

**Marked Agendas
Approved Minutes
Approved Reports**

**Official signed Ordinances/Resolutions
and approved Minutes can found at:**

<https://eservices.scottsdaleaz.gov/cityclerk/DocumentSearch>

Planning Commission Hearing: 06/14/2017

Open House: 10/17/2017

Open House: 10/18/2017

Planning Commission Hearing: 11/08/2017

City Council Hearing: 12/05/2017

Case History: 390-PA-2017

3-TA-2017

Legal Protest Text Amendment

CITY COUNCIL REPORT



Meeting Date: December 5, 2017
 General Plan Element: *Land Use*
 General Plan Goal: *Create a sense of community through land uses*

ACTION

Legal Protest Text Amendment 3-TA-2017

Request to consider the following:

Adopt Ordinance No. 4329 approving to amend the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.102. (Severability), Section 1.706. (Legal protest by property owners), Section 3.100. of Article III (Definitions), Section 4.100. (Division of City into Districts; Enumeration), and Section 4.201. (Rules where uncertainty may arise) to update the legal protest provisions, and other applicable sections, consistent with State of Arizona revised statutes.

Goal/Purpose of Request

The proposed text amendment seeks to align the city's legal protest requirements with those of the Arizona Revised Statutes and clarify definitions and rules regarding zoning boundaries in the city. The proposal also amends two related sections of the Zoning Ordinance related to administration, procedures and division of zoning districts.

Key Items for Consideration

- Changes to state statutes increased difficulty for surrounding property owners to qualify for a legal protest
- Planning Commission heard this case on November 8th, 2017 and recommended approval with a 7-0 vote.

APPLICANT CONTACT

Brad Carr, AICP, LEED-AP
 Principal Planner
 City of Scottsdale
 480-312-7713

LOCATION

Citywide

BACKGROUND

On May 10th of this year, the State of Arizona enacted House Bill 2116, which made a number of grammatical and other substantive changes to Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes. Most notably amongst the changes, Bill 2116 made three changes to how legal protests are addressed when filed by a neighboring property owner. Those changes are:

- A written legal protest must be filed with the city by the property owners of 20 percent of all property (by area and number) that is located within 150 feet of all of the boundaries of the proposed zoning district map amendment and the area of the proposed change, not just on any one side as was previously required. Moreover, by adding the phrase “... by area and number of lots, tracts and condominium units ...” to the statute, the opposition must now also take into account all individual lots, tracts and condominium units located within 150 feet of all sides when calculating the 20 percent threshold.
- The area of the property that is the subject of a proposed rezoning is now included in the total area on which the 20% is calculated.
- Public rights-of-way will now be factored into the 150-foot measurement around the perimeter of the proposed zoning district map amendment. The previous provisions excluded public right-of-way from the 150-foot measurement.
- The statute changes the manner in which the three-quarters vote threshold is calculated. More specifically, the statute requires that the three-quarters fraction be rounded to the nearest whole number. In a city or town that has a seven member council, such as Scottsdale, six of seven affirmative city or town council votes is no longer required. Instead, only five affirmative votes for the proposed zoning district map amendment application is required for the application to be approved.

These changes to the Arizona Revised Statutes took effect August 9, 2017. City staff is proposing updates to Section 1.706. of the Zoning Ordinance related to legal protest by property owners, and other applicable sections of the Zoning Ordinance, to be consistent with the recently enacted changes to the Arizona Revised Statutes. A copy of the changes to the Arizona Revised Statutes as a result of House Bill 2116 is provided as Attachment #2.

Other Related Policies, References:

- Zoning Ordinance
- State of Arizona House Bill 2116
- Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes (ARS)

STAFF PROPOSAL

The Zoning Ordinance outlines rules and requirements for the application of a legal protest by property owners near a rezoning request. Those rules and regulations were developed out of the basic requirements of the Arizona Revised Statutes. The proposed changes to the Zoning Ordinance remove some requirements that were specific to Scottsdale and instead reference the recently updated state statutes. The recent revisions to the state statutes clarified certain aspects of the legal protest requirements, but also introduced some ambiguity as to how the area of a legal protest is

calculated. Those changes proposed by staff do not seek to clarify or interpret Arizona Revised Statutes requirements. Future legal protest filings will be reviewed on a case-by-case basis.

IMPACT ANALYSIS

Land Use

The proposed changes to the Zoning Ordinance do not directly influence land uses in the city. However, the proposed changes effect the administration of land uses and land use decisions throughout the city. Proposed text changes to the Zoning Ordinance will seek to ensure the city's legal protest rules meet the requirements as outlined in the Arizona Revised Statutes. In addition, the proposed changes will clarify the application of zoning boundaries in the city.

Community Involvement

Community involvement was undertaken following the development phase of this process. Community outreach included the following:

- Postcard notification to persons on the text amendment Interested Parties list,
- Creation of a web page on the City website to allow the public to track the progress of the amendment, access documentation relevant to the subject, and provide written feedback,
- 1/8-page advertisement in the Arizona Republic with the dates and times of proposed open house meetings and hearings regarding the proposed text amendment, and
- Notification via the City's Facebook, Twitter pages, Scottsdale Planning and Zoning Link and the NextDoor website.

Additionally, two separate Open Houses were conducted to inform the public and obtain feedback on the proposed text amendment. Several residents attended the Open Houses and staff did not receive any written or verbal comments. Below is a timeline outlining the Open Houses to date:

- 10/17/2017: Open House at One Civic Center (no attendees)
- 10/18/2017: Open House at Via Linda Senior Center (+/- 5 attendees)

A summary of the public outreach effort is provided in the Citizen Review Report as Attachment #3.

Public Comment at Planning Commission Hearing

At the November 8, 2017 hearing, one person spoke in opposition to the proposed text amendment citing concerns regarding the ability of property owners adjacent to a rezoning application to file a legal protest considering the new Arizona Revised Statute requirements.

Policy Implications

The proposed changes to the Legal Protest rules and regulations within the Zoning Ordinance will align the city's requirements with those of the Arizona Revised Statutes, but increase the difficulty of property owners adjacent to a rezoning application to meet the criteria to file a valid legal protest of a proposed rezoning application. The proposed changes also lessen the burden of the rezoning application for obtaining affirmative votes for a proposed rezoning in the instance of a valid legal protest.

Other changes to the Zoning Ordinance will help increase efficiency in application of rules and requirements, and align the Planned Regional Center zoning classification with its more contemporary use as a mixed-use zoning district rather than a strictly commercial zoning district. Finally, additional refinements in the definitions of the Zoning Ordinance will reduce ambiguity in the application of the Zoning Ordinance district boundaries.

OTHER BOARDS AND COMMISSIONS

Planning Commission:

Planning Commission heard this case on November 8th, 2017 and recommended approval with a 7-0 vote.

Staff Recommendation to Planning Commission:

Staff recommended that the Planning Commission determine that the proposed Zoning Ordinance text amendment is consistent and conforms with the adopted General Plan, and make a recommendation to City Council for approval.

RECOMMENDATION

Recommended Approach:

Adopt Ordinance No. 4329 approving an amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.102. (Severability), Section 1.706. (Legal protest by property owners), Section 3.100. of Article III (Definitions), Section 4.100. (Division of City into Districts; Enumeration), and Section 4.201. (Rules where uncertainty may arise) to update the legal protest provisions, and other applicable sections, consistent with State of Arizona revised statutes.

