

ATTACHMENT B



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

Staff Report Zoning Ordinance Text Amendment Z-TA-8-24-Y September 30, 2024

Application No. Z-TA-8-24-Y: Amend Chapter 5, Section 506 (Text Amendments and Rezonings) of the Phoenix Zoning Ordinance to address changes to the Arizona Revised Statutes regarding an exemption for government owned properties when processing written protest petitions for the three-fourths votes and rezoning application review timeframes (Senate Bill 1162).

Staff recommendation: Staff recommends approval of Z-TA-8-24-Y as shown in the proposed text in Exhibit A.

BACKGROUND AND PURPOSE

This text amendment is a response to Senate Bill 1162, approved by the Fifty-Sixth Legislature, Second Session (2024) which included provisions that modified the Arizona Revised Statutes to require municipalities to add an exemption for government owned properties when processing written protest petitions for the three-fourths voting requirement, and to impose rezoning application review timeframes. This text amendment will bring City of Phoenix zoning regulations in compliance with the modified State regulations.

SB 1162 also requires municipalities to adopt these new provisions on or before January 1, 2025.

PROPOSAL

Staff recommend changes to Chapter 5, Section 506 of the Phoenix Zoning Ordinance to comply with the provisions of SB 1162, together with a few minor formatting changes.

DESCRIPTION OF THE PROPOSED TEXT

The proposed text amendment includes two main components, both in Section 506: 1) addition of the exemption for government owned properties as related to written protest petitions, and 2) revision of the rezoning application review process to comply with timeframes mandated by SB 1162.

1. Government Owned Property Exemption

SB 1162 modified Arizona Revised Statutes §9-462.04 to add a new exemption (shown in capitals) and now reads as follows:

H. If the owners of twenty percent or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property, EXCLUDING GOVERNMENT OWNED PROPERTY, file a protest in writing against a proposed amendment, the change shall not become effective except by the favorable vote of three-fourths of all members of the governing body of the municipality.

Section 506.A.9 of the Zoning Ordinance has therefore been updated to match (change shown in capitals):

506.A.9 In the event that a written protest against a proposed amendment is filed in the office of the City Clerk, or the City Clerk's designee, no later than seven days following Planning Commission action by the owners of 20 percent or more of the property by area and number of lots, tracts and condominium units within the zoning petition area, EXCLUDING GOVERNMENT OWNED PROPERTY, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council of the City of Phoenix.

2. Revision of the Rezoning Application Review Process

SB 1162 modified the Arizona Revised Statutes to add a new section §9-462.13, which imposes timeframes for rezoning applications, as follows:

- 30 days for initial Administrative Completeness review;
- 15 days for resubmitted Administrative Completeness review;
- 180 days to either approve or deny application after application deemed Administratively complete.

The modifications by SB 1162 exempt historic districts/properties and Planned Unit Developments (PUD) from these timeframes. The modifications also address extensions to the prescribed timeframes, in a very restricted manner, as follows:

- The City may initiate a single 30-day extension beyond the 180 days, for “extenuating circumstances”, which are not defined in the modified statute.
- The applicant may request multiple extensions which may be granted by the City, but each extension is limited to 30 days.

Section 506.B.5 has therefore been revised to comply with the timeframe requirements of SB 1162, as shown in the attached Exhibit A.

CONCLUSION

The proposed amendment to the Zoning Ordinance, provided in Exhibit A, will bring the City into compliance with the requirements of SB 1162.

Staff recommends approval of the changes to the Zoning Ordinance as proposed in Exhibit A.

Writer

C. DePerro
September 30, 2024

Exhibit

A. Proposed Language

Exhibit A

Staff proposed language that may be modified during the public hearing process is as follows:

Amend Chapter 5, Section 506 (Text amendments and rezonings) as follows:

Section 506. Text amendments and rezonings.

A. Amendments.

9. In the event that a written protest against a proposed amendment is filed in the office of the City Clerk, or the City Clerk's designee, no later than seven days following Planning Commission action by the owners of 20 percent or more of the property by area and number of lots, tracts and condominium units within the zoning petition area, EXCLUDING GOVERNMENT OWNED PROPERTY, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council of the City of Phoenix. If any members of the City Council are unable to vote on any such amendment because of a conflict of interest, then the required number of votes for passage of such amendment shall be three-fourths of the remaining membership of the City Council; provided, that such required number of votes shall not be less than a majority of the full membership of the City Council. For the purposes of this section, the percentage of the favorable vote shall be rounded to the nearest whole number.

