CITY OF TUCSON, ARIZONA

RULES OF PROCEDURE OF THE PLANNING COMMISSION

Prepared by the Department of Urban Planning & Design
May 2007

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CITY OF TUCSON, ARIZONA

RULES OF PROCEDURE OF THE PLANNING COMMISSION

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These rules and regulations are adopted pursuant to Sec. 5.1.5.2, Article V of Chapter 23, Land Use Code, of the Tucson Code. Three certified copies of these rules shall be filed with the City Clerk to be kept as permanent public record. Copies of these rules shall be available to the public from the City Clerk's Office or the Department of Urban Planning & Design.

I. RESPONSIBILITIES & AUTHORITY

A. *Responsibilities.* The Planning Commission is established to advise the Mayor and Council and the Department of Urban Planning & Design on the adoption of long-range plans, policies, specific plans, and regulations that affect land use and development.

B. *Duties.* The Planning Commission is required to hold public hearings and make written recommendations (findings) to the Mayor and Council and the Department of Urban Planning & Design on adoptions of and amendments to the City's General Plan, specific plans and text of the Land Use Code (LUC), and such other issues as may be required by the Mayor and Council. The Planning Commission may consider any other matter that pertains or is reasonably related to its duties as described above.

C. *Authority.* The Planning Commission serves in the capacity of planning commission as provided in Arizona Revised Statute § 9-461.02. The City of Tucson Planning Commission derives its authority from and is governed by (see Appendix):

- Land Use Code Sec. 5.1.5, entitled, "Planning Commission."
- Land Use Code Sec. 5.4.2, entitled, "Planning Commission Legislative Procedure."
- Article XIII, Chapter 10A, Community Affairs, of the Tucson Code entitled, "Terms and Conditions of Membership on Boards, Committees and Commissions and Filing of Rules."
- Arizona Revised Statutes § 9-461 et seq. " Municipal Planning"
- Arizona Revised Statutes § 9-462 et seq. "Municipal Zoning"
- Arizona Revised statutes § 38-431 et seq. "Public Meetings and Proceedings"

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II. COMPOSITION

The Planning Commission consists of thirteen (13) members, as provided below.

A. *Appointments.* Each member of the City Council appoints two (2) members, both of whom must be residents of the city and at least one of whom must be a resident of the Council Member's ward. The Mayor appoints one (1) member who must be a resident of the city. Should an appointment not be made within thirty (30) days of when the position becomes available, the appointment can be made by a majority vote of the Mayor and Council. All members of the Commission serve without compensation.

B. *Qualifications.* Members of the Planning Commission are appointed on the basis of their interest in the city and its future development, particularly as demonstrated by active participation in community affairs directly related to planning issues. No member shall hold any city, county or state elective office or be a permanent employee of the City while appointed to the Commission.

C. *Terms and Removal from Office.* The term of appointment and removal of a member of the Planning Commission shall be in accordance with Tucson Code, Chapter 10A, Article XIII (see Appendix).

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III. ADMINISTRATIVE FUNCTIONS

A. *Election of Officers.* The Planning Commission shall elect a Chair and a Vice-Chair from among its members. The terms of the Chair and Vice-Chair are one (1) year, which shall commence in February of each year. Neither the Chair nor the Vice-Chair may be re-elected for that position for successive terms.

1. Chair. The Chair shall:
   a. preside at all meetings and hearings of the Planning Commission;
   b. work with the Executive Secretary to set the meeting agendas;
   c. declare votes;
   d. sign documents;
   e. have the power, with the consent of the Planning Commission, to create standing or temporary committees of one or more members and others qualified to contribute to the work of the special committee, as provided under Chapter 10A of the Tucson Code (see Appendix).
2. Vice-Chair. The Vice-Chair shall preside, in the absence of the Chair from any meetings, and perform all the duties incumbent upon the Chair.
3. Temporary Chair. A Temporary Chair shall be elected by the members present at a meeting if the Chair and Vice-Chair are both absent. The Temporary Chair shall have the full powers of the Chair during the absence of the Chair and Vice-Chair.

