

REFERENCE TITLE: municipalities; housing needs assessment; zoning

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2518

Introduced by
Representative Gress

AN ACT

AMENDING SECTIONS 9-462.04 AND 9-462.06, ARIZONA REVISED STATUTES;
AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-462.10; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA
REVISED STATUTES, BY ADDING SECTION 9-469; RELATING TO MUNICIPAL PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-462.04, Arizona Revised Statutes, is amended
3 to read:

4 9-462.04. Public hearing required; definition

5 A. If the municipality has a planning commission or a hearing
6 officer, the planning commission or hearing officer shall hold a public
7 hearing on any zoning ordinance. Notice of the time and place of the
8 hearing, including a general explanation of the matter to be considered
9 and ~~including~~ a general description of the area affected, shall be given
10 at least fifteen days before the hearing in the following manner:

11 1. The notice ~~shall be published at least once in a newspaper of~~
12 ~~general circulation published or circulated in the municipality, or if~~
13 ~~there is none, it~~ shall be posted on the affected property in such a
14 manner as to be legible from the public right-of-way and in at least ten
15 public places in the municipality. A posted notice shall be printed so
16 that the following are visible from a distance of one hundred feet: the
17 word "zoning", the present zoning district classification, the proposed
18 zoning district classification and the date and time of the hearing.

19 2. In proceedings involving rezoning of land that abuts other
20 municipalities or unincorporated areas of the county or a combination of a
21 municipality and an unincorporated area, copies of the notice of public
22 hearing shall be transmitted to the planning agency of the governmental
23 unit abutting such land. In proceedings involving rezoning of land that
24 is located within the territory in the vicinity of a military airport or
25 ancillary military facility as defined in section 28-8461, the
26 municipality shall send copies of the notice of public hearing by first
27 class mail to the military airport. In addition to notice by publication,
28 a municipality may give notice of the hearing in any other manner that the
29 municipality deems necessary or desirable.

30 3. In proceedings that are not initiated by the property owner
31 involving rezoning of land that may change the zoning classification,
32 notice by first class mail shall be sent to each real property owner, as
33 shown on the last assessment of the property, of the area to be rezoned
34 and all property owners, as shown on the last assessment of the property,
35 within three hundred feet of the property to be rezoned.

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

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

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

44 (c) An increase or reduction in the allowable number of stories of
45 buildings.

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

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

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

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

10 (b) If the municipality issues utility bills or other mass mailings
11 that periodically include notices or other informational or advertising
12 materials, the municipality shall include notice of the changes with such
13 utility bills or other mailings.

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

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

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

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

33 C. After the hearing, the planning commission or hearing officer
34 shall render a decision in the form of a written recommendation to the
35 governing body. The recommendation shall include the reasons for the
36 recommendation and be transmitted to the governing body in the form and
37 manner prescribed by the governing body.

38 D. If the planning commission or hearing officer has held a public
39 hearing, the governing body may adopt the recommendations of the planning
40 commission or hearing officer without holding a second public hearing if
41 there is no objection, request for public hearing or other protest. The
42 governing body shall hold a public hearing if requested by the party
43 aggrieved or any member of the public or of the governing body, or, in any
44 case, if a public hearing has not been held by the planning commission or
45 hearing officer. The governing body may consider the testimony of any

1 party aggrieved when making its decision. In municipalities with
 2 territory in the vicinity of a military airport or ancillary military
 3 facility as defined in section 28-8461, the governing body shall hold a
 4 public hearing if, after notice is transmitted to the military airport
 5 pursuant to subsection A of this section and before the public hearing,
 6 the military airport provides comments or analysis concerning the
 7 compatibility of the proposed rezoning with the high noise or accident
 8 potential generated by military airport or ancillary military facility
 9 operations that may have an adverse impact on public health and safety,
 10 and the governing body shall consider and analyze the comments or analysis
 11 before making a final determination. Notice of the time and place of the
 12 hearing shall be given in the time and manner provided for ~~the giving of~~
 13 notice of the hearing by the planning commission as specified in
 14 subsection A of this section. A municipality may give additional notice
 15 of the hearing in any other manner as the municipality deems necessary or
 16 desirable. For the purposes of this subsection, "party aggrieved" means
 17 any property owner within the notification area prescribed by subsection
 18 A, paragraph 3 of this section.

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

23 F. A municipality is not required to adopt a general plan before
 24 the adoption of a zoning ordinance.

25 G. If there is no planning commission or hearing officer, the
 26 governing body of the municipality shall perform the functions assigned to
 27 the planning commission or hearing officer.