RESPONSIBLE DEPARTMENT

Planning and Development Services

Current Planning Services

STAFF CONTACT


Brad Carr, AICP, LEED-AP

Principal Planner

480-312-7713

E-mail: bcarr@ScottsdaleAZ.gov

APPROVED BY



Brad Carr, Report Author

11.15.2017

Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

11/15/2017

Date



Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

11/15/17

Date

ATTACHMENTS

1. Ordinance No. 4329
2. State of Arizona revised statutes
3. Citizen Review Report
4. November 8th, 2017 Planning Commission public comment
5. November 8th, 2017 Planning Commission meeting minutes

ORDINANCE NO. 4329

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO AMEND ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, FOR THE PURPOSE OF AMENDING SECTION 1.102. (SEVERABILITY), SECTION 1.706. (LEGAL PROTEST BY PROPERTY OWNERS), SECTION 3.100. OF ARTICLE III (DEFINITIONS), SECTION 4.100. (DIVISION OF CITY INTO DISTRICTS; ENUMERATION), AND SECTION 4.201. (RULES WHERE UNCERTAINTY MAY ARISE) TO UPDATE THE LEGAL PROTEST PROVISIONS, AND RELATED CITY-WIDE REQUIREMENTS, AS PROVIDED IN CASE NO. 3-TA-2017.

WHEREAS, the City of Scottsdale wishes to amend the Zoning Ordinance provisions regarding legal protest, consistent with State of Arizona Revised Statutes, and related City-wide requirements; and

WHEREAS, the Planning Commission held a public hearing on November 8, 2017; and

WHEREAS, the City Council held a public hearing on December 5, 2017 and considered a text amendment to the Zoning Ordinance of the City of Scottsdale, Case No. 3-TA-2017; and

WHEREAS, the City Council has determined that the subject Zoning Ordinance amendment is in conformance with the General Plan;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. That the Zoning Ordinance of the City of Scottsdale, Article I. Administration and Procedures, Section 1.102. (Severability) and Section 1.706. (Legal protest by property owners), is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE I. ADMINISTRATION AND PROCEDURES

Sec. 1.102. Severability.

~~Any provisions of this ordinance held to be invalid shall be ineffective to the extent of such invalidity without invalidating the remaining provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.~~

Sec. 1.706. Legal protest by property owners.

Legal protests may be filed against a requested zoning district map amendment subject to the below requirements.

- A. The legal protest against a proposed zoning district map amendment shall be filed in writing with the City Clerk at or before 12:00 noon on the Friday preceding the City Council hearing at which the zoning district map amendment will be considered.
- B. The zoning district map amendment shall not become effective except by a favorable vote of three-fourths of all members of the City Council. If any members of the City Council are unable to vote on the zoning district map amendment because of a conflict of interest, then the required number of votes for passage of the zoning district map amendment shall be three-fourths of the remaining membership of the City Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the City Council. For the purposes of this subsection, the vote shall be rounded to the nearest whole number. Tenths of a number ending in 4 or less shall be rounded down, and tenths of a number ending in 5 or higher shall be rounded up.
- C. A legal protest may be filed only by property owner(s) who represent any of the following three (3) conditions: the conditions outlined in Title 9, Chapter 4, Article 6.1, Section 9.462.04 of the Arizona Revised Statutes, as amended:
1. ~~Twenty (20) percent or more of the area included in the zoning district map amendment, or~~
 2. ~~Twenty (20) percent or more of the area of those immediately adjacent to the subject property of the zoning district map amendment along any side in each cardinal direction extending one hundred fifty (150) feet as measured from the perimeter of the subject property, or~~
 3. ~~Twenty (20) percent or more of the area of those directly opposite the subject property of the zoning district map amendment extending one hundred fifty (150) feet from the dedicated street frontage of the opposite lots.~~

Section 2. That the Zoning Ordinance of the City of Scottsdale, Article III. Definitions, Section 3.100. (General), is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE III. DEFINITIONS

Sec. 3.100. General.

Alley is a public thoroughfare which affords only a secondary means of vehicular access to abutting property and is not intended for general traffic circulation. ~~An alley line shall mean the centerline of an alley right-of-way as determined by the Manager of Transportation.~~

Alley, centerline shall mean the centerline of an alley right-of-way as determined by the Manager of Transportation.

Section 3. That the Zoning Ordinance of the City of Scottsdale, Article IV. Districts and Boundaries Thereof, Section 4.100. (Division of City into Districts; Enumeration) and Section 4.201. (Rules where uncertainty may arise), is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE IV. DISTRICTS AND BOUNDARIES THEREOF

Sec. 4.100. Division of City into Districts; Enumeration.

In order to classify, regulate, restrict and separate the use of land, buildings and structures and to regulate and to limit the type, height and bulk of buildings and structures and to regulate the areas of yards and other open areas around and between the buildings and structures and to regulate the density of dwelling units, the city is hereby divided into the following districts:

A. Residential Districts:

Table 4.100.A. Residential Districts	
R1-190	Single-family Residential—190,000 square feet per lot
R1-130	Single-family Residential—130,000 square feet per lot
R1-70	Single-family Residential—70,000 square feet per lot
R1-43	Single-family Residential—43,000 square feet per lot
R1-35	Single-family Residential—35,000 square feet per lot
R1-18	Single-family Residential—18,000 square feet per lot
R1-10	Single-family Residential—10,000 square feet per lot
R1-7	Single-family Residential—7,000 square feet per lot
R1-5	Single-family Residential—4,700 square feet per lot
R-2	Two-family Residential
R-3	Medium Density Residential
R-4	Townhouse Residential
R-4R	Resort/Townhouse Residential
R-5	Multiple-family Residential
M-H	Manufactured Home

B. Commercial Districts:

Table 4.100.B. Commercial Districts	
S-R	Service-Residential
C-S	Regional Shopping Center
C-1	Neighborhood Commercial
C-2	Central Business
C-3	Highway Commercial
C-4	General Commercial
SS	Support Services
C-O	Commercial Office

PCoC	Planned Convenience Center
PNC	Planned Neighborhood Center
PCC	Planned Community Center
PRC	Planned Regional Center

C. *Industrial Districts:*

Table 4.100.C. Industrial Districts	
I-G	Light Employment
I-1	Industrial Park

D. *Mixed-use Districts:*

Table 4.100.D. Mixed-use Districts	
D	Downtown
P-C	Planned Community
PRC	Planned Regional Center
PCP	Planned Commerce Park
PUD	Planned Unit Development

E. *Supplementary Districts:*

Table 4.100.E. Supplementary Districts	
P-1	Parking P-1; Passenger Vehicle Parking, Limited
P-2	Parking P-2; Passenger Vehicle Parking
P-3	Parking P-3
P-4	Parking P-4
W-P	Western Theme Park
SC	Special Campus
H-P	Historic Property
OS	Open Space
COS	Conservation Open Space
ESL	Environmentally Sensitive Lands
F-O	Foothills Overlay
DO	Downtown Overlay
PBD	Planned Block Development Overlay
PSD	Planned Shared Development Overlay

Sec. 4.200. Boundaries of Districts.

Sec. 4.201. Rules where uncertainty may arise.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the district map accompanying and made a part of this ordinance, the following rules apply:

- A. The district boundaries are either street centerlines or alley centerlines unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street or alley centerlines, the street centerlines or alley centerlines shall be construed to be the boundary of the district.
- B. ~~Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and w~~Where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- C. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale appearing on the map.
- D. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines and/or the abutting street centerlines or alley centerlines.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this _____ day of _____, 20_____.