B. *Executive Secretary.* The Executive Secretary to the Commission shall be the Director of the City's Department of Urban Planning & Design or a designee. In the absence of the Executive Secretary from any meeting, a temporary Executive Secretary shall be appointed. The Executive Secretary shall have no voting privileges.

The Executive Secretary shall:

1. keep a record of all meetings of the Commission, and of its committees, at the Department of Urban Planning & Design;
2. prepare, with the Chair, meeting agendas;
3. coordinate and distribute meeting materials, including written comments received from the public, prior to the meetings; and
4. prepare such reports and gather such material as may be necessary for the Planning Commission to conduct its business as requested by the Planning Commission.

C. *City Clerk.* The City Clerk or designee shall be the recording and corresponding secretary to the Planning Commission and shall assist with preparing and providing notices of public hearings.

D. *Legal Counsel.* The City Attorney or a designated representative shall be the legal counsel for the Planning Commission and its committees.

E. *Meetings and Hearings.* The Planning Commission shall hold at least one (1) meeting per month but may hold as many meetings as necessary to conduct its business in a timely manner, except when there are no agenda items. All meetings shall be open to the public and will be conducted in a respectful manner.

F. *Quorum and Voting.* Seven (7) members of the Planning Commission present at a meeting constitute a quorum. A simple majority of those members present is required to approve or deny any items before the Commission, except those requiring a recommendation to the Mayor and Council (see IV.G. Motions and IV.K. Planning Commission Recommendations).

G. *Records.* The Department of Urban Planning and Design shall keep public records of the Planning Commission's public hearings, findings, and recommendations.

H. *Rules of Procedure.* The Planning Commission shall adopt rules of procedure necessary to carry out its functions.

1. The rules of procedure may be amended at any regular meeting of the Commission by a majority vote of the entire membership.
2. Any provision of these rules that is amended or superceded by a subsequent amendment to the Land Use Code, the Development Compliance Code or the Tucson Code, shall be automatically be amended to conform to the subsequent code provision.

3. Copies of such rules shall be available to the public through the Department of Urban Planning & Design and the City Clerk's Office.
4. Robert's Rules of Order may be followed in all cases not in conflict with these rules or superior rules (e.g. Ordinance, Statutes, City Charter, Arizona Constitution).

I. *Subcommittees.* The Planning Commission may create such special subcommittees as it may deem necessary or desirable as provided under Chapter 10A of the Tucson Code (see Appendix). The members of such subcommittees shall be selected from among the members of the Planning Commission and may include other persons qualified to contribute to the work of the special committee as non-voting members. Subcommittees shall conform to notice and recording provisions in Sections IV.B. Notice of Meetings and Public Hearings, IV.G. Motions and IV.K. Recording Minutes of Meetings/ Legal Action Reports.

No standing or temporary committees shall have the power to commit the Commission to the endorsement of any plan or program without its submission to the body of the Commission.

* * *

IV. LEGISLATIVE PROCEDURES

The legislative procedures that apply to the Planning Commission, including the application, staff review, notice and public hearing procedures are established in the Land Use Code in Sec. 5.4.1 and 5.4.2 (see Appendix).

The following rules establish the Planning Commission's meetings and procedures to carry out these functions.

A. *Agenda.* An agenda shall be prepared for each regular meeting.
   1. Responsibility. The Chair, working with the Executive Secretary or designee, shall set the agenda.
   2. Content. Each regular meeting agenda shall consist of the following order of business (items may be taken out of order at the meeting or public hearing at the discretion of the Chair):
      1. Call to Order
      2. Roll Call
      3. Approval of Minutes
      4. Public Hearings
      5. Study Sessions
      6. Other Business
      7. Call to Audience
      8. Adjournment.
   3. Adding Items. Items can be added to the agenda by the Chair or by vote of the Commission.

B. *Notice of Meetings and Public Hearings.* Notice of the time, place and agenda for the meetings and public hearings of the Planning Commission shall be posted on the City's web site and in appropriate locations in accordance with the Land Use Code Sections 5.4.1 and 5.4.2., and Arizona Revised Statutes § 38-431 et seq. (see Appendix).

