

REFERENCE TITLE: adequate water supply; notice

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1509**

Introduced by  
Senator O'Halleran

AN ACT

AMENDING SECTIONS 9-463.01, 11-806.01 AND 45-108, ARIZONA REVISED STATUTES;  
RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 9-463.01, Arizona Revised Statutes, is amended to  
3 read:  
4 9-463.01. Authority  
5 A. Pursuant to ~~the provisions of~~ this article, the legislative body of  
6 every municipality shall regulate the subdivision of all lands within its  
7 corporate limits.  
8 B. The legislative body of a municipality shall exercise the authority  
9 granted in subsection A of this section by ordinance prescribing:  
10 1. Procedures to be followed in the preparation, submission, review  
11 and approval or rejection of all final plats.  
12 2. Standards governing the design of subdivision plats.  
13 3. Minimum requirements and standards for the installation of  
14 subdivision streets, sewer and water utilities and improvements as a  
15 condition of final plat approval.  
16 C. By ordinance, the legislative body of any municipality shall:  
17 1. Require the preparation, submission and approval of a preliminary  
18 plat as a condition precedent to submission of a final plat.  
19 2. Establish the procedures to be followed in the preparation,  
20 submission, review and approval of preliminary plats.  
21 3. Make requirements as to the form and content of preliminary plats.  
22 4. EITHER determine that certain lands may ~~either~~ not be subdivided,  
23 by reason of adverse topography, periodic inundation, adverse soils,  
24 subsidence of the earth's surface, high water table, lack of water or other  
25 natural or man-made hazard to life or property, or control the lot size,  
26 establish special grading and drainage requirements, ~~—~~ and impose other  
27 regulations deemed reasonable and necessary for the public health, safety or  
28 general welfare on any lands to be subdivided affected by such  
29 characteristics.  
30 5. Require payment of a proper and reasonable fee by the subdivider  
31 based ~~upon~~ ON the number of lots or parcels on the surface of the land to  
32 defray municipal costs of plat review and site inspection.  
33 6. Require the dedication of public streets, sewer and water utility  
34 easements or rights-of-way, within the proposed subdivision.  
35 7. Require the preparation and submission of acceptable engineering  
36 plans and specifications for the installation of required street, sewer,  
37 electric and water utilities, drainage, flood control, adequacy of water and  
38 improvements as a condition precedent to recordation of an approved final  
39 plat.  
40 8. Require the posting of performance bonds, assurances or such other  
41 security as may be appropriate and necessary to assure the installation of  
42 required street, sewer, electric and water utilities, drainage, flood control  
43 and improvements meeting established minimum standards of design and  
44 construction.

1 D. The legislative body of any municipality may require by ordinance  
2 that land areas within a subdivision be reserved for parks, recreational  
3 facilities, school sites and fire stations subject to the following  
4 conditions:

5 1. The requirement may only be made ~~upon~~ ON preliminary plats filed at  
6 least thirty days after the adoption of a general or specific plan affecting  
7 the land area to be reserved.

8 2. The required reservations are in accordance with definite  
9 principles and standards adopted by the legislative body.

10 3. The land area reserved shall be of such a size and shape as to  
11 permit the remainder of the land area of the subdivision within which the  
12 reservation is located to develop in an orderly and efficient manner.

13 4. The land area reserved shall be in such multiples of streets and  
14 parcels as to permit an efficient division of the reserved area in the event  
15 that it is not acquired within the prescribed period.

16 E. The public agency for whose benefit an area has been reserved shall  
17 have a period of one year after recording the final subdivision plat to enter  
18 into an agreement to acquire such reserved land area. The purchase price  
19 shall be the fair market value of the reserved land area at the time of the  
20 filing of the preliminary subdivision plat plus the taxes against such  
21 reserved area from the date of the reservation and any other costs incurred  
22 by the subdivider in the maintenance of such reserved area, including the  
23 interest cost incurred on any loan covering such reserved area.

24 F. If the public agency for whose benefit an area has been reserved  
25 does not exercise the reservation agreement set forth in subsection E of this  
26 section within such one year period or such extended period as may be  
27 mutually agreed ~~upon~~ ON by such public agency and the subdivider, the  
28 reservation of such area shall terminate.

29 G. The legislative body of every municipality shall comply with ~~all~~  
30 ~~provisions of~~ this article and applicable state statutes pertaining to the  
31 hearing, approval or rejection, ~~and~~ recordation of:

32 1. Final subdivision plats.

33 2. Plats filed for the purpose of reverting to acreage of land  
34 previously subdivided.

35 3. Plats filed for the purpose of vacating streets or easements  
36 previously dedicated to the public.

37 4. Plats filed for the purpose of vacating or redescribing lot or  
38 parcel boundaries previously recorded.