28 H. If the owners of twenty percent or more of the property by area
 29 and number of lots, tracts and condominium units within the zoning area of
 30 the affected property file a protest in writing against a proposed
 31 amendment, the change shall not become effective except by the favorable
 32 vote of three-fourths of all members of the governing body of the
 33 municipality. If any members of the governing body are unable to vote on
 34 such a question because of a conflict of interest, then the required
 35 number of votes for passage of the question shall be three-fourths of the
 36 remaining membership of the governing body, ~~provided that~~ IF such required
 37 number of votes ~~shall~~ IS not ~~be~~ less than a majority of the full
 38 membership of the legally established governing body. For the purposes of
 39 this subsection, the vote shall be rounded to the nearest whole number. A
 40 protest filed pursuant to this subsection shall be signed by the property
 41 owners opposing the proposed amendment and filed in the office of the
 42 clerk of the municipality not later than 12:00 noon one business day
 43 before the date on which the governing body will vote on the proposed
 44 amendment or on an earlier time and date established by the governing
 45 body.

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

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

11 K. For the purposes of this section, "zoning area" means both of
12 the following:

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

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

17 Sec. 2. Section 9-462.06, Arizona Revised Statutes, is amended to
18 read:

19 9-462.06. Board of adjustment

20 A. The legislative body, by ordinance, shall establish a board of
21 adjustment, which shall consist of at least five but ~~no~~ NOT more than
22 seven members appointed by the legislative body in accordance with
23 ~~provisions of~~ the ordinance, except that the ordinance may establish the
24 legislative body as the board of adjustment. The legislative body ~~may~~, by
25 ordinance, MAY delegate to a hearing officer the authority to hear and
26 decide on matters within the jurisdiction of the board of adjustment as
27 provided by this section, except that the right of appeal from the
28 decision of a hearing officer to the board of adjustment shall be
29 preserved.

30 B. The ordinance shall provide for public meetings of the board,
31 for a chairperson with the power to administer oaths and take evidence,
32 and that minutes of its proceedings showing the vote of each member and
33 records of its examinations and other official actions be filed in the
34 office of the board as a public record.

35 C. A board of adjustment shall hear and decide appeals from the
36 decisions of the zoning administrator, shall exercise other powers as may
37 be granted by the ordinance and SHALL adopt all rules and procedures
38 necessary or convenient for the conduct of its business.

39 D. Appeals to the board of adjustment may be taken by persons
40 aggrieved or by any officer, department, board or bureau of the
41 municipality affected by a decision of the zoning administrator, within a
42 reasonable time, by filing with the zoning administrator and with the
43 board a notice of appeal specifying the grounds of the appeal. The zoning
44 administrator shall immediately transmit all records pertaining to the
45 action appealed from to the board.

1 E. An appeal to the board stays all proceedings in the matter
2 appealed from, unless the zoning administrator certifies to the board
3 that, in the zoning administrator's opinion by the facts stated in the
4 certificate, a stay would cause imminent peril to life or property. On
5 the certification proceedings shall not be stayed, except by restraining
6 order granted by the board or by a court of record on application and
7 notice to the zoning administrator. Proceedings shall not be stayed if
8 the appeal requests relief that has previously been denied by the board
9 except pursuant to a special action in superior court as provided in
10 subsection K of this section.

11 F. The board shall fix a reasonable time for hearing the appeal,
12 and shall give notice of THE hearing by ~~both publication in a newspaper of~~
13 ~~general circulation in accordance with section 9-462.04 and~~ posting the
14 notice in conspicuous places close to the property affected.

15 G. A board of adjustment shall:

16 1. Hear and decide appeals in which it is alleged there is an error
17 in an order, requirement or decision made by the zoning administrator in
18 the enforcement of a zoning ordinance adopted pursuant to this article.

19 2. Hear and decide appeals for variances from the terms of the
20 zoning ordinance only if, because of special circumstances applicable to
21 the property, including its size, shape, topography, location, or
22 surroundings, the strict application of the zoning ordinance will deprive
23 the property of privileges enjoyed by other property of the same
24 classification in the same zoning district. Any variance granted is
25 subject to conditions as will assure that the adjustment authorized shall
26 not constitute a grant of special privileges inconsistent with the
27 limitations ~~upon~~ ON other properties in the vicinity and zone in which the
28 property is located.

29 3. Reverse or affirm, in whole or in part, or modify the order,
30 requirement or decision of the zoning administrator appealed from, and
31 make the order, requirement, decision or determination as necessary.