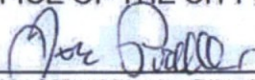
ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Carolyn Jagger, City Clerk

By: _____
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney
By: Joe Padilla, Deputy City Attorney

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 290

HOUSE BILL 2116

AN ACT

AMENDING SECTION 9-462.04, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

9-462.04. Public hearing required; definition

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

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

2. In proceedings involving rezoning of land ~~which~~ THAT abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of ~~such~~ THE governmental unit abutting such land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the municipality shall send copies of the notice of public hearing by first class mail to the military airport. In addition to notice by publication, a municipality may give notice of the hearing in ~~such~~ ANY other manner ~~as it may deem~~ THAT THE MUNICIPALITY DEEMS necessary or desirable.

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

4. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5 OF THIS SUBSECTION:

- (a) A ten ~~per-cent~~ PERCENT or more increase or decrease in the number of square feet or units that may be developed.
- (b) A ten ~~per-cent~~ PERCENT or more increase or reduction in the allowable height of buildings.
- (c) An increase or reduction in the allowable number of stories of buildings.
- (d) A ten ~~per-cent~~ PERCENT or more increase or decrease in setback or open space requirements.
- (e) An increase or reduction in permitted uses.

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

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

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

(c) The municipality shall publish ~~such~~ THE changes ~~prior to~~ BEFORE the first hearing on such changes in a newspaper of general circulation in the municipality. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

6. If notice is provided pursuant to paragraph 5, subdivision (b) or (c) OF THIS SUBSECTION, the municipality shall also send notice by first class mail to persons who register their names and addresses with the municipality as being interested in receiving such notice. The municipality may charge a fee not to exceed five dollars per year for providing this service and may adopt procedures to implement this paragraph.

7. Notwithstanding the notice requirements ~~set forth~~ in paragraph 4 OF THIS SUBSECTION, the failure of any person or entity to receive notice ~~shall~~ DOES not constitute grounds for any court to invalidate the actions of a municipality for which the notice was given.

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

C. After the hearing, the planning commission or hearing officer shall render a decision in the form of a written recommendation to the governing body. The recommendation shall include the reasons for the recommendation and be transmitted to the governing body in such form and manner as may be specified by the governing body.

D. If the planning commission or hearing officer has held a public hearing, the governing body may adopt the recommendations of the planning commission or hearing officer without holding a second public hearing if there is no objection, request for public hearing or other protest. The governing body shall hold a public hearing if requested by the party aggrieved or any member of the public or of the governing body, or, in any case, if ~~no~~ A public hearing has NOT been held by the planning commission or hearing officer. In municipalities with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the governing body shall hold a public hearing if, after notice is transmitted to the military airport pursuant to subsection A of this section and before the public hearing, the military airport provides comments or analysis concerning the compatibility of the proposed rezoning with the high noise or accident potential generated by military airport or ancillary military facility operations that may have an adverse impact on public health and safety, and the governing body shall consider and analyze the comments or analysis before making a final determination. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection A of this section. ~~In addition~~ A municipality may give ADDITIONAL notice of the hearing in ~~such~~ ANY other manner as ~~it may deem~~ THE MUNICIPALITY DEEMS necessary or desirable.

E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but in no event for longer than six months after the annexation.

F. A municipality is not required to adopt a general plan ~~prior to~~ BEFORE the adoption of a zoning ordinance.

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

H. If the owners of twenty per cent PERCENT or more either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty feet therefrom, or of those directly opposite thereto extending one hundred fifty feet from the street frontage of the opposite lots, OF THE PROPERTY BY AREA AND NUMBER OF LOTS, TRACTS AND CONDOMINIUM UNITS WITHIN THE ZONING AREA OF THE AFFECTED PROPERTY file a protest in writing against a proposed amendment, ~~it~~ THE CHANGE shall not become effective except by the favorable vote of three-fourths of all members of the governing body of the municipality. If any members of the governing body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the governing body, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body. FOR THE PURPOSES OF THIS SUBSECTION, THE VOTE SHALL BE ROUNDED TO THE NEAREST WHOLE NUMBER.

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

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

K. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS BOTH OF THE FOLLOWING:

- 1. THE AREA WITHIN ONE HUNDRED FIFTY FEET, INCLUDING ALL RIGHTS-OF-WAY, OF THE AFFECTED PROPERTY SUBJECT TO THE PROPOSED AMENDMENT OR CHANGE.**
- 2. THE AREA OF THE PROPOSED AMENDMENT OR CHANGE.**

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.

Citizen Review Report

for

Legal Protest Text Amendment

3-TA-2017

This Citizen Review Report provides the methods and results of public outreach efforts completed to notify potentially affected citizens of the proposed text amendment.

Notification

Potentially affected citizens of the proposed text amendment received notification by the following means:

- 1/8 page advertisement in the local newspaper for the dates and times of proposed open house meetings and hearings regarding the proposed text amendment.
- Postcard notifications were sent to those citizens on the Planning Department's "Interested Parties" mailing list. Postcard mailings included a postcard for open house meeting dates and another postcard for hearing dates.
- Proposed text amendment was listed in Planning Department's P&Z Link, NextDoor, and Facebook electronic notification services.
- Proposed text amendment is listed on city's webpage for viewing by the public, including open house meeting dates and proposed text amendment language.

Public Input Opportunities

Potentially affected citizens of the proposed text amendment were given the ability to provide public input by the following means:

- Written, e-mail, or phone input submitted to the project applicant/city staff contact.
- In-person input at either, or both, of the following open houses:

Tuesday, October 17, 2017	Wednesday, October 18, 2017
One Civic Center – CD Room 1	Via Linda Senior Center – Room 4
7447 E. Indian School Road	10440 E. Via Linda
Scottsdale, AZ 85251	Scottsdale, AZ 85258
- In-person input at the Planning Commission and/or City Council public hearings to be held for this proposed text amendment.

Public Input Received

City staff received general comments from two citizens during the second of two open houses held regarding the proposed text amendment. Staff did not receive any written or oral comments regarding the application.



**SEEKING COMMUNITY INPUT ON PROPOSED REVISIONS TO
THE CITY OF SCOTTSDALE ZONING ORDINANCE FOR**

**Legal Protest Text Amendment
City-Wide Text Amendment
Case Number: 3-TA-2017**

The City of Scottsdale is preparing a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.706. (Legal protest by property owners) to update the legal protest provisions, and other applicable sections of the Zoning Ordinance, consistent with State of Arizona House Bill 2116.

The City of Scottsdale will host two separate Open House dates regarding this proposed text amendment.

**Tuesday, October 17, 2017
5:30 p.m. to 7:00 p.m.**

**One Civic Center Suite #105, Conference Rooms 1, 2 & 3
7447 E. Indian School Road**

and

**Wednesday, October 18, 2017
5:30 p.m. to 7:00 p.m.**

**Via Linda Senior Center, Room 4
10440 E. Via Linda**

**Additional project information is available on the internet at:
<http://services.scottsdaleaz.gov/bidresources/Cases>**

**City Staff Contact:
Brad Carr, ACP
Principal Planner
bcarr@scottsdaleaz.gov 480-312-7713**

REQUEST TO SPEAK



4

Request to Speak cards must be submitted to City Staff **BEFORE** public testimony begins.
Public testimony is limited to three (3) minutes per speaker.
Additional time MAY be granted to speakers representing two or more persons.
Cards for designated speakers and the person(s) they represent must be submitted together.

