

House Engrossed

~~notary public; examination; repeat~~
(now: public hearing definition; hearing officer)

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE BILL 2837

AN ACT

AMENDING SECTIONS 9-462.04, 9-462.06 AND 9-462.08, ARIZONA REVISED
STATUTES; RELATING TO MUNICIPAL PLANNING AND 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. Notice of the time and place of the
8 hearing, including a general explanation of the matter to be considered
9 and a general description of the area affected, shall be given at least
10 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 or within the
26 influence area of a military installation or range or Arizona national
27 guard site, the municipality shall send copies of the notice of public
28 hearing by first class mail to the military airport, ~~or~~ military
29 installation or range or Arizona national guard site. In addition to
30 notice by publication, a municipality may give notice of the hearing in
31 any other manner that the municipality deems necessary or desirable. For
32 the purposes of this paragraph, "influence area" and "military
33 installation or range or Arizona national guard site" have the same
34 meanings prescribed in section 9-500.50.

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

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

- 1 (a) A ten percent or more increase or decrease in the number of
2 square feet or units that may be developed.
- 3 (b) A ten percent or more increase or reduction in the allowable
4 height of buildings.
- 5 (c) An increase or reduction in the allowable number of stories of
6 buildings.
- 7 (d) A ten percent or more increase or decrease in setback or open
8 space requirements.
- 9 (e) An increase or reduction in permitted uses.
- 10 5. In proceedings governed by paragraph 4 of this subsection, the
11 municipality shall provide notice to real property owners pursuant to at
12 least one of the following notification procedures:
- 13 (a) Notice shall be sent by first class mail to each real property
14 owner, as shown on the last assessment, whose real property is directly
15 governed by the changes.
- 16 (b) If the municipality issues utility bills or other mass mailings
17 that periodically include notices or other informational or advertising
18 materials, the municipality shall include notice of the changes with such
19 utility bills or other mailings.
- 20 (c) The municipality shall publish the changes before the first
21 hearing on such changes in a newspaper of general circulation in the
22 municipality. The changes shall be published in a "display ad" covering
23 not less than one-eighth of a full page.
- 24 6. If notice is provided pursuant to paragraph 5, subdivision (b)
25 or (c) of this subsection, the municipality shall also send notice by
26 first class mail to persons who register their names and addresses with
27 the municipality as being interested in receiving such notice. The
28 municipality may charge a fee not to exceed \$5 per year for providing this
29 service and may adopt procedures to implement this paragraph.
- 30 7. Notwithstanding the notice requirements in paragraph 4 of this
31 subsection, the failure of any person or entity to receive notice does not
32 constitute grounds for any court to invalidate the actions of a
33 municipality for which the notice was given.
- 34 B. If the matter to be considered applies to territory in a high
35 noise or accident potential zone as defined in section 28-8461, the notice
36 prescribed in subsection A of this section shall include a general
37 statement that the matter applies to property located in the high noise or
38 accident potential zone.
- 39 C. After the hearing, the planning commission or hearing officer
40 shall render a decision in the form of a written recommendation to the
41 governing body. The recommendation shall include the reasons for the
42 recommendation and be transmitted to the governing body in the form and
43 manner prescribed by the governing body.
- 44 D. If the planning commission or hearing officer has held a public
45 hearing, the governing body may adopt the recommendations of the planning

1 commission or hearing officer without holding a second public hearing if
2 there is no objection, request for public hearing or other protest. The
3 governing body shall hold a public hearing if requested by the party
4 aggrieved or any member of the public or of the governing body, or, in any
5 case, if a public hearing has not been held by the planning commission or
6 hearing officer. The governing body may consider the testimony of any
7 party aggrieved when making its decision. **A PARTY WHO GIVES TESTIMONY OR**
8 **WHO SUBMITS WRITTEN COMMENTS AT A PUBLIC HEARING THAT IS HELD PURSUANT TO**
9 **THIS SECTION SHALL DECLARE WHETHER THE PARTY HAS RECEIVED COMPENSATION IN**
10 **ANY FORM TO TESTIFY AT THE HEARING OR TO SUBMIT WRITTEN COMMENTS.** In
11 municipalities with territory in the vicinity of a military airport or
12 ancillary military facility as defined in section 28-8461, the governing
13 body shall hold a public hearing if, after notice is transmitted to the
14 military airport pursuant to subsection A of this section and before the
15 public hearing, the military airport provides comments or analysis
16 concerning the compatibility of the proposed rezoning with the high noise
17 or accident potential generated by military airport or ancillary military
18 facility operations that may have an adverse impact on public health and
19 safety, and the governing body shall consider and analyze the comments or
20 analysis before making a final determination. Notice of the time and place
21 of the hearing shall be given in the time and manner provided for giving
22 notice of the hearing by the planning commission as specified in
23 subsection A of this section. A municipality may give additional notice
24 of the hearing in any other manner as the municipality deems necessary or
25 desirable. For the purposes of this subsection, "party aggrieved" means
26 any property owner within the notification area prescribed by
27 subsection A, paragraph 3 of this section.