32 H. A board of adjustment may not:

33 1. Make any changes in the uses permitted in any zoning
34 classification or zoning district, or make any changes in the terms of the
35 zoning ordinance provided the restriction in this paragraph shall not
36 affect the authority to grant variances pursuant to this article.

37 2. Grant a variance if the special circumstances applicable to the
38 property are self-imposed by the property owner.

39 I. If the legislative body is established as the board of
40 adjustment, it shall exercise all of the functions and duties of the board
41 of adjustment in the same manner and to the same effect as provided in
42 this section.

43 J. In a municipality with a population of more than one hundred
44 thousand persons, the legislative body, by ordinance, may provide that a
45 person aggrieved by a decision of the board, ~~or~~ a taxpayer who owns or

1 leases the adjacent property or a property within three hundred feet from
2 the boundary of the immediately adjacent property, ~~OR~~ OR an officer or a
3 department of the municipality affected by a decision of the board, at any
4 time within fifteen days after the board has rendered its decision, may
5 file an appeal with the clerk of the legislative body. The legislative
6 body shall hear the appeal in accordance with procedures adopted by the
7 legislative body and may affirm or reverse, in whole or in part, or modify
8 the board's decision.

9 K. A person aggrieved by a decision of the legislative body or
10 board, ~~OR~~ OR a taxpayer who owns or leases the adjacent property or a
11 property within three hundred feet from the boundary of the immediately
12 adjacent property, ~~OR~~ OR an officer or a department of the municipality
13 affected by a decision of the legislative body or board, at any time
14 within thirty days after the board, or the legislative body, if the board
15 decision was appealed pursuant to subsection J of this section, has
16 rendered its decision, may file a complaint for special action in the
17 superior court to review the legislative body or board decision. Filing
18 the complaint does not stay proceedings on the decision sought to be
19 reviewed, but the court may, on application, grant a stay and on final
20 hearing may affirm or reverse, in whole or in part, or modify the decision
21 reviewed.

22 Sec. 3. Title 9, chapter 4, article 6.1, Arizona Revised Statutes,
23 is amended by adding section 9-462.10, to read:

24 9-462.10. Residential zoning; amendment; applications;
25 deadline; extensions; applicability

26 A. ON OR BEFORE JANUARY 1, 2025, A MUNICIPALITY SHALL ADOPT AN
27 AMENDMENT TO THE MUNICIPALITY'S ZONING ORDINANCE THAT REQUIRES THE
28 MUNICIPALITY TO DETERMINE WHETHER A ZONING APPLICATION IS ADMINISTRATIVELY
29 COMPLETE WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION. IF THE
30 MUNICIPALITY DETERMINES THAT THE APPLICATION IS NOT ADMINISTRATIVELY
31 COMPLETE, THE MUNICIPALITY SHALL FOLLOW THE PROCEDURES PRESCRIBED IN
32 SECTION 9-835, SUBSECTION E UNTIL THE APPLICATION IS ADMINISTRATIVELY
33 COMPLETE. THE MUNICIPALITY SHALL DETERMINE WHETHER A RESUBMITTED
34 APPLICATION IS ADMINISTRATIVELY COMPLETE WITHIN FIFTEEN DAYS AFTER
35 RECEIVING THE RESUBMITTED APPLICATION. AFTER DETERMINING THAT THE
36 APPLICATION IS ADMINISTRATIVELY COMPLETE, THE MUNICIPALITY SHALL APPROVE
37 OR DENY THE APPLICATION WITHIN ONE HUNDRED EIGHTY DAYS.

38 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE MUNICIPALITY
39 MAY EXTEND THE TIME FRAME TO APPROVE OR DENY THE REQUEST BEYOND ONE
40 HUNDRED EIGHTY DAYS FOR EITHER OF THE FOLLOWING REASONS:

41 1. FOR EXTENUATING CIRCUMSTANCES, THE MUNICIPALITY MAY GRANT A
42 ONETIME EXTENSION OF NOT MORE THAN THIRTY DAYS.

43 2. IF AN APPLICANT REQUESTS AN EXTENSION, THE MUNICIPALITY MAY
44 GRANT EXTENSIONS OF THIRTY DAYS FOR EACH EXTENSION GRANTED.

1 C. THIS SECTION DOES NOT APPLY TO LAND THAT IS DESIGNATED AS A
2 DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01,
3 SUBSECTION A, PARAGRAPH 10 OR AN AREA THAT IS DESIGNATED AS HISTORIC ON
4 THE NATIONAL REGISTER OF HISTORIC PLACES OR PLANNED AREA DEVELOPMENTS.