NAME (print) Vickie Falen MEETING DATE 11-8-17

NAME OF GROUP/ORGANIZATION (if applicable) property owner

ADDRESS 10520 N. 117th Place ZIP 85259

HOME PHONE _____ WORK PHONE _____

E-MAIL ADDRESS (optional) v.falen@cox.net

I WISH TO SPEAK ON AGENDA ITEM # 4 I WISH TO DONATE MY TIME TO _____

I WISH TO SPEAK DURING "PUBLIC COMMENT"* CONCERNING _____

*Citizens may complete one Request to Speak "Public Comment" card per meeting and submit it to City Staff. "Public Comment" time is reserved for citizen comments regarding non-agendized items. The Board and Commission may hear "Public Comment" testimony, but is prohibited by state law from discussing items which are not listed on the agenda.

This card constitutes a public record under Arizona law.



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, NOVEMBER 8, 2017

***DRAFT SUMMARIZED MEETING MINUTES ***

PRESENT: Paul Alessio, Chair
Ali Fakih, Vice Chair
Larry S. Kush, Commissioner
Prescott Smith, Commissioner
Kelsey Young, Commissioner
Kevin Bollinger, Commissioner
Christian Serena, Commissioner

STAFF:

Tim Curtis	Randy Grant
Joe Padilla	Erin Perreault
Brad Carr	Sara Javaronok
Greg Bloemberg	Taylor Reynolds
Bryan Cluff	Alex Acevedo
Jesus Murillo	Lorraine Castro
Doris McClay	Wayland Barton

CALL TO ORDER

Chair Alessio called the regular session of the Scottsdale Planning Commission to order at 5:00 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission page on ScottsdaleAZ.gov, search "Planning Commission"

MINUTES REVIEW AND APPROVAL

1. Approval of the October 25, 2017 Regular Meeting Minutes including Study Session.
COMMISSIONER KUSH MOVED TO APPROVE THE OCTOBER 25, 2017 REGULAR MEETING MINUTES, INCLUDING STUDY SESSION, SECONDED BY VICE CHAIR FAKIH, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

2. 9-GP-2016 (Rose Lane Commercial Parcel)
Request by owner for a non-major General Plan amendment to the City of Scottsdale General Plan 2001 to change the land use designation from Resort/Tourism to Neighborhood Commercial on a +/- 2.6-acre site located at 6160 N. Scottsdale Road. Staff contact person is Greg Bloemberg, 480-312-4306. Applicant contact person is John Berry, 480-385-2727.
3. 22-ZN-2016 (Rose Lane Commercial Parcel)
Request by owner for a Zoning District Map Amendment from Resort/Townhouse Residential (R4-R) to Neighborhood Commercial (C-1) on a +/- 2.6-acre site located at 6160 N. Scottsdale Rd. Staff contact person is Greg Bloemberg, 480-312-4306. Applicant contact person is John Berry, 480-385-2727.

Item No's 2 & 3: Recommended City Council approve cases 9-GP-2016 & 22-ZN-2016, by a vote of 6-0; Motion by Commissioner Young, per the staff recommended stipulations after determining that the proposed Zoning District Map Amendment is consistent and conforms with the adopted General Plan, 2ND by Commissioner Kush, Commissioner Smith recused himself.

4. 3-TA-2017 (Legal Protest Text Amendment)
Request by City of Scottsdale to amend the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.102. (Severability), Section 1.706. (Legal protest by property owners), Section 3.100. of Article III (Definitions), Section 4.100. (Division of City into Districts; Enumeration), and Section 4.201. (Rules where uncertainty may arise) to update the legal protest provisions, and other applicable sections of the Zoning Ordinance, consistent with State of Arizona House Bill 2116. Applicant/Staff contact person is Brad Carr, AICP, 480-312-7713.

Request to speak: Vickie Falen

5. 4-AB-2017 (Storyrock Abandonment)
Request by owner to abandon the eastern 20 feet of the 55-foot N.128th Street right-of-way located north of E. Ranch Gate Road, the eastern 15 feet of the 55-foot N.128th Street right-of-way located approximately 1300 feet south of E. Ranch Gate Road and to abandon public right-of-way within the proposed Storyrock subdivision with Single-Family Residential, Planned Community District, Environmentally Sensitive Lands (R1-43 PCD ESL, R1-35 PCD ESL, R1-70 PCD ESL, and R1-18 PCD ESL) zoning. Staff contact person is Doris McClay, 480-312-4214. Applicant contact person is Keith Nichter, 480-994-0994.

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6. 6-AB-2017 (Gustafson Abandonment)
Request by owner to abandon the portions of a 33-foot of GLO easement, located along the eastern boundary of parcel 216-67-160 (N. 71st Street alignment), with Single-family Residential District, Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning, located at 7077 E. Wildcat Drive. Staff contact person is Jesus Murillo, 480-312-7849. Applicant contact person is Josh G. Funkhouser, 440-506-3398.
7. 5-GP-2017 (North 70)
Request by owner for a non-major General Plan amendment to the City of Scottsdale General Plan 2001 to change the land use designation from Urban Neighborhoods to Suburban Neighborhoods on the eastern +/- 5-acres (Parcel #129-12-005A) of a +/- 9.9-acre site located at 7010 E. Continental Drive. Staff contact person is Greg Bloemberg, 480-312-4306. Applicant contact person is Keith Nichter, 480-994-0994.

Written Comment Card: Alex Crown

8. 12-ZN-2017 (North 70)
Request by owner for a Zoning District Map Amendment from Manufactured Home (M-H) to Multiple-family Residential (R-5) zoning on a +/- 9.9 acre site located at 7010 E. Continental Drive. Staff contact person is Greg Bloemberg, 480-312-4306. Applicant contact person is Keith Nichter, 480-994-0994.

Item No's. 4, 5, 6, 7 & 8: Recommended City Council approve cases 3-TA-2017, 4-AB-2017, 6-AB-2017, 5-GP-2017 & 12-ZN-2017, by a vote of 7-0; Motion by Commissioner Bollinger, per the staff recommended stipulations, after determining that the proposed Text Amendment, Abandonment, and Zoning Map Amendment are consistent and conform with the adopted General Plan, 2nd by Commissioner Serena.

REGULAR AGENDA

9. 4-GP-2017 (Bell Group Self Storage)
Request by owner for a major General Plan Amendment to the City of Scottsdale General Plan 2001 to change the land use designation from Rural Neighborhoods to Commercial on +/- 2.8-acres of a +/- 4.6-acre site located at the southeast corner of Shea Blvd and 116th Street. Staff contact person is Sara Javoronok, 480-312-7918. Applicant contact person is Jordan Rose, 480-505-3939.

Item No 9: Recommended City Council approve case 4-GP-2017 by a vote of 4-3; Motion by Commissioner Kush, 2nd by Commissioner Bollinger with Vice Chair Fakhri, Commissioner Smith and Commissioner Young dissenting.

Written Comment Cards: Patrick Van Den Bossche and Denise Van Den Bossche.

Request to speak Cards: Vickie Falen, Dana Falen, Frank Magarelli, Marlene Magarelli, Malcom Sherman, Richard Frisch, Patty Badenoch, Thomas Krendl, Garry Jestadt, Troy Jarvis, Brent Taylor, Don Edwards, Patrick Van Den Bossche and Quentin Smith.