B. Rezonings.

5. REZONING APPLICATIONS. No application for a change of zone shall be set for public hearing until a formal Planning and Development Department review of the application has taken place, ~~and the applicant has submitted all the following materials in a form acceptable to the Planning and Development Department, unless submission of the specific item is waived by the Planning and Development Department.~~

- a. APPLICATION. A REZONING APPLICATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE ITEMS LISTED BELOW UNLESS WAIVED BY STAFF. ADDITIONAL MATERIALS MAY BE REQUESTED BY STAFF WHEN PERTINENT TO THE REZONING REQUEST:
 - a. ~~(1)~~ Legal description.
 - b. ~~(2)~~ ~~Letter of authorization to file.~~ WRITTEN AUTHORIZATION TO FILE FROM PROPERTY OWNER.
 - c. ~~(3)~~ Filing fee.
 - d. ~~(4)~~ Map OR OTHER DOCUMENTATION to include the following:
 - ~~(1)~~ ~~(a)~~ Parcel identification.
 - ~~(2)~~ ~~(b)~~ Existing zoning and uses on-site and adjacent property.
 - ~~(3)~~ ~~(c)~~ Intensity and/or density proposals.
 - ~~(4)~~ ~~(d)~~ Traffic and parking study, if required by Planning and Development Department.
 - ~~(5)~~ ~~(e)~~ Phasing schedule.
 - ~~(6)~~ ~~(f)~~ Statement on conformance to existing adopted City plans.
 - ~~(7)~~ ~~(g)~~ Ownership map of property owners within three hundred feet or nearest residence in all directions. This shall be the most current ownership information supplied through the Maricopa County Assessor's office.
 - ~~(8)~~ ~~(h)~~ Infrastructure: existing and proposed.
 - e. ~~(5)~~ Site plan and building elevations.

- (1) (a) Building configuration and heights.
- (2) (b) Setbacks.
- (3) (c) Landscaped areas.
- (4) (d) Appropriate calculations. e.g., parking, lot coverage.
- (5) (e) Access points and modifications to existing street improvements.
- (6) (f) Street names, north point, date, right-of-way.

b. APPLICATION REVIEW PROCESS.

- (1) PRIOR TO SUBMITTING AN APPLICATION FOR REZONING, THE APPLICANT SHALL REQUEST AND ATTEND TWO SEPARATE MEETINGS: A REZONING PRE-APPLICATION MEETING, AND A DEVELOPMENT PRE-APPLICATION MEETING, UNLESS WAIVED BY THE PLANNING DIRECTOR.
- (2) AFTER COMPLETING ANY REQUIRED PRE-APPLICATION MEETINGS, A REZONING APPLICATION MAY BE SUBMITTED WITH APPROPRIATE FEES AS PROVIDED IN APPENDIX A, ZONING FEE SCHEDULE.
- (3) ONCE AN APPLICATION HAS BEEN SUBMITTED, THE ADMINISTRATIVE COMPLETENESS REVIEW PERIOD SHALL BEGIN, WHERE STAFF WILL DETERMINE IF THE APPLICATION INCLUDES ALL REQUIRED INFORMATION.
- (4) ONCE AN APPLICATION HAS BEEN DETERMINED TO BE ADMINISTRATIVELY COMPLETE, THE SUBSTANTIVE REVIEW PERIOD SHALL BEGIN, WHERE STAFF EVALUATE THE REZONING REQUEST AND SET PUBLIC HEARING DATES.

- (5) FOLLOWING THE SUBSTANTIVE REVIEW PERIOD, PUBLIC HEARINGS, UP TO AND INCLUDING CITY COUNCIL, SHALL BE CONDUCTED AS PROVIDED IN SECTION 506.

c. ADMINISTRATIVE COMPLETENESS REVIEW.