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

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

34 G. If there is no planning commission or hearing officer, the
35 governing body of the municipality shall perform the functions assigned to
36 the planning commission or hearing officer.

37 H. If the owners of twenty percent or more of the property by area
38 and number of lots, tracts and condominium units within the zoning area of
39 the affected property, excluding government-owned property, file a protest
40 in writing against a proposed amendment, the change shall not become
41 effective except by the favorable vote of three-fourths of all members of
42 the governing body of the municipality. If any members of the governing
43 body are unable to vote on such a question because of a conflict of
44 interest, then the required number of votes for passage of the question
45 shall be three-fourths of the remaining membership of the governing body,

1 if such required number of votes is not less than a majority of the full
2 membership of the legally established governing body. For the purposes of
3 this subsection, the vote shall be rounded to the nearest whole number. A
4 protest filed pursuant to this subsection shall be signed by the property
5 owners, excluding government-owned property, opposing the proposed
6 amendment and filed in the office of the clerk of the municipality not
7 later than 12:00 noon one business day before the date on which the
8 governing body will vote on the proposed amendment or on an earlier time
9 and date established by the governing body.

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

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

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

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

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

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

28 9-462.06. Board of adjustment; duties; appeals; conflict of
29 interest; disclosure; disqualification

30 A. The legislative body, by ordinance, shall establish a board of
31 adjustment, which shall consist of at least five but ~~no~~ NOT more than
32 seven members appointed by the legislative body in accordance with
33 ~~provisions of~~ the ordinance, except that the ordinance may establish the
34 legislative body as the board of adjustment. The legislative body ~~may~~, by
35 ordinance, MAY delegate to a hearing officer the authority to hear and
36 decide on matters within the jurisdiction of the board of adjustment as
37 provided by this section, except that the right of appeal from the
38 decision of a hearing officer to the board of adjustment shall be
39 preserved.

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

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

5 D. Appeals to the board of adjustment may be taken by persons
6 aggrieved or by any officer, department, board or bureau of the
7 municipality affected by a decision of the zoning administrator, within a
8 reasonable time, by filing with the zoning administrator and with the
9 board a notice of appeal specifying the grounds of the appeal. The zoning
10 administrator shall immediately transmit all records pertaining to the
11 action appealed from to the board.

12 E. An appeal to the board stays all proceedings in the matter
13 appealed from, unless the zoning administrator certifies to the board
14 that, in the zoning administrator's opinion by the facts stated in the
15 certificate, a stay would cause imminent peril to life or property. On
16 the certification proceedings shall not be stayed, except by restraining
17 order granted by the board or by a court of record on application and
18 notice to the zoning administrator. Proceedings shall not be stayed if
19 the appeal requests relief that has previously been denied by the board
20 except pursuant to a special action in superior court as provided in
21 subsection K of this section.

22 F. The board shall fix a reasonable time for hearing the appeal,
23 and shall give notice of hearing by both publication in a newspaper of
24 general circulation in accordance with section 9-462.04 and posting the
25 notice in conspicuous places close to the property affected.

26 G. A board of adjustment shall:

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

30 2. Hear and decide appeals for variances from the terms of the
31 zoning ordinance only if, because of special circumstances applicable to
32 the property, including its size, shape, topography, location, or
33 surroundings, the strict application of the zoning ordinance will deprive
34 the property of privileges enjoyed by other property of the same
35 classification in the same zoning district. Any variance granted is
36 subject to conditions as will assure that the adjustment authorized shall
37 not constitute a grant of special privileges inconsistent with the
38 limitations ~~upon~~ ON other properties in the vicinity and zone in which the
39 property is located.