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10. 9-ZN-2017 (Bell Group Self Storage)

Request by owner for a Zoning District Map Amendment from Service Residential/Planned Community District (S-R/PCD) zoning to Neighborhood Commercial (C-1) zoning on a +/- 4.6-acre site, located at the southeast corner of Shea Blvd. and 116th Street. Staff contact person is Bryan Cluff, 480-312-2258. Applicant contact person is Jordan Rose, 480-505-3939.

Item No 10: Recommended City Council approve case 9-ZN-2017, by a vote of 4-3; Motion by Commissioner Kush, per the staff recommended stipulations with an 18' max height inclusive of mechanical equipment, and after determining that the proposed Zoning District Map Amendment is consistent and conforms with the adopted General Plan, 2nd by Commissioner Bollinger with Vice Chair Fakhri, Commissioner Smith and Commissioner Young dissenting.

Written Comment Cards: Patrick Van Den Bossche and Denise Van Den Bossche.

Request to speak Cards: Vickie Falen, Dana Falen, Frank Magarelli, Marlene Magarelli, Malcom Sherman, Richard Frisch, Patty Badenoch, Thomas Krendl, Garry Jestadt, Troy Jarvis, Brent Taylor, Don Edwards, Patrick Van Den Bossche and Quentin Smith.

Adjournment – Motion to adjourn at 6:43 p.m.

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PLANNING COMMISSION REPORT



Meeting Date: November 8, 2017
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Legal Protest Text Amendment 3-TA-2017

Request to consider the following:

1. A recommendation to City Council regarding a request by the City of Scottsdale to amend the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.102. (Severability), Section 1.706. (Legal protest by property owners), Section 3.100. of Article III (Definitions), Section 4.100. (Division of City into Districts; Enumeration), and Section 4.201. (Rules where uncertainty may arise) to update the legal protest provisions, consistent with State of Arizona House Bill 2116.

Goal/Purpose of Request

The proposed text amendment seeks to align the city's legal protest requirements with those of the Arizona Revised Statutes and clarify definitions and rules regarding zoning boundaries in the city. The proposal also amends two related sections of the Zoning Ordinance related to administration, procedures and division of zoning districts.

Key Items for Consideration

- Changes to state statutes increased difficulty for surrounding property owners to qualify for a legal protest

APPLICANT CONTACT

Brad Carr, AICP, LEED-AP
Principal Planner
City of Scottsdale
480-312-7713

LOCATION

Citywide

BACKGROUND

On May 10th of this year, the State of Arizona enacted House Bill 2116, which made a number of grammatical and other substantive changes to Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes. Most notably amongst the changes, Bill 2116 made three changes to how legal protests are addressed when filed by a neighboring property owner. Those changes are:

- A written legal protest must be filed with the city by the property owners of 20 percent of all property (by area and number) that is located within 150 feet of all of the boundaries of the proposed zoning district map amendment and the area of the proposed change, not just on any one side as was previously required. Moreover, by adding the phrase “... by area and number of lots, tracts and condominium units ...” to the statute, the opposition must now also take into account all individual lots, tracts and condominium units located within 150 feet of all sides when calculating the 20 percent threshold.
- The area of the property that is the subject of a proposed rezoning is now included in the total area on which the 20% is calculated.
- Public rights-of-way will now be factored into the 150-foot measurement around the perimeter of the proposed zoning district map amendment. The previous provisions excluded public right-of-way from the 150-foot measurement.
- The statute changes the manner in which the three-quarters vote threshold is calculated. More specifically, the statute requires that the three-quarters fraction be rounded to the nearest whole number. In a city or town that has a seven member council, such as Scottsdale, six of seven affirmative city or town council votes is no longer required. Instead, only five affirmative votes for the proposed zoning district map amendment application is required for the application to be approved.

These changes to the Arizona Revised Statutes took effect August 9, 2017. City staff is proposing updates to Section 1.706. of the Zoning Ordinance related to legal protest by property owners, and other applicable sections of the Zoning Ordinance, to be consistent with the recently enacted changes to the Arizona Revised Statutes. A copy of the changes to the Arizona Revised Statutes as a result of House Bill 2116 is provided as Attachment #2.

Other Related Policies, References:

- Zoning Ordinance
- State of Arizona House Bill 2116
- Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes (ARS)

STAFF PROPOSAL

The Zoning Ordinance outlines rules and requirements for the application of a legal protest by property owners near a rezoning request. Those rules and regulations were developed out of the basic requirements of the Arizona Revised Statutes. The proposed changes to the Zoning Ordinance changes requirements specific to Scottsdale and instead reference the recently-updated state statutes. The recent revisions to the state statutes clarified certain aspects of the legal protest requirements, but also introduced some ambiguity as to how the area of a legal protest is

calculated. Those changes proposed by staff do not seek to clarify or interpret Arizona Revised Statutes requirements. Future legal protest filings will be reviewed on a case-by-case basis.

IMPACT ANALYSIS

Land Use

The proposed changes to the Zoning Ordinance do not directly influence land uses in the city. However, the proposed changes effect the administration of land uses and land use decisions throughout the city. Proposed text changes to the Zoning Ordinance will seek to ensure the city's legal protest rules meet the requirements as outlined in the Arizona Revised Statutes. In addition, the proposed changes will clarify the application of zoning boundaries in the city.

Community Involvement

Community involvement was undertaken following the development phase of this process. Community outreach included the following:

- Postcard notification to persons on the text amendment Interested Parties list,
- Creation of a web page on the City website to allow the public to track the progress of the amendment, access documentation relevant to the subject, and provide written feedback,
- 1/8-page advertisement in the Arizona Republic with the dates and times of proposed open house meetings and hearings regarding the proposed text amendment, and
- Notification via the City's Facebook, Twitter pages, Scottsdale Planning and Zoning Link and the NextDoor website.

Additionally, two separate Open Houses were conducted to inform the public and obtain feedback on the proposed text amendment. Several residents attended the Open Houses and staff did not receive any written or verbal comments. Below is a timeline outlining the Open Houses to date:

- 10/17/2017: Open House at One Civic Center (no attendees)
- 10/18/2017: Open House at Via Linda Senior Center (+/- 5 attendees)

A summary of the public outreach effort is provided in the Citizen Review Report as Attachment #3.

Policy Implications

The proposed changes to the Legal Protest rules and regulations within the Zoning Ordinance will align the city's requirements with those of the Arizona Revised Statutes, but may increase the difficulty of property owner adjacent to a rezoning application to meet the criteria to file a valid legal protest of a proposed rezoning application. The proposed changes also lessen the burden of the rezoning application for obtaining affirmative votes for a proposed rezoning in the instance of a valid legal protest.

Other changes to the Zoning Ordinance will help increase efficiency in application of rules and requirements, and align the Planned Regional Center zoning classification with its more contemporary use as a mixed-use zoning district rather than a strictly commercial zoning district. Finally, additional refinements in the definitions of the Zoning Ordinance will reduce ambiguity in the application of the Zoning Ordinance district boundaries.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission determine that the proposed Zoning Ordinance text amendment is consistent and conforms with the adopted General Plan, and make a recommendation to City Council for approval.

