

9-461.06. Adoption and amendment of general plan; expiration and readoption

A. In municipalities that have territory in a high noise or accident potential zone as defined in section 28-8461, the legislature finds that in general plans and amendments to general plans land use compatibility with the continued operation of a military airport or ancillary military facility as defined in section 28-8461 is a matter of statewide concern.

B. The general plan and any amendment to such plan shall be adopted or readopted in the manner provided in this article.

C. The governing body shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of general plans from all geographic, ethnic and economic areas of the municipality. The procedures shall provide for:

(a) The broad dissemination of proposals and alternatives.

(b) The opportunity for written comments.

(c) Public hearings after effective notice.

(d) Open discussions, communications programs and information services.

(e) Consideration of public comments.

2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, the county, school districts, associations of governments, public land management agencies, the military airport if the municipality has territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners and citizens generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes on the general plan.

D. At least sixty days before the general plan or an element or major amendment of a general plan is noticed pursuant to subsection E of this section, the planning agency shall transmit the proposal to the planning commission, if any, and the governing body and shall submit a copy for review and further comment to:

1. The planning agency of the county in which the municipality is located.

2. Each county or municipality that is contiguous to the corporate limits of the municipality or its area of extraterritorial jurisdiction.

3. The regional planning agency within which the municipality is located.

4. The Arizona commerce authority or any other state agency that is subsequently designated as the general planning agency for this state.

5. The department of water resources for review and comment on the water resources element, if a water resources element is required.

6. If the general plan or an element or amendment of the general plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the military airport.

7. If the general plan or an element or major amendment of the general plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the attorney general. For the purposes of this paragraph, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.

8. Any person or entity that requests in writing to receive a review copy of the proposal.

E. If the municipality has a planning commission, after considering any recommendations from the review required under subsection D of this section the planning commission shall hold at least one public hearing before approving a general plan or any amendment to such plan. When the general plan or any major amendment is being adopted, planning commissions in municipalities having populations over twenty-five thousand persons shall hold two or more public hearings at different locations within the municipality to promote citizen participation. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, the notice shall be posted in at least ten public places in the municipality.

2. Such other manner in addition to publication as the municipality may deem necessary or desirable.

F. Action by the planning commission on the general plan or any amendment to the plan shall be transmitted to the governing body of the municipality.

G. Before adopting the general plan, or any amendment to it, the governing body shall hold at least one public hearing. 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 E of this section.

H. The adoption or readoption of the general plan or any amendment to such plan shall be by resolution of the governing body of the municipality, after notice as provided for in subsection E of this section. The adoption or readoption of or a major amendment to the general plan shall be approved by affirmative vote of at least two-thirds of the members of the governing body of the municipality. All major amendments to the general plan proposed for adoption by the governing body of a municipality shall be presented at a single public hearing during the calendar year the proposal is made. The general plan, or any amendment to the plan, shall be endorsed in the manner provided by the governing body to show that it has been adopted by the governing body. If the municipality includes property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the governing body of the municipality shall send notice of the approval, adoption or readoption of the general plan or major amendment to the general plan to the attorney general by certified mail, return receipt requested, within three business days after the approval, adoption or readoption. If the attorney general determines the approval, adoption or readoption of the general plan or major amendment to the general plan is not in compliance with section 28-8481, subsection J, the attorney general shall notify the municipality by certified mail, return receipt requested, of the determination of noncompliance. The municipality shall receive the notice from the attorney general within twenty-five days after the notice from the municipality to the attorney general is mailed pursuant to this subsection. The effective date of any approval, adoption or readoption of, or major amendment to, the general plan shall be thirty days after the governing body's receipt of the attorney general's determination of noncompliance. Within thirty days after the receipt of a determination of

