the substantive review time frame
7 and the overall time frame may not exceed fifty ~~per cent~~ PERCENT of the
8 overall time frame.

9 J. Unless a municipality and an applicant for a license mutually
10 agree to extend the substantive review time frame and the overall time
11 frame pursuant to subsection I of this section, a municipality shall issue
12 a written or electronic notice granting or denying a license to an
13 applicant. If a municipality denies or withdraws an application for a
14 license, the municipality shall include in the written or electronic
15 notice at least the following information:

16 1. Justification for the denial or withdrawal with references to
17 the statutes, ordinances, codes or substantive policy statements on which
18 the denial or withdrawal is based.

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

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

28 K. If a municipality does not issue the applicant the written or
29 electronic notice granting, ~~CONDITIONALLY GRANTING~~ or denying a license
30 within the overall time frame or within the mutually agreed on time frame
31 extension, the municipality shall refund to the applicant all fees charged
32 for reviewing and acting on the application for the license and shall
33 excuse payment of any fees that have not yet been paid. The municipality
34 shall not require an applicant to submit an application for a refund
35 pursuant to this subsection. The refund shall be made within thirty
36 working days after the expiration of the overall time frame or the time
37 frame extension. The municipality shall continue to process the
38 application. Notwithstanding any other statute, the municipality shall
39 make the refund from the fund in which the application fees were
40 originally deposited. The right to receive a refund of fees charged for
41 reviewing and acting on the application for the license may not be waived
42 by an applicant. ~~EXCEPT FOR A FINAL CERTIFICATE OF OCCUPANCY OR A FINAL~~
43 ~~INSPECTION FOR LAND DEVELOPMENT OR BUILDING CONSTRUCTION, IF THE~~
44 ~~APPLICATION IS FOR A LICENSE OR APPROVAL NECESSARY FOR LAND DEVELOPMENT OR~~
45 ~~BUILDING CONSTRUCTION, THE APPLICATION SHALL BE DEEMED APPROVED IF THE~~

1 MUNICIPALITY DOES NOT ISSUE THE APPLICANT THE WRITTEN OR ELECTRONIC NOTICE
2 GRANTING OR CONDITIONALLY GRANTING THE LICENSE OR APPROVAL WITHIN THE
3 OVERALL TIME FRAME OR WITHIN THE MUTUALLY AGREED ON TIME FRAME EXTENSION,
4 AND THE MUNICIPALITY MAY RETAIN ALL FEES CHARGED FOR REVIEWING AND ACTING
5 ON THE APPLICATION.

6 L. If an application for a license is denied and the applicant
7 resubmits the application for the same purposes with only revisions or
8 corrections to the original application, the municipality shall not assess
9 any additional application fees that exceed the cost of processing the
10 resubmitted revisions or corrections. This subsection does not apply to
11 license applications that were denied for disqualifying criminal
12 convictions or that were submitted fraudulently.

13 M. If an application for a license is withdrawn and the applicant
14 resubmits the application for the same purpose, the municipality shall not
15 assess any additional application fees that exceed fifty ~~per cent~~ PERCENT
16 of the original ~~applicant~~ APPLICATION fees that have not been refunded to
17 the applicant. This subsection does not apply to license applications
18 that were denied for disqualifying criminal convictions or that were
19 submitted fraudulently.

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

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

27 O. For the purposes of this section:

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

33 ~~2. "Subdivision" means improved or unimproved land or lands divided~~
34 ~~for the purposes of financing, sale or lease, whether immediate or future,~~
35 ~~into four or more lots, tracts or parcels of land, or, if a new street is~~
36 ~~involved, any such property that is divided into two or more lots, tracts~~
37 ~~or parcels of land, or, any such property, the boundaries of which have~~
38 ~~been fixed by a recorded plat, which is divided into more than two parts.~~
39 ~~Subdivision includes any condominium, cooperative, community apartment,~~
40 ~~townhouse or similar project containing four or more parcels, in which an~~
41 ~~undivided interest in the land is coupled with the right of exclusive~~
42 ~~occupancy of any unit located thereon, but plats of such projects need not~~
43 ~~show the buildings or the manner in which the buildings or airspace above~~
44 ~~the property shown on the plat are to be divided.~~

1 Sec. 12. Section 9-837, Arizona Revised Statutes, is amended to
2 read:

3 9-837. Directory of documents

4 The municipality shall publish~~;~~ or prominently place on the
5 municipal website~~;~~ at least annually, ALL LICENSING APPLICATIONS AND a
6 directory summarizing the subject matter of all currently applicable
7 ordinances, codes and substantive policy statements. The municipality
8 shall keep copies of this directory and all substantive policy statements
9 at one location. The directory, ordinances, codes~~;~~ AND substantive
10 policy statements and any materials incorporated by reference in the
11 documents shall be open to public inspection at the office of the
12 municipality or POSTED ON the municipal website. THE MUNICIPALITY SHALL
13 POST ON ITS WEBSITE THE IDENTIFIED LICENSING TIME FRAME FOR EACH LICENSE
14 APPLICATION AND THE TYPICAL ACTUAL TIME FRAME FOR ISSUING THE WRITTEN
15 REQUEST FOR CORRECTION, THE SUPPLEMENTAL REQUEST FOR CORRECTION AND THE
16 APPROVAL.

17 Sec. 13. Appropriation; housing trust fund; low-income
18 housing needs; exemption

19 A. The sum of \$89,000,000 is appropriated from the state general
20 fund in fiscal year 2022-2023 to the housing trust fund established by
21 section 41-3955, Arizona Revised Statutes, for low-income housing needs in
22 this state.

23 B. The appropriation made in subsection A of this section is exempt
24 from the provisions of section 35-190, Arizona Revised Statutes, relating
25 to lapsing of appropriations.

26 Sec. 14. Severability

27 If a provision of this act or its application to any person or
28 circumstance is held invalid, the invalidity does not affect other
29 provisions or applications of the act that can be given effect without the
30 invalid provision or application, and to this end the provisions of this
31 act are severable.