RESPONSIBLE DEPARTMENT

Planning and Development Services

Current Planning Services

STAFF CONTACT

Brad Carr, AICP, LEED-AP
Principal Planner
480-312-7713
E-mail: bcarr@ScottsdaleAZ.gov

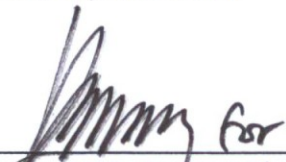
APPROVED BY



Brad Carr, Report Author

10.23.2017

Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

11/2/17

Date



Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

11/2/17

Date

ATTACHMENTS

1. Draft Zoning Ordinance Language
2. State of Arizona House Bill 2116
3. Citizen Review Report

Legal Protest Text Amendment
Draft Language v1 – last updated 8/28/2017

Section 1. That the Zoning Ordinance of the City of Scottsdale, Article I. Administration and Procedures is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE I. ADMINISTRATION AND PROCEDURES

Sec. 1.102. Severability.

~~Any provisions of this ordinance held to be invalid shall be ineffective to the extent of such invalidity without invalidating the remaining provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.~~

Sec. 1.706. Legal protest by property owners.

Legal protests may be filed against a requested zoning district map amendment subject to the below requirements.

- A. The legal protest against a proposed zoning district map amendment shall be filed in writing with the City Clerk at or before 12:00 noon on the Friday preceding the City Council hearing at which the zoning district map amendment will be considered.
- B. The zoning district map amendment shall not become effective except by a favorable vote of three-fourths of all members of the City Council. If any members of the City Council are unable to vote on the zoning district map amendment because of a conflict of interest, then the required number of votes for passage of the zoning district map amendment shall be three-fourths of the remaining membership of the City Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the City Council. For the purposes of this subsection, the vote shall be rounded to the nearest whole number. Tenths of a number ending in 4 or less shall be rounded down, and tenths of a number ending in 5 or higher shall be rounded up.
- C. A legal protest may be filed only by property owner(s) who represent any of the following three (3) conditions: the conditions outlined in Title 9, Chapter 4, Article 6.1, Section 9.462.04 of the Arizona Revised Statutes, as amended.
 1. ~~Twenty (20) percent or more of the area included in the zoning district map amendment, or~~
 2. ~~Twenty (20) percent or more of the area of those immediately adjacent to the subject property of the zoning district map amendment along any side in each cardinal direction extending one hundred fifty (150) feet as measured from the perimeter of the subject property, or~~

~~3. Twenty (20) percent or more of the area of those directly opposite the subject property of the zoning district map amendment extending one hundred fifty (150) feet from the dedicated street frontage of the opposite lots.~~

Section 2. That the Zoning Ordinance of the City of Scottsdale, Article III. Definitions is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE III. DEFINITIONS

Sec. 3.100. General.

Alley is a public thoroughfare which affords only a secondary means of vehicular access to abutting property and is not intended for general traffic circulation. ~~An alley line shall mean the centerline of an alley right-of-way as determined by the Manager of Transportation.~~

Alley, centerline shall mean the centerline of an alley right-of-way as determined by the Manager of Transportation.

Section 3. That the Zoning Ordinance of the City of Scottsdale, Article IV. Districts and Boundaries Thereof is amended as follows with all new language depicted in grey shading and deleted language in strike-through:

ARTICLE IV. DISTRICTS AND BOUNDARIES THEREOF

Sec. 4.100. Division of City into Districts; Enumeration.

In order to classify, regulate, restrict and separate the use of land, buildings and structures and to regulate and to limit the type, height and bulk of buildings and structures and to regulate the areas of yards and other open areas around and between the buildings and structures and to regulate the density of dwelling units, the city is hereby divided into the following districts:

A. *Residential Districts:*

Table 4.100.A. Residential Districts	
R1-190	Single-family Residential—190,000 square feet per lot
R1-130	Single-family Residential—130,000 square feet per lot
R1-70	Single-family Residential—70,000 square feet per lot
R1-43	Single-family Residential—43,000 square feet per lot
R1-35	Single-family Residential—35,000 square feet per lot
R1-18	Single-family Residential—18,000 square feet per lot
R1-10	Single-family Residential—10,000 square feet per lot
R1-7	Single-family Residential—7,000 square feet per lot
R1-5	Single-family Residential—4,700 square feet per lot

R-2	Two-family Residential
R-3	Medium Density Residential
R-4	Townhouse Residential
R-4R	Resort/Townhouse Residential
R-5	Multiple-family Residential
M-H	Manufactured Home

B. *Commercial Districts:*

Table 4.100.B. Commercial Districts	
S-R	Service-Residential
C-S	Regional Shopping Center
C-1	Neighborhood Commercial
C-2	Central Business
C-3	Highway Commercial
C-4	General Commercial
SS	Support Services
C-O	Commercial Office
PCoC	Planned Convenience Center
PNC	Planned Neighborhood Center
PCC	Planned Community Center
PRC	Planned Regional Center

C. *Industrial Districts:*

Table 4.100.C. Industrial Districts	
I-G	Light Employment
I-1	Industrial Park

D. *Mixed-use Districts:*

Table 4.100.D. Mixed-use Districts	
D	Downtown
P-C	Planned Community
PRC	Planned Regional Center
PCP	Planned Commerce Park
PUD	Planned Unit Development

E. *Supplementary Districts:*

Table 4.100.E. Supplementary Districts	
P-1	Parking P-1; Passenger Vehicle Parking, Limited
P-2	Parking P-2; Passenger Vehicle Parking
P-3	Parking P-3
P-4	Parking P-4
W-P	Western Theme Park
SC	Special Campus
H-P	Historic Property
OS	Open Space
COS	Conservation Open Space
ESL	Environmentally Sensitive Lands
F-O	Foothills Overlay
DO	Downtown Overlay
PBD	Planned Block Development Overlay
PSD	Planned Shared Development Overlay

Sec. 4.200. Boundaries of Districts.

Sec. 4.201. Rules where uncertainty may arise.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the district map accompanying and made a part of this ordinance, the following rules apply:

- A. The district boundaries are either street centerlines or alley centerlines unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street or alley centerlines, the street centerlines or alley centerlines shall be construed to be the boundary of the district.
- B. ~~Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and w~~Where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- C. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale appearing on the map.
- D. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines and/or the abutting street centerlines or alley centerlines.

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 290

HOUSE BILL 2116

AN ACT

AMENDING SECTION 9-462.04, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

9-462.04. Public hearing required; definition

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

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

2. In proceedings involving rezoning of land ~~which~~ **THAT** abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of ~~such~~ **THE** governmental unit abutting such land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the municipality shall send copies of the notice of public hearing by first class mail to the military airport. In addition to notice by publication, a municipality may give notice of the hearing in ~~such~~ **ANY** other manner ~~as it may deem~~ **THAT THE MUNICIPALITY DEEMS** necessary or desirable.

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

4. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5 **OF THIS SUBSECTION**:

- (a) A ten ~~per-cent~~ **PERCENT** or more increase or decrease in the number of square feet or units that may be developed.
- (b) A ten ~~per-cent~~ **PERCENT** or more increase or reduction in the allowable height of buildings.
- (c) An increase or reduction in the allowable number of stories of buildings.
- (d) A ten ~~per-cent~~ **PERCENT** or more increase or decrease in setback or open space requirements.
- (e) An increase or reduction in permitted uses.