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

43 H. A board of adjustment may not:

44 1. Make any changes in the uses permitted in any zoning
45 classification or zoning district, or make any changes in the terms of the

1 zoning ordinance provided the restriction in this paragraph shall not
2 affect the authority to grant variances pursuant to this article.

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

5 I. If the legislative body is established as the board of
6 adjustment, it shall exercise all of the functions and duties of the board
7 of adjustment in the same manner and to the same effect as provided in
8 this section.

9 J. In a municipality with a population of more than one hundred
10 thousand persons, the legislative body, by ordinance, may provide that a
11 person aggrieved by a decision of the board, ~~or~~ a taxpayer who owns or
12 leases the adjacent property or a property within three hundred feet from
13 the boundary of the immediately adjacent property, ~~or~~ OR an officer or a
14 department of the municipality affected by a decision of the board, at any
15 time within fifteen days after the board has rendered its decision, may
16 file an appeal with the clerk of the legislative body. The legislative
17 body shall hear the appeal in accordance with procedures adopted by the
18 legislative body and may affirm or reverse, in whole or in part, or modify
19 the board's decision.

20 K. A person aggrieved by a decision of the legislative body or
21 board, ~~or~~ a taxpayer who owns or leases the adjacent property or a
22 property within three hundred feet from the boundary of the immediately
23 adjacent property, ~~or~~ OR an officer or a department of the municipality
24 affected by a decision of the legislative body or board, at any time
25 within thirty days after the board, or the legislative body, if the board
26 decision was appealed pursuant to subsection J of this section, has
27 rendered its decision, may file a complaint for special action in the
28 superior court to review the legislative body or board decision. Filing
29 the complaint does not stay proceedings on the decision sought to be
30 reviewed, but the court may, on application, grant a stay and on final
31 hearing may affirm or reverse, in whole or in part, or modify the decision
32 reviewed.

33 L. A MEMBER OF THE BOARD OF ADJUSTMENT SHALL DISCLOSE WHETHER THE
34 MEMBER HAS BEEN A BOARD MEMBER OR OFFICER OF ANY ENTITY THAT APPEARS
35 BEFORE THE BOARD OF ADJUSTMENT. A MEMBER OF THE BOARD OF ADJUSTMENT IS
36 DISQUALIFIED FROM PARTICIPATING IN ANY MATTER THAT INVOLVES AN ENTITY OF
37 WHICH THE MEMBER OF THE BOARD OF ADJUSTMENT SERVED AS A BOARD MEMBER OR
38 OFFICER IN THE FIVE YEARS PRECEDING THE DATE OF THE HEARING THAT IS BEFORE
39 THE BOARD OF ADJUSTMENT.

40 Sec. 3. Section 9-462.08, Arizona Revised Statutes, is amended to
41 read:

42 9-462.08. Hearing officer; appointment; conflict of interest;
43 disclosure; disqualification

44 A. The legislative body of any municipality may establish the
45 position of hearing officer and delegate to a hearing officer the

1 authority to conduct hearings required by section 9-462.04 and on other
2 matters as the legislative body may provide by ordinance.

3 B. Hearing officers shall be appointed on the basis of training and
4 experience ~~which~~ THAT qualifies them to conduct hearings and make findings
5 and conclusions on the matters heard.

6 C. A HEARING OFFICER SHALL DISCLOSE WHETHER THE HEARING OFFICER HAS
7 BEEN A BOARD MEMBER OR OFFICER OF ANY ENTITY THAT APPEARS BEFORE THE
8 HEARING OFFICER. A HEARING OFFICER IS DISQUALIFIED FROM HEARING ANY
9 MATTER THAT INVOLVES AN ENTITY IN WHICH THE HEARING OFFICER SERVED AS A
10 BOARD MEMBER OR OFFICER IN THE FIVE YEARS PRECEDING THE DATE OF THE
11 HEARING THAT IS BEFORE THE HEARING OFFICER.