- (1) FOR REZONING APPLICATIONS REQUESTING REZONING TO OR FROM HP, HP-L, OR PUD, OR APPLICATIONS FOR PROPERTIES CURRENTLY DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES, STAFF SHALL REVIEW EACH APPLICATION FOR COMPLETENESS IN THE MANNER OUTLINED IN THE APPLICATION PACKET PUBLISHED ON THE CITY OF PHOENIX WEBSITE.
- (2) FOR ALL OTHER REZONING APPLICATIONS, STAFF SHALL CONDUCT AN ADMINISTRATIVE COMPLETENESS REVIEW AS FOLLOWS:
 - (a) STAFF SHALL CONDUCT THE ADMINISTRATIVE COMPLETENESS REVIEW WITHIN 30 DAYS OF SUBMISSION.
 - (b) IF AN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE, STAFF SHALL PROVIDE THE APPLICANT WITH A NOTICE THAT INCLUDES A COMPREHENSIVE LIST OF THE SPECIFIC DEFICIENCIES.
 - (i) ONCE THE NOTICE IS ISSUED, THE APPLICANT SHALL RESUBMIT THE APPLICATION, ADDRESSING ALL DEFICIENCIES. IF NOT RESUBMITTED WITHIN 15 DAYS OF ISSUANCE OF THE NOTICE, THE APPLICATION MAY BE CONSIDERED VOID AND APPLICATION FEES REFUNDED, MINUS AN ADMINISTRATIVE CHARGE.

(ii) FOR A RESUBMITTED APPLICATION, STAFF SHALL CONDUCT ANOTHER ADMINISTRATIVE COMPLETENESS REVIEW WITHIN 15 DAYS OF RECEIPT TO DETERMINE WHETHER ALL DEFICIENCIES HAVE BEEN RESOLVED.

(iii) IF A RESUBMITTED APPLICATION IS STILL NOT ADMINISTRATIVELY COMPLETE, STEPS (i) AND (ii) SHALL BE REPEATED UNTIL THE APPLICATION IS ADMINISTRATIVELY COMPLETE, OR THE APPLICATION IS WITHDRAWN.

(3) WHEN AN APPLICATION IS DEEMED ADMINISTRATIVELY COMPLETE, THE CITY SHALL ISSUE A NOTICE OF ADMINISTRATIVE COMPLETENESS TO THE APPLICANT.

d. SUBSTANTIVE REVIEW. ALL REZONING APPLICATIONS SHALL BEGIN THE SUBSTANTIVE REVIEW PROCESS ONCE DETERMINED TO BE ADMINISTRATIVELY COMPLETE. THE SUBSTANTIVE REVIEW INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(1) STAFF EVALUATION OF THE REQUEST RELATED TO ADOPTED CODES, ORDINANCES, AND POLICIES.

(2) NEIGHBORHOOD MEETINGS, IF REQUIRED.

(3) POST-APPLICATION MEETING WITH STAFF, WHERE THE REQUIRED PUBLIC HEARING DATES ARE SET.

(4) REQUIRED PUBLIC NOTIFICATION.

e. APPLICATION REVIEW TIMEFRAMES.

(1) FOR REZONING APPLICATIONS REQUESTING REZONING TO OR FROM HP, HP-L, OR PUD, OR APPLICATIONS FOR PROPERTIES CURRENTLY DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES, THE SUBSTANTIVE REVIEW AND PUBLIC HEARINGS SHALL BE CONDUCTED PER THE TIMEFRAMES OUTLINED IN THE APPLICATION PACKET PUBLISHED ON THE CITY OF PHOENIX WEBSITE.

(2) FOR ALL OTHER REZONING APPLICATIONS, THE SUBSTANTIVE REVIEW SHALL BEGIN A 180-DAY PERIOD WITHIN WHICH THE SUBSTANTIVE REVIEW AND ALL REQUIRED PUBLIC HEARINGS SHALL BE CONDUCTED. THE CITY COUNCIL MUST APPROVE OR DENY AN APPLICATION BEFORE THE END OF THE 180-DAY PERIOD, WITH THE FOLLOWING EXCEPTIONS:

(a) FOR EXTENUATING CIRCUMSTANCES, THE CITY MAY EXTEND THE REVIEW PERIOD ONCE, FOR NOT MORE THAN 30 DAYS.

(b) AT THE REQUEST OF THE APPLICANT, THE CITY MAY GRANT EXTENSIONS OF THE REVIEW PERIOD IN INCREMENTS OF 30 DAYS.

f. ~~At the applicant's request, the formal Planning and Development Department review may be postponed for up to ninety days from the date the application was filed. In the event the applicant is unable to submit the above-referenced materials within the ninety-day period, the application shall be considered terminated and all fees paid by the applicant shall be forfeited.~~ IN THE EVENT THAT AN APPLICATION IS WITHDRAWN, NO FEES SHALL BE REFUNDED UNLESS OTHERWISE INDICATED BY ADOPTED PLANNING AND DEVELOPMENT DEPARTMENT POLICIES.