5 Sec. 4. Title 9, chapter 4, article 6.4, Arizona Revised Statutes,
6 is amended by adding section 9-469, to read:

7 9-469. Municipal housing needs assessment; annual report;
8 applicability

9 A. BEGINNING JANUARY 1, 2025 AND EVERY FIVE YEARS THEREAFTER, A
10 MUNICIPALITY SHALL PUBLISH A HOUSING NEEDS ASSESSMENT THAT INCLUDES THE
11 FOLLOWING:

12 1. THE TOTAL POPULATION GROWTH PROJECTED FOR THE SUBSEQUENT
13 FIVE-YEAR PERIOD.

14 2. THE TOTAL JOB GROWTH PROJECTED FOR THE SUBSEQUENT FIVE-YEAR
15 PERIOD.

16 3. THE TOTAL AMOUNT OF RESIDENTIALLY ZONED LAND WITH DETAIL ON LAND
17 ZONED AS SINGLE-FAMILY AND MULTIFAMILY.

18 4. THE TOTAL NEED FOR ADDITIONAL RESIDENTIAL HOUSING UNITS FOR RENT
19 AND FOR SALE IN THE MUNICIPALITY TO MEET:

20 (a) ANY DEFICIENCIES IN HOUSING THE EXISTING POPULATION.

21 (b) ANY DEFICIENCIES IN HOUSING THE EXISTING WORKFORCE.

22 (c) POPULATION GROWTH PROJECTIONS.

23 (d) JOB GROWTH PROJECTIONS.

24 (e) HOUSING NEEDS ACROSS ALL VARIOUS INCOME LEVELS.

25 B. BEGINNING JANUARY 1, 2025 AND EVERY YEAR THEREAFTER, EACH
26 MUNICIPALITY SHALL SUBMIT AN ANNUAL REPORT TO THE ARIZONA DEPARTMENT OF
27 HOUSING ACCOUNTING FOR THE TOTAL NUMBER OF PROPOSED RESIDENTIAL HOUSING
28 UNITS SUBMITTED TO THE MUNICIPALITY, THE TOTAL NUMBER OF NET NEW
29 RESIDENTIAL HOUSING UNITS SUBMITTED TO THE MUNICIPALITY AND THE TOTAL
30 NUMBER OF NEW RESIDENTIAL HOUSING UNITS THAT ARE ENTITLED, HAVE BEEN
31 PLATTED, HAVE BEEN ISSUED A BUILDING PERMIT AND HAVE RECEIVED A
32 CERTIFICATE OF OCCUPANCY BY THE MUNICIPALITY. THE ANNUAL REPORT SHALL
33 INCLUDE ALL OF THE FOLLOWING:

34 1. THE NUMBER OF HOUSING DEVELOPMENT APPLICATIONS RECEIVED IN THE
35 PRIOR YEAR.

36 2. THE NUMBER OF LOTS AND MULTIFAMILY UNITS INCLUDED IN ALL
37 DEVELOPMENT APPLICATIONS IN THE PRIOR YEAR.

38 3. THE NUMBER OF LOTS AND MULTIFAMILY UNITS APPROVED AND
39 DISAPPROVED OR OTHERWISE NOT APPROVED IN THE PRIOR YEAR.

40 4. A THRESHOLD PERCENTAGE REQUIREMENT OF MULTIFAMILY ZONED LAND
41 VERSUS SINGLE-FAMILY ZONED LAND NEEDED TO MEET POPULATION DEMAND IN EACH
42 MUNICIPALITY.

43 5. THE STATUS AND PROGRESS IN MEETING THE MUNICIPALITY'S HOUSING
44 NEEDS.

1 6. A PLAN THAT SPECIFIES HOW THE MUNICIPALITY INTENDS TO SATISFY
2 THE IDENTIFIED NEED FOR ADDITIONAL HOUSING UNITS WITHIN THE MUNICIPALITY.
3 C. A MUNICIPALITY THAT HAS CONDUCTED A HOUSING NEEDS ASSESSMENT
4 REPORT AS OF JANUARY 1, 2021 SHALL AMEND ALL EXISTING REPORTS TO INCLUDE
5 THE INFORMATION REQUIRED IN SUBSECTION A OF THIS SECTION.
6 D. THIS SECTION DOES NOT REQUIRE A MUNICIPALITY TO FULFILL THE
7 PROJECTIONS IN THE HOUSING NEEDS ASSESSMENT REQUIRED BY SUBSECTION A OF
8 THIS SECTION.
9 E. THIS SECTION DOES NOT APPLY TO A MUNICIPALITY THAT IS LOCATED ON
10 TRIBAL LAND OR A MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY
11 THOUSAND PERSONS.