

House Engrossed

~~affordable housing; parking requirements; prohibition~~
(now: public hearings; voting)

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

HOUSE BILL 2734

AN ACT

AMENDING SECTION 9-462.04, ARIZONA REVISED STATUTES; 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 9-462.04, 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. **PUBLIC HEARING ON ANY RESIDENTIAL**
8 **REZONING ORDINANCE SHALL BE LIMITED TO NOT MORE THAN TWO HEARINGS.** Notice
9 of the time and place of the hearing, including a general explanation of
10 the matter to be considered and ~~including~~ a general description of the
11 area affected, shall be given at least fifteen days before the hearing in
12 the following manner:

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

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

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

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

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

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

1 (c) An increase or reduction in the allowable number of stories of
2 buildings.

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

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

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

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

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

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

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

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

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

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

40 D. If the planning commission or hearing officer has held a public
41 hearing, the governing body may adopt the recommendations of the planning
42 commission or hearing officer without holding a second public hearing if
43 there is no objection, request for public hearing or other protest. The
44 governing body shall hold a public hearing if requested by the party
45 aggrieved or any member of the public or of the governing body, or, in any

1 case, if a public hearing has not been held by the planning commission or
2 hearing officer. The governing body may consider the testimony of any
3 party aggrieved when making its decision. In municipalities with
4 territory in the vicinity of a military airport or ancillary military
5 facility as defined in section 28-8461, the governing body shall hold a
6 public hearing if, after notice is transmitted to the military airport
7 pursuant to subsection A of this section and before the public hearing,
8 the military airport provides comments or analysis concerning the
9 compatibility of the proposed rezoning with the high noise or accident
10 potential generated by military airport or ancillary military facility
11 operations that may have an adverse impact on public health and safety,
12 and the governing body shall consider and analyze the comments or analysis
13 before making a final determination. Notice of the time and place of the
14 hearing shall be given in the time and manner provided for ~~the~~ giving ~~of~~
15 notice of the hearing by the planning commission as specified in
16 subsection A of this section. A municipality may give additional notice
17 of the hearing in any other manner as the municipality deems necessary or
18 desirable. For the purposes of this subsection, "party aggrieved" means
19 any property owner within the notification area prescribed by subsection
20 A, paragraph 3 of this section.

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

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

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

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

1 before the date on which the governing body will vote on the proposed
2 amendment or on an earlier time and date established by the governing
3 body, **UNLESS THE MUNICIPALITY IS CLOSED BECAUSE OF A STATE OR NATIONAL**
4 **HOLIDAY, THEN THE PROTEST MUST BE FILED BY 12:00 NOON THE NEXT BUSINESS**
5 **DAY.**

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

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

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

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

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