5. In proceedings governed by paragraph 4 **OF THIS SUBSECTION**, the municipality shall provide notice to real property owners pursuant to at least one of the following notification procedures:

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

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

(c) The municipality shall publish ~~such~~ **THE** changes ~~prior to~~ **BEFORE** the first hearing on such changes in a newspaper of general circulation in the municipality. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

6. If notice is provided pursuant to paragraph 5, subdivision (b) or (c) **OF THIS SUBSECTION**, the municipality shall also send notice by first class mail to persons who register their names and addresses with the municipality as being interested in receiving such notice. The municipality may charge a fee not to exceed five dollars per year for providing this service and may adopt procedures to implement this paragraph.

7. Notwithstanding the notice requirements ~~set forth~~ in paragraph 4 **OF THIS SUBSECTION**, the failure of any person or entity to receive notice ~~shall~~ **DOES** not constitute grounds for any court to invalidate the actions of a municipality for which the notice was given.

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

C. After the hearing, the planning commission or hearing officer shall render a decision in the form of a written recommendation to the governing body. The recommendation shall include the reasons for the recommendation and be transmitted to the governing body in such form and manner as may be specified by the governing body.

D. If the planning commission or hearing officer has held a public hearing, the governing body may adopt the recommendations of the planning commission or hearing officer without holding a second public hearing if there is no objection, request for public hearing or other protest. The governing body shall hold a public hearing if requested by the party aggrieved or any member of the public or of the governing body, or, in any case, if ~~no~~ **A** public hearing has **NOT** been held by the planning commission or hearing officer. In municipalities with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the governing body shall hold a public hearing if, after notice is transmitted to the military airport pursuant to subsection A of this section and before the public hearing, the military airport provides comments or analysis concerning the compatibility of the proposed rezoning with the high noise or accident potential generated by military airport or ancillary military facility operations that may have an adverse impact on public health and safety, and the governing body shall consider and analyze the comments or analysis before making a final determination. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection A of this section. ~~In addition~~ **A** municipality may give **ADDITIONAL** notice of the hearing in ~~such~~ **ANY** other manner as ~~it may deem~~ **THE MUNICIPALITY DEEMS** necessary or desirable.

E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but in no event for longer than six months after the annexation.

F. A municipality is not required to adopt a general plan ~~prior to~~ **BEFORE** the adoption of a zoning ordinance.

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

H. If the owners of twenty per cent PERCENT or more either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty feet therefrom, or of those directly opposite thereto extending one hundred fifty feet from the street frontage of the opposite lots, OF THE PROPERTY BY AREA AND NUMBER OF LOTS, TRACTS AND CONDOMINIUM UNITS WITHIN THE ZONING AREA OF THE AFFECTED PROPERTY file a protest in writing against a proposed amendment, ~~it~~ **THE CHANGE shall not become effective except by the favorable vote of three-fourths of all members of the governing body of the municipality. If any members of the governing body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the governing body, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body. **FOR THE PURPOSES OF THIS SUBSECTION, THE VOTE SHALL BE ROUNDED TO THE NEAREST WHOLE NUMBER.****

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

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

K. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS BOTH OF THE FOLLOWING:

- 1. THE AREA WITHIN ONE HUNDRED FIFTY FEET, INCLUDING ALL RIGHTS-OF-WAY, OF THE AFFECTED PROPERTY SUBJECT TO THE PROPOSED AMENDMENT OR CHANGE.**
- 2. THE AREA OF THE PROPOSED AMENDMENT OR CHANGE.**

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.

Citizen Review Report
for
Legal Protest Text Amendment
3-TA-2017

This Citizen Review Report provides the methods and results of public outreach efforts completed to notify potentially affected citizens of the proposed text amendment.

Notification

Potentially affected citizens of the proposed text amendment received notification by the following means:

- 1/8 page advertisement in the local newspaper for the dates and times of proposed open house meetings and hearings regarding the proposed text amendment.
- Postcard notifications were sent to those citizens on the Planning Department’s “Interested Parties” mailing list. Postcard mailings included a postcard for open house meeting dates and another postcard for hearing dates.
- Proposed text amendment was listed in Planning Department’s P&Z Link, NextDoor, and Facebook electronic notification services.
- Proposed text amendment is listed on city’s webpage for viewing by the public, including open house meeting dates and proposed text amendment language.

Public Input Opportunities

Potentially affected citizens of the proposed text amendment were given the ability to provide public input by the following means:

- Written, e-mail, or phone input submitted to the project applicant/city staff contact.
- In-person input at either, or both, of the following open houses:

Tuesday, October 17, 2017 One Civic Center – CD Room 1 7447 E. Indian School Road Scottsdale, AZ 85251	Wednesday, October 18, 2017 Via Linda Senior Center – Room 4 10440 E. Via Linda Scottsdale, AZ 85258
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- In-person input at the Planning Commission and/or City Council public hearings to be held for this proposed text amendment.

Public Input Received

City staff received general comments from two citizens during the second of two open houses held regarding the proposed text amendment. Staff did not receive any written or oral comments regarding the application.



**CITY OF
SCOTTSDALE**

**SEEKING COMMUNITY INPUT ON PROPOSED REVISIONS TO
THE CITY OF SCOTTSDALE ZONING ORDINANCE FOR**

**Legal Protest Text Amendment
City-Wide Text Amendment
Case Number: 3-TA-2017**

The City of Scottsdale is preparing a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.706. (Legal protest by property owners) to update the legal protest provisions, and other applicable sections of the Zoning Ordinance, consistent with State of Arizona House Bill 2116.

The City of Scottsdale will host two separate Open House dates regarding this proposed text amendment.

Tuesday, October 17, 2017

5:30 p.m. to 7:00 p.m.

**One Civic Center Suite #105, Conference Rooms 1, 2 & 3
7447 E. Indian School Road**

and

Wednesday, October 18, 2017

5:30 p.m. to 7:00 p.m.

**Via Linda Senior Center, Room 4
10440 E. Via Linda**

**Additional project information is available on the Internet at:
<http://eservices.scottsdaleaz.gov/bldgresources/Cases>**

**City Staff Contact:
Brad Carr, AICP
Principal Planner**

bcarr@scottsdaleaz.gov 480-312-7713

PLANNING COMMISSION REPORT



Meeting Date: June 14, 2017
General Plan Element: *Land Use*
General Plan Goal: *Use community goals, character and context to determine development appropriateness*

ACTION

Legal Protest Text Amendment 390-PA-2016

Request to consider the following:

1. Initiate a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Section 1.706. (Legal protest by property owners) to update the legal protest provisions, and other applicable sections of the Zoning Ordinance, consistent with State of Arizona House Bill 2116.

Key Items for Consideration

- Changes to state statutes increase difficulty for surrounding property owners to qualify for a legal protest

Related Policies, References:

- Zoning Ordinance
- State of Arizona House Bill 2116
- Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes (ARS)

APPLICANT CONTACT

Brad Carr, AICP, LEED-AP
City of Scottsdale
480-312-7713

LOCATION

Citywide

BACKGROUND

On May 10th of this year, the State of Arizona enacted House Bill 2116, which made a number of grammatical and other substantive changes to Section 9-462.04 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes. Most notably amongst the changes, Bill 2116 made three changes to how legal protests are addressed when filed by a neighboring property owner. Those changes are:

- A written legal protest must be filed with the city by the property owners of 20 percent of all property (by area and number) that is located within 150 feet of all of the boundaries of the proposed zoning district map amendment and the property area itself, not just on any one side as is currently required. Moreover, by adding the phrase “... by area and number of lots, tracts and condominium units ...” to the statute, the opposition must now also take into account all individual lots, tracts and condominium units located within 150 feet of all sides when calculating the 20 percent threshold.
- Public rights-of-way will now be factored into the 150-foot measurement around the perimeter of the proposed zoning district map amendment. The existing Zoning Ordinance provisions exclude public right-of-way from the 150-foot measurement.
- The statute changes the manner in which the three-quarters vote threshold is calculated. More specifically, the statute requires that the three-quarters fraction be rounded to the nearest whole number. In a city or town that has a seven member council, such as Scottsdale, six of seven affirmative city or town council votes will no longer be required. Instead, only five affirmative votes for the proposed zoning district map amendment application will be required for the application to be approved.