C. *Study Sessions.* The purpose of study sessions is to allow the Planning Commission to hear presentations on items prior to their presentation at a public hearing. The Commission is allowed to ask questions and request more information on such items in an effort to better prepare for the public hearing. The Chair, with the consent of the Commission, may allow members of the public to speak at a study session.

D. *Public Hearings.*

1. Requirements. The Planning Commission shall hold at least one (1) public hearing prior to moving items forward to Mayor and Council with a recommendation. For the re-adoption of, or a major amendment to, the General Plan, the Planning Commission shall hold at least two (2) public hearings, each in a different location within the city and shall provide additional consultation and public notice.
2. Procedure. The following procedure shall be utilized for all public hearings as determined by the Chair:
    1. Presentation by staff and, as applicable, applicant.
    2. Questions for staff and/or applicant, as applicable.
    3. Chair opens public hearing for public comment.
    4. Applicant rebuttal, if requested.
    5. Close public hearing.
    6. Discussion by Planning Commission, as applicable.
    7. Motion for recommendation / 2nd.
    8. Further discussion and deliberation.
    9. Vote.

    a. The Chair, with the consent of the Planning Commission, may re-open a public hearing after it has been closed and prior to a vote that establishes a recommendation.

    b. Persons attending Planning Commission meetings and hearings shall remain silent during the proceedings except when called upon by the Chair to address the Commission.

    c. Persons speaking to the Planning Commission shall address the matter under consideration by the Commission in a courteous and respectful manner.

    d. Comments to the Commission should not repeat or duplicate the comments of others who have already spoken.

    e. The Chair, with the consent of the Commission, may impose time limits on public comments at the beginning of a public hearing when appropriate.

3. Copies of Exhibits for Public Record. For any oversized exhibit in the course of a presentation, a copy of the exhibit reduced to 8 ½ x 11 inches (standard letter size) shall be provided to the Executive Secretary.

E. *Executive Sessions.* The purpose of executive sessions is to obtain legal advice on matters. Such meetings are confidential, closed to the public and must be noticed in accordance with State law. Executive sessions can be held the same night as a regularly scheduled meeting.

F. *Informational Presentations.* The Executive Secretary may bring before the Planning Commission informational items that are appropriate to the furtherance of the Planning Commission's duties.

G. *Motions.* A motion is a proposal for some type of action made by one Commissioner, seconded on by another, and then voted on by the full Commission. The name of the members making and seconding a motion shall be recorded in the minutes of the meeting.

1. Main Motions. The most common motions are the main motion - the first motion made and seconded.
2. Substitute Motions. Substitute motions are made by another Commissioner after a main motion has been made and seconded, but before a vote on the main motion has been taken. When substitute motions are made, they must be voted on first before a vote can be taken on the main motion. If the substitute motion is passed, the main motion is dropped.
3. Friendly Amendments. Friendly amendments to motions are requests to amend a motion. They can be proposed by Commissioners after a main motion has been made and seconded, but must be accepted/approved by the Commissioner whose motion they want to amend and the seconder of that motion.
4. Making Motions. There are six steps to processing motions. In instances where there are substitute motions, these six steps must be followed on the secondary motions before the main motion can be voted on.
    1. A Commissioner makes a motion.
    2. Another Commissioner seconds the motion. This Commissioner does not have to agree with the motion, they only have to agree that it should be discussed.
    3. The Chair may restate or have the motion restated, formally placing it before the Commission.
    4. Debate/discussion ensues.
    5. The Chairperson asks for a vote on the motion.
    6. The Chairperson announces the result of the vote.

Except for recommendations to the Mayor and Council as provided in IV.K. Planning Commission Recommendations below, a vote by a majority of the members present shall approve a motion.

H. *Call to the Audience.*

1. Any member of the public is allowed to address the Planning Commission on any issue except items scheduled for a public hearing at the meeting. Comments on an item scheduled for public hearing are made during each item's public comment period.
2. Speakers are limited to three-minute presentations.
3. Speakers must state their name, address, whether they work for the City of Tucson, whom they represent, and the subject matter.
4. The Planning Commission may not discuss or take legal action on matters raised during Call to the Audience because these matters are not on the published agenda. The Planning Commission may, at its discretion, request an item be placed on a future agenda.