noncompliance by the attorney general as prescribed by this section, the governing body of the municipality shall reconsider any approval, adoption or readoption of, or major amendment to, the general plan that impacts property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461. If the governing body reaffirms a prior action subject to an attorney general's determination of noncompliance pursuant to this section, the attorney general may institute a civil action pursuant to section 28-8481, subsection L. If the governing body timely sends notice pursuant to this subsection and the attorney general fails to timely notify the governing body of a determination of noncompliance, the general plan or major amendment to the general plan shall be deemed to comply with section 28-8481, subsection J. If the motion to adopt or readopt a general plan or an amendment to the general plan fails to pass, the governing body may reconsider the motion in any manner allowed by the governing body's rules of procedure, but any subsequent motion for the adoption or readoption of the general plan or a major amendment to the general plan must be approved by an affirmative vote of at least two-thirds of the members of the governing body. For the purposes of this subsection, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element. The municipality's general plan shall define the criteria to determine if a proposed amendment to the general plan effects a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.

I. If the municipality does not have a planning commission, the only procedural steps required for the adoption of the general plan, or any amendment to such plan, shall be those provided in this article for action by the governing body.

J. A copy of the adopted general plan of a municipality shall be sent to the planning agency of the county within which the municipality is located, and such plan or any portion of the plan may be adopted as a part of the county general plan.

K. A general plan, with any amendments, is effective for up to ten years from the date the plan was initially adopted and ratified pursuant to subsection M of this section, or until the plan is readopted pursuant to this subsection and ratified pursuant to subsection M of this section or a new plan is adopted pursuant to this subsection and ratified pursuant to subsection M of this section, and becomes effective. On or before the tenth anniversary of the plan's most recent adoption, the governing body of the municipality shall either readopt the existing plan for an additional term of up to ten years or shall adopt a new general plan as provided by this article.

L. Except for general plans that are required to be submitted to the voters for ratification pursuant to subsection M of this section, the adoption or readoption of a general plan, and any amendment to a general plan, shall not be enacted as an emergency measure and is subject to referendum as provided by article IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19, chapter 1, article 4.

M. The governing body of a city or town having a population of more than two thousand five hundred persons but less than ten thousand persons and whose population growth rate exceeded an average of two per cent per year for the ten year period before the most recent United States decennial census, and any city or town having a population of ten thousand or more persons, shall submit each new

general plan adopted pursuant to subsection K of this section to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body adopted the plan pursuant to section 16-204. The governing body shall include a general description of the plan and its elements in the municipal election pamphlet and shall provide public copies of the plan in at least two locations that are easily accessible to the public and may include posting on the municipality's official internet website. If a majority of the qualified electors voting on the proposition approves the new plan, it shall become effective as provided by law. If a majority of the qualified electors voting on the proposition fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters pursuant to this subsection. The governing body shall either resubmit the proposed new plan, or revise the new plan as provided by this section, for subsequent submission to the voters at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body readopted the new or revised new plan. All subsequent adoptions and submissions of the new plan or revised plans must comply with the procedures prescribed by this section until the plan is ratified.

N. In applying an open space element or a growth element of a general plan a municipality shall not designate private land or state trust land as open space, recreation, conservation or agriculture unless the municipality receives the written consent of the landowner or provides an alternative, economically viable designation in the general plan or zoning ordinance, allowing at least one residential dwelling per acre. If the landowner is the prevailing party in any action brought to enforce this subsection, a court shall award fees and other expenses to the landowner. A municipality may designate land as open space without complying with the requirements of this subsection if the land was zoned as open space and used as a golf course pursuant to a zoning ordinance adopted pursuant to article 6.1 of this chapter before May 1, 2000 and the designation does not impose additional conditions, limitations or restrictions on the golf course, unless the land is state trust land that was not planned and zoned as open space pursuant to title 37, chapter 2, article 5.1.

O. A person, after having participated in the public hearing pursuant to subsection H of this section, may file a petition for special action in superior court to review the governing body's decision that does not comply with the mandatory requirement prescribed in section 9-461.05, subsection C, paragraph 1, subdivision (g) within thirty days after the governing body has rendered its decision. The court may affirm, reverse or remand to the governing body, in whole or in part, the decision reviewed for further action that is necessary to comply with the mandatory requirements prescribed in section 9-461.05, subsection C, paragraph 1, subdivision (g).