39 H. Approval of every preliminary and final plat by a legislative body  
40 is conditioned ~~upon~~ ON compliance by the subdivider with:

41 1. Rules as may be established by the department of transportation  
42 relating to provisions for the safety of entrance upon and departure from  
43 abutting state primary highways.

1           2. Rules as may be established by a county flood control district  
2 relating to the construction or prevention of construction of streets in land  
3 established as being subject to periodic inundation.

4           3. Rules as may be established by the department of health services or  
5 a county health department relating to the provision of domestic water supply  
6 and sanitary sewage disposal.

7           I. If the subdivision is comprised of subdivided lands,~~—~~ as defined in  
8 section 32-2101,~~—~~ and is within a groundwater active management area,~~—~~ as  
9 defined in section 45-402, the final plat shall not be approved unless it is  
10 accompanied by a certificate of assured water supply issued by the director  
11 of water resources, or unless the subdivider has obtained a written  
12 commitment of water service for the subdivision from a city, town or private  
13 water company designated as having an assured water supply by the director of  
14 water resources pursuant to section 45-576 or is exempt from the requirement  
15 pursuant to section 45-576. The legislative body of the municipality shall  
16 note on the face of the final plat that a certificate of assured water supply  
17 has been submitted with the plat or that the subdivider has obtained a  
18 written commitment of water service for the proposed subdivision from a city,  
19 town or private water company designated as having an assured water supply,~~—~~  
20 pursuant to section 45-576 or is exempt from the requirement pursuant to  
21 section 45-576.

22           J. IF THE SUBDIVISION IS OUTSIDE OF AN ACTIVE MANAGEMENT AREA AS  
23 DEFINED IN SECTION 45-402, THE FINAL PLAT SHALL NOT BE APPROVED UNLESS IT IS  
24 ACCOMPANIED BY THE FINAL REPORT ON THE ADEQUACY OF THE WATER SUPPLY FOR THE  
25 SUBDIVISION, INCLUDING THE BRIEF STATEMENT OF THE BASIS FOR THE DETERMINATION  
26 THAT IS ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.  
27 THE LEGISLATIVE BODY SHALL INCLUDE THE DIRECTOR'S DETERMINATION OF ADEQUACY  
28 OR INADEQUACY IN ANY PUBLIC NOTICE PROVIDED REGARDING THE CONSIDERATION OF  
29 FINAL APPROVAL FOR THE SUBDIVISION. IF THE SUBDIVISION RECEIVES A  
30 DETERMINATION OF INADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES,  
31 THE LEGISLATIVE BODY MAY DENY FINAL APPROVAL FOR THE SUBDIVISION OR MAY  
32 APPROVE THE SUBDIVISION WITH OR WITHOUT CONDITIONS, INCLUDING THE REUSE OF  
33 WATER, EVIDENCE OF FINANCIAL ASSURANCE, THE PURCHASE OF DEVELOPMENT RIGHTS  
34 AND OTHER WATER MANAGEMENT AND MITIGATION PROVISIONS AS DETERMINED BY THE  
35 LEGISLATIVE BODY ON A CASE BY CASE BASIS. ON FINAL APPROVAL OF ANY  
36 SUBDIVISION PURSUANT TO THIS SUBSECTION, THE LEGISLATIVE BODY SHALL NOTIFY  
37 THE DIRECTOR OF WATER RESOURCES OF THE APPROVAL AND THE NUMBER OF LOTS  
38 APPROVED.

39           ~~J~~ K. Every municipality is responsible for the recordation of all  
40 final plats approved by the legislative body and shall receive from the  
41 subdivider and transmit to the county recorder the recordation fee  
42 established by the county recorder.

43           ~~K~~ L. Pursuant to provisions of applicable state statutes, the  
44 legislative body of any municipality may itself prepare or have prepared a  
45 plat for the subdivision of land under municipal ownership.



1 SUBDIVISION, INCLUDING THE BRIEF STATEMENT OF THE BASIS FOR THE DETERMINATION  
2 THAT IS ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.  
3 THE BOARD OF SUPERVISORS SHALL INCLUDE THE DIRECTOR'S DETERMINATION OF  
4 ADEQUACY OR INADEQUACY IN ANY PUBLIC NOTICE PROVIDED REGARDING THE  
5 CONSIDERATION OF FINAL APPROVAL FOR THE SUBDIVISION. IF THE SUBDIVISION  
6 RECEIVES A DETERMINATION OF INADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER  
7 RESOURCES, THE BOARD OF SUPERVISORS MAY DENY FINAL APPROVAL FOR THE  
8 SUBDIVISION OR MAY APPROVE THE SUBDIVISION WITH OR WITHOUT CONDITIONS,  
9 INCLUDING THE REUSE OF WATER, EVIDENCE OF FINANCIAL ASSURANCE, THE PURCHASE  
10 OF DEVELOPMENT RIGHTS AND OTHER WATER MANAGEMENT AND MITIGATION PROVISIONS AS  
11 DETERMINED BY THE BOARD OF SUPERVISORS ON A CASE BY CASE BASIS. ON FINAL  
12 APPROVAL OF ANY SUBDIVISION PURSUANT TO THIS SUBSECTION, THE BOARD OF  
13 SUPERVISORS SHALL NOTIFY THE DIRECTOR OF WATER RESOURCES OF THE APPROVAL AND  
14 THE NUMBER OF LOTS APPROVED.