These changes to the Arizona Revised Statutes take effect August 9, 2017. City staff will update Section 1.706. of the Zoning Ordinance related to legal protest by property owners, and any other applicable sections of the Zoning Ordinance, to be consistent with the recently enacted changes to the Arizona Revised Statutes. This initiation of the text amendment also provides other opportunities to evaluate the City’s existing legal protest provisions. A copy of the current Zoning Ordinance requirements are provided as Attachment #1 and a copy of the changes to the Arizona Revised Statutes are provided as Attachment #2.

IMPACT ANALYSIS

Community Involvement

This proposal will include standard community involvement consisting of public notice in the newspaper, online notification, postcard mailing to interested parties and community outreach meetings.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission initiate the text amendment.

RESPONSIBLE DEPARTMENT

Planning & Development

Current Planning Services

STAFF CONTACT

Brad Carr, AICP, LEED-AP
Principal Planner
480-312-7713
E-mail: bcarr@ScottsdaleAZ.gov

APPROVED BY



Brad Carr, Report Author

6.7.2017

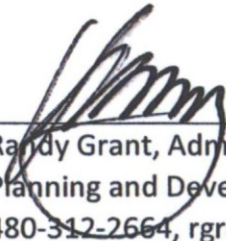
Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

6/8/2017

Date



Randy Grant, Administrator
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

6/8/17

Date

ATTACHMENTS

1. Current Language of Section 1.702. of the Zoning Ordinance
2. House Bill 2116

Sec. 1.706. - Legal protest by property owners.

Legal protests may be filed against a requested zoning district map amendment subject to the below requirements.

A.

The legal protest against a proposed zoning district map amendment shall be filed in writing with the City Clerk at or before 12:00 noon on the Friday preceding the City Council hearing at which the zoning district map amendment will be considered.

B.

The zoning district map amendment shall not become effective except by a favorable vote of three-fourths of all members of the City Council. If any members of the City Council are unable to vote on the zoning district map amendment because of a conflict of interest, then the required number of votes for passage of the zoning district map amendment shall be three-fourths of the remaining membership of the City Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the City Council.

C.

A legal protest may be filed only by property owner(s) who represent any of the following three (3) conditions:

1.

Twenty (20) percent or more of the area included in the zoning district map amendment, or

2.

Twenty (20) percent or more of the area of those immediately adjacent to the subject property of the zoning district map amendment along any side in each cardinal direction extending one hundred fifty (150) feet as measured from the perimeter of the subject property, or

3.

Twenty (20) percent or more of the area of those directly opposite the subject property of the zoning district map amendment extending one hundred fifty (150) feet from the dedicated street frontage of the opposite lots.

(Ord. No. 2495, § 1, 9-1-92; Ord. No. 2830, § 1, 10-17-95; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, § 37), 5-6-14)

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 290

HOUSE BILL 2116

AN ACT

AMENDING SECTION 9-462.04, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

9-462.04. Public hearing required; definition

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

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

2. In proceedings involving rezoning of land ~~which~~ **THAT** abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of ~~such~~ **THE** governmental unit abutting such land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the municipality shall send copies of the notice of public hearing by first class mail to the military airport. In addition to notice by publication, a municipality may give notice of the hearing in ~~such~~ **ANY** other manner ~~as it may deem~~ **THAT THE MUNICIPALITY DEEMS** necessary or desirable.

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

4. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5 **OF THIS SUBSECTION**:

(a) A ten ~~per-cent~~ **PERCENT** or more increase or decrease in the number of square feet or units that may be developed.

(b) A ten ~~per-cent~~ **PERCENT** or more increase or reduction in the allowable height of buildings.

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

(d) A ten ~~per-cent~~ **PERCENT** or more increase or decrease in setback or open space requirements.

(e) An increase or reduction in permitted uses.

ATTACHMENT #2

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

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

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

(c) The municipality shall publish such THE changes prior to BEFORE the first hearing on such changes in a newspaper of general circulation in the municipality. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

6. If notice is provided pursuant to paragraph 5, subdivision (b) or (c) OF THIS SUBSECTION, the municipality shall also send notice by first class mail to persons who register their names and addresses with the municipality as being interested in receiving such notice. The municipality may charge a fee not to exceed five dollars per year for providing this service and may adopt procedures to implement this paragraph.

7. Notwithstanding the notice requirements set forth in paragraph 4 OF THIS SUBSECTION, the failure of any person or entity to receive notice shall DOES not constitute grounds for any court to invalidate the actions of a municipality for which the notice was given.

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

C. After the hearing, the planning commission or hearing officer shall render a decision in the form of a written recommendation to the governing body. The recommendation shall include the reasons for the recommendation and be transmitted to the governing body in such form and manner as may be specified by the governing body.

D. If the planning commission or hearing officer has held a public hearing, the governing body may adopt the recommendations of the planning commission or hearing officer without holding a second public hearing if there is no objection, request for public hearing or other protest. The governing body shall hold a public hearing if requested by the party aggrieved or any member of the public or of the governing body, or, in any case, if ~~no~~ A public hearing has NOT been held by the planning commission or hearing officer. In municipalities with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the governing body shall hold a public hearing if, after notice is transmitted to the military airport pursuant to subsection A of this section and before the public hearing, the military airport provides comments or analysis concerning the compatibility of the proposed rezoning with the high noise or accident potential generated by military airport or ancillary facility operations that may have an adverse impact on public health and safety, and the governing body shall consider and analyze the comments or analysis before making a final determination. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection A of this section. In addition A municipality may give ADDITIONAL notice of the hearing in such ANY other manner as it may deem THE MUNICIPALITY DEEMS necessary or desirable.

E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but in no event for longer than six months after the annexation.

F. A municipality is not required to adopt a general plan prior to BEFORE the adoption of a zoning ordinance.

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

H. If the owners of twenty percent or more either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty feet therefrom, or of those directly opposite thereof extending one hundred fifty feet from the street frontage of the opposite lots, OF THE PROPERTY BY AREA AND NUMBER OF LOTS, TRACTS AND CONDOMINIUM UNITS WITHIN THE ZONING AREA OF THE AFFECTED 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. If any members of the governing body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the governing body, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body. FOR THE PURPOSES OF THIS SUBSECTION, THE VOTE SHALL BE ROUNDED TO THE NEAREST WHOLE NUMBER.

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

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

K. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS BOTH OF THE FOLLOWING:

1. THE AREA WITHIN ONE HUNDRED FIFTY FEET, INCLUDING ALL RIGHTS-OF-WAY, OF THE AFFECTED PROPERTY SUBJECT TO THE PROPOSED AMENDMENT OR CHANGE.

2. THE AREA OF THE PROPOSED AMENDMENT OR CHANGE.

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.