I. *Decorum and Debate.*

1. When a member desires to speak or make a motion, he or she shall address himself or herself to the Chair, and upon being recognized, address the membership.
2. No member shall interrupt another, except to call to order or to correct a mistake.
3. No person shall interrupt proceedings.

J. *Participation by the Public/City Staff.*

1. All interested parties my submit their comments and expressions of any issues or concerns regarding an application prior to a public hearing by submitting them to the Planning Commission in care of the Department of Urban Planning & Design Director. The Director shall forward the comments to the Planning Commission, or submit them to the Planning Commission at the public hearing.
2. Opportunities for public participation include the Call to the Audience (IV.H. Call to the Audience) and the open comment period during public hearings (IV.D. Public Hearings).

K. *Planning Commission Recommendations.* As provided by the Land Use Code (LUC), the Planning Commission shall hold public hearings on adoptions of and amendments to, the City's General Plan, specific plans and text of the LUC, and such other issues as may be required by the Mayor and Council, and upon agreement by seven (7) of its members and shall forward a recommendation regarding each to the Mayor and Council.

1. Timeframe. A public hearing may be continued by the Planning Commission for up to ninety (90) days from the date it is opened. A recommendation shall be made within forty-five (45) days of the close of the hearing(s), or after ninety (90) days from the opening of the public hearing if no recommendation is made.
2. Content. The Planning Commission advises the Mayor and Council regarding the adoptions of and amendments to the City's General Plan, specific plans and Land Use Code text through the recommendations it forwards to them. The Planning Commission may, and for specific plans shall, provide reasons supporting their recommendations or "findings".

A Commissioner can include as part of a motion the specific reasons upon which the motion is based, which will be reflected in the written recommendation. If no specific reasons are stated at the time a motion is made, or in the course of the discussion on the motion, the written recommendation shall summarize the reason for the action taken by the Planning Commission by incorporating information from staff reports, presentations, public hearing comments, and discussion by the Commission.

3. Forwarding to Mayor and Council with a Recommendation for Consideration and Action. The Planning Commission can issue a recommendation to the Mayor and Council for either approval or denial if the recommendation receives seven (7) or more votes and meets the timeframe listed in IV.K.1. Timeframe. The Chair shall forward the recommendation within forty-five (45) days of the closing of the public hearing.

   If the Planning Commission fails to issue a recommendation for approval or denial that meets these criteria, the Chair shall forward a recommendation that the matter to be considered and acted upon by the Mayor and Council. For specific plan amendments, the recommendation shall include a summarized explanation of the reasons discussed by the Commissioners for voting for or against the motion for a recommendation.

4. Redevelopment Plans. For redevelopment plans, the Planning Commission reviews the plan for compliance with the General Plan and any applicable specific plans at a public meeting or a public hearing. The Planning Commission shall forward a recommendation to Mayor and Council within thirty (30) days from the date of its receipt of the plans for review. If no recommendation is forwarded within thirty (30) days, the Chair shall forward a recommendation for consideration and action to the Mayor and Council on the redevelopment plan as provided in Rule IV.I.3. Forwarding to Mayor and Council with a Recommendation for Consideration and Action.

L. *Conflict of Interest*. Any member of the Commission who has a conflict of interest as provided by law related to any matter before the Commission shall refrain from participating in the meeting, shall so publicly indicate, shall step down and leave the hearing room, and shall abstain from all proceedings, deliberations and voting on the matter.

M. *Recording Minutes of Meetings / Legal Action Reports.* As required by Arizona Revised Statute § 38-431.01, meeting minutes and legal action reports will be posted for every meeting of the full Planning Commission.

1. Legal Action Reports. A summary of the legal actions taken at a Commission meeting will be posted on the City's website and with the City Clerk's Office within three (3) working days of the meeting.

2. Meeting Minutes. The objective of the meeting minutes is to maintain a complete factual record of motions, findings of fact and actions taken by the Planning Commission. Minutes shall include at least the following:
    - date, time, and place
    - members' attendance
    - general description of matters considered
    - an accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion, and
    - names of persons making statements or presenting material to the public body and a brief description of the presented material.
3. Responsibilities. The City Clerk or designee shall act as recording secretary and will prepare the legal action