15 ~~C.~~ D. Any person causing a final plat to be recorded without first  
16 submitting the plat and obtaining approval of the board is guilty of a class  
17 2 misdemeanor. No county recorder shall accept for recording or record any  
18 plat ~~which~~ THAT has not been approved as provided by this article.

19 ~~D.~~ E. The ground of refusal or approval of any plat submitted,  
20 including citation of or reference to the rule or regulation violated by the  
21 plat, shall be stated ~~upon~~ ON the record of the board.

22 ~~E.~~ F. The commission shall recommend to the board and the board shall  
23 adopt general regulations of uniform application governing plats and  
24 subdivisions of land within its area of jurisdiction. The regulations  
25 adopted shall secure and provide for the proper arrangement of streets or  
26 other highways in relation to existing or planned streets, highways or  
27 bicycle facilities or to the official map for adequate and convenient open  
28 spaces for traffic, utilities, drainage, access of fire fighting apparatus,  
29 recreation, light and air. The board may adopt general regulations to  
30 provide for the proper arrangement of hiking and equestrian trails in  
31 relation to existing or planned streets or highways, and if adopted, such  
32 hiking and equestrian trails shall conform to the official map for adequate  
33 and convenient open spaces for traffic, utilities, drainage, access of fire  
34 fighting apparatus, recreation, light and air. The general regulations may  
35 provide for modification by the commission in planned area development or  
36 specific cases where unusual topographical or other exceptional conditions  
37 may require such action. The regulations shall include provisions as to the  
38 extent to which streets and other highways shall be graded and improved and  
39 to which water, sewer or other utility mains, piping or other facilities  
40 shall be installed or provided for on the plat as a condition precedent to  
41 the approval of the final plat.

42 ~~F.~~ G. On recording of a plat, the fee of the streets, alleys,  
43 avenues, highways, easements, parks and other parcels of ground reserved to  
44 the use of the public vests in trust in the county for the uses and to the  
45 extent depicted on the plat including, but not limited to, ingress and egress

1 easements depicted on such plat. On annexation by any city or town such fee  
2 automatically vests in the city or town.

3 ~~G.~~ H. Boards of supervisors of counties shall prepare specifications  
4 and make orders, inspections, examinations and certificates as may be  
5 necessary to protect and complete the provisions and make them effective.  
6 The regulations shall require the posting of performance bonds, assurances or  
7 such other security as may be appropriate and necessary to assure the  
8 installation of required street, sewer, electric and water utilities,  
9 drainage, flood control and improvements meeting established minimum  
10 standards of design and construction.

11 ~~H.~~ I. Before adoption of regulations by the board or any amendment as  
12 provided in this article, a public hearing shall be held by the commission.  
13 A copy of the regulations shall be certified by the commission to the county  
14 board of supervisors, which shall hold a public hearing after notice of the  
15 time and place has been given by one publication fifteen days prior to the  
16 public hearing in a newspaper of general circulation in the county.

17 ~~I.~~ J. Approval of a plat shall not be deemed to constitute or effect  
18 an acceptance by the county for designation of any street, highway, bicycle  
19 facility or other way or open space shown ~~upon~~ ON the plat into the county  
20 maintenance system, except for hiking and equestrian trails ~~which shall be~~  
21 THAT ARE constructed and maintained by the county. However, at such time as  
22 the streets, highways, bicycle facilities or other ways are fully completed  
23 in accordance with the approved plat and written specifications made by the  
24 county board, the county shall accept such streets, highways, bicycle  
25 facilities and other ways into the county maintenance system within one year  
26 of completion.

27 ~~J.~~ K. For any subdivision that consists of lots, tracts or parcels,  
28 each of which is of a size as prescribed by the board of supervisors, the  
29 board may waive the requirement to prepare, submit and receive approval of a  
30 preliminary plat as a condition precedent to submitting a final plat and may  
31 waive or reduce infrastructure standards or requirements except for improved  
32 dust-controlled access and minimum drainage improvements.

33 Sec. 3. Section 45-108, Arizona Revised Statutes, is amended to read:

34 45-108. Evaluation of subdivision water supply; adequacy  
35 determination; fee; adequacy determination program  
36 fund

37 A. In areas outside of active management areas established pursuant to  
38 chapter 2, article 2 of this title, the developer of a proposed subdivision  
39 including dry lot subdivisions, regardless of subdivided lot size, prior to  
40 recordation of the plat, shall submit plans for the water supply for the  
41 subdivision and demonstrate the adequacy of the water supply to meet the  
42 needs projected by the developer to the director. The director shall  
43 evaluate the plans and issue a report on the plans. **THE DIRECTOR MAY PROVIDE**  
44 **THE DEVELOPER WITH A PRELIMINARY RESPONSE TO THE APPLICATION AND MAY PERMIT**  
45 **THE DEVELOPER TO PROVIDE ADDITIONAL INFORMATION BEFORE ISSUING A FINAL**

1 REPORT. THE DIRECTOR SHALL ISSUE THE FINAL REPORT ON THE ADEQUACY OF THE  
2 WATER SUPPLY BEFORE THE DEVELOPER RECEIVES FINAL SUBDIVISION APPROVAL FROM A  
3 CITY OR TOWN COUNCIL OR FROM A COUNTY BOARD OF SUPERVISORS. THE REPORT SHALL  
4 INCLUDE THE RESULTS OF THE DETERMINATION AND A BRIEF STATEMENT OF THE BASIS  
5 FOR THE FINDINGS.

6 B. The director shall evaluate the proposed source of water for the  
7 subdivision to determine its ability to meet proposed uses for a period of  
8 years commensurate with normal practices in other areas of the state and  
9 shall forward a copy of such evaluation to the state real estate  
10 commissioner, THE DEVELOPER AND THE CITY, TOWN OR COUNTY AUTHORITY  
11 RESPONSIBLE FOR PLATTING THE SUBDIVISION. IF THE SOURCE OF WATER FOR THE  
12 SUBDIVISION INCLUDES WATER THAT IS TRANSPORTED BY A VEHICLE OR BY RAIL, THE  
13 DEPARTMENT SHALL INCLUDE THAT INFORMATION IN THE DEPARTMENT'S ADEQUACY  
14 REPORT. THE DEVELOPER SHALL RECORD AS A PART OF ANY SUBDIVISION RECORDATION  
15 THE RESULTS OF THE DEPARTMENT'S ADEQUACY REPORT AND THE BRIEF STATEMENT OF  
16 THE BASIS FOR THE FINDINGS IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY  
17 IN WHICH THE SUBDIVISION IS LOCATED.

18 C. The director may designate cities, towns and private water  
19 companies as having an adequate water supply by reporting that designation to  
20 the water department of the city or town or private water company and the  
21 state real estate commissioner.

22 D. The director may designate a city or town that does not directly  
23 supply water to customers as having an adequate water supply by reporting  
24 that designation to the city or town and the state real estate commissioner  
25 if all of the following apply:

26 1. The city or town has entered into a contract with the United States  
27 secretary of the interior or a county water authority established pursuant to  
28 chapter 13 of this title for permanent supplies of Colorado river water for  
29 municipal and industrial use.

30 2. The city or town has entered into a contract with each private  
31 water company that serves water within the city or town to provide Colorado  
32 river water to those private water companies.

33 3. The Colorado river water for which the city or town has contracted  
34 is sufficient together with other water supplies available to the private  
35 water companies that serve water within that city or town to provide an  
36 adequate supply of water for the city or town.

37 4. The director finds that new subdivisions within the city or town  
38 will be served primarily with Colorado river water by one of the private  
39 water companies that serve water within that city or town.

40 E. The director shall not require a developer to submit plans for the  
41 water supply pursuant to subsection A ~~of this section~~ if either:

42 1. Both of the following apply:

43 (a) The developer has obtained a written commitment of water service  
44 from cities, towns or private water companies that have been designated as  
45 having an adequate water supply.



1           (b) That city, town or private water company has been designated as  
2 having an adequate water supply pursuant to subsection C ~~of this section~~.  
3           2. All of the following apply:  
4           (a) The city or town has been designated as having an adequate water  
5 supply pursuant to subsection D ~~of this section~~.  
6           (b) The developer has obtained a written commitment of water service  
7 from a private water company that serves water within that city or town.  
8           (c) The developer has obtained the written concurrence of the city or  
9 town that has been designated.  
10          F. The director may revoke a designation made pursuant to this section  
11 when the director finds that the water supply may become inadequate.  
12          G. The state of Arizona and the director or department shall not be  
13 liable for any report, designation or evaluation prepared in good faith  
14 pursuant to this section.