



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: NREW DPA 5-4-0-0

HB 2096: ~~tiny homes; construction; requirements; exemptions~~
cottage homes; construction; requirements; exemptions

Sponsor: Representative Parker B, LD 10

House Engrossed

Overview

Prescribes restrictions for counties relating to building permits for single-family homes, accessory dwelling units and detached garages.

History

A board of supervisors of a county is permitted to adopt a zoning ordinance in order to conserve and promote the public health, safety, convenience and general welfare. Statute outlines what can and cannot be included in zoning ordinance (A.R.S. §§ [11-811](#) and [11-812](#)).

A county zoning ordinance can be enforced by means of withholding building permits for the construction, reconstruction, alteration or use of any building within a zoning district covered by the county zoning ordinance. A building permit is not required for repairs or improvements with a value equal to or less than \$500 ([A.R.S. § 11-815](#)).

County building code requirements do not apply to: 1) construction or operation incidental to construction and repair to irrigation and drainage ditches of regularly constituted districts or reclamation districts or to farming or other work on rural land for fire prevention purposes; and 2) devices used in manufacturing, processing or fabrication normally considered to be involved in the construction of energy, gas or other public utility systems ([A.R.S. § 11-865](#)).

Provisions

Cottage Home Requirements

1. Requires a county to ensure that its land use requirements, zoning rules, building codes and housing policies maximize the ease of constructing residences on residential rural land and the affordability of residing on residential rural land. (Sec. 1)
2. Prohibits a county from requiring a building permit for constructing one single-family home, accessory dwelling unit or detached garage on a lot that meets all of the following:
 - a) the lot is located on residential rural land;
 - b) the single-family home and any accessory dwelling unit have 600 square feet or less of interior space not including loft space and 400 square feet or less of attached deck, porch or patio space;
 - c) the single-family home and any accessory dwelling unit are single-story structures;
 - d) any detached garage has 400 square feet or less of interior space;
 - e) the single-family home, accessory dwelling unit or detached garage are on a semi-permanent or permanent foundation;

<input type="checkbox"/> Prop 105 (45 votes) <input type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note
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- f) the single-family home and any accessory dwelling unit have utility connections to an outside utility service or have on-site electrical generation capacity, a water storage tank and a wastewater treatment system;
 - g) the single-family home and any accessory dwelling unit and detached garage are at least six feet from each other and are either unconnected stand-alone buildings or are connected by a gangway that is between six and 18 feet in length;
 - h) the single-family home and any accessory dwelling unit comply with any county setback requirements that are applicable to residential buildings in the zoning classification of the lot;
 - i) the single-family home, accessory dwelling unit or detached garage are built by the owners of the property; and
 - j) the owner constructed the single-family home, accessory dwelling unit or detached garage without intent to sell or rent. (Sec. 1)
3. Specifies that a zoning requirement cannot prohibit constructing a single-family home, accessory dwelling unit or detached garage that are adjacent to each other if they are at least six feet apart. (Sec. 1)
 4. States that owners who do not sell or rent the single-family home, accessory dwelling unit or detached garage for at least 12 months after construction is completed are deemed to have constructed without the intent to sell or rent. (Sec. 1)

Permit Requirements

5. Allows a county to require the property owner to submit a building permit application if the property owner believes the single-family home, accessory dwelling unit or detached garage is compliant with the cottage homes requirements and the county does not have evidence of noncompliance. (Sec. 1)
6. Specifies that the building permit requirements cannot exceed the requirements established by this legislation. (Sec. 1)
7. States that if a county fails to approve a building permit application within 15 days of it being submitted, the application is deemed approved. (Sec. 1)
8. Requires a county that denies a building permit application to provide the applicant with a detailed explanation for the reasons of denial. (Sec. 1)
9. Allows an applicant to appeal the county's denial. (Sec. 1)
10. Prohibits a county from:
 - a) requiring a building permit for solar or wind power equipment that is installed at any single-family home, accessory dwelling unit or detached garage that is not connected to an outside utility service;
 - b) requiring a wastewater, sewage or gray water permit for any single-family home or accessory dwelling unit if the owner attests that the residence or unit is compliant with gray water use requirements and will not be connected to an outside utility service; and
 - c) imposing on single-family homes, accessory dwelling units or detached garages any zoning or construction requirements that differ from the cottage homes requirements as outlined. (Sec. 1)
11. States that a county is prohibited from requiring a building permit for a greenhouse built on residential rural land if the greenhouse:

- a) is constructed of light framing materials and methods;
 - b) is not larger than 400 square feet;
 - c) wall heights are not more than eight feet with a maximum roof peak height of 18 feet; and
 - d) electrical, plumbing or mechanical systems are only installed if the property is not connected to a public electrical or water utility and the structures are compliant with gray water use requirements. (Sec. 1)
12. Specifies that if the property is not compliant with gray water reuse requirements, only one water line can be installed as a stand-alone standpipe. (Sec. 1)

Compliance, Affidavit and Civil Action Procedures

13. Prohibits a county from requiring a building inspection for any single-family home or accessory dwelling unit that complies with the cottage home requirements, unless:
- a) the county has evidence demonstrating noncompliance; or
 - b) the single-family home or accessory dwelling unit is located in a floodplain and the inspection is limited to floodplain restrictions. (Sec. 1)
14. Instructs the county to require the property owner to:
- a) file an affidavit with a specified statement; and
 - b) submit a self-prepared site plan that lists general information about the site of the planned construction and materials to be used. (Sec. 1)
15. Prohibits a county from restricting construction because of any perceived deficiency of a site plan that includes certain requirements. (Sec. 1)
16. Prohibits a county from requiring blueprints of the structure or that the site plan be prepared by an engineer. (Sec. 1)
17. Requires the property owner to submit to the county recorder a copy of the site plan and a written notice that the construction and improvements have been completed. (Sec. 1)
18. Allows a county to require the builder of a single-family home, accessory dwelling unit or detached garage to file an affidavit with the county recorder attesting compliance with the cottage home requirements. (Sec. 1)
19. Restricts a county from conducting code enforcement or imposing penalties against any single-family home, accessory dwelling unit or detached garage that is compliant with the cottage homes requirements but was constructed before the effective date of this legislation. (Sec. 1)
20. Allows a county to require the owner of a single-family home, accessory dwelling unit or detached garage constructed before the cottage home requirements become effective to submit a site plan, submit a building permit application or file an affidavit attesting compliance. (Sec. 1)
21. States that if a property owner submits an affidavit as prescribed, a county must presume compliance and cannot take enforcement action unless the county has evidence of noncompliance. (Sec. 1)
22. Allows a property owner to bring a civil action to court if a county imposes a penalty on a property owner or takes an enforcement action related to the construction of a single-family home, accessory dwelling unit or detached garage that the property owner believes to be compliant. (Sec. 1)

23. States that if the trier of fact determines that the construction followed the cottage home requirements, the county:
 - a) cannot impose penalties or enforcement against the property owner; and
 - b) must reimburse the property owner for actual costs incurred plus \$100 per day beginning when the enforcement actions were taken until the conclusion of the action. (Sec. 1)
24. Specifies that actual costs include costs related to the property, legal costs and fees and wages and income lost as a result of responding to the county's enforcement actions. (Sec.1)

Exemptions and Applications

25. Specifies that this legislation does not exempt a single-family home, accessory dwelling unit or detached garage from any applicable floodplain restrictions. (Sec. 1)
26. States that this legislation applies to a county with a population of less than 400,000. (Sec. 1)
27. Exempts, in a county with a population of less than 400,000, the construction of a single-family home, accessory dwelling unit or detached garage that complies with the cottage home requirements from county permit requirements. (Sec. 4)
28. Exempts a single-family home, accessory dwelling unit or detached garage that complies with the cottage home requirements and is located in a county with a population of less than 400,000 from county building codes. (Sec. 5 and 6)

Miscellaneous

29. Prohibits, in a county with a population of less than 400,000, a county zoning ordinance from imposing penalties beyond the outlined penalties for single-family homes, accessory dwelling units or detached garages that are compliant with the cottage home requirements. (Sec. 2)
30. Prohibits, in a county with a population of less than 400,000, a county ordinance from preventing, restricting or otherwise regulating the use or occupation of land or improvements on land that conform with the cottage home requirements. (Sec. 3)
31. Cites this legislation as the Cottage Homes Act. (Sec. 7)
32. Defines relevant terms. (Sec. 1)
33. Makes technical and conforming changes. (Sec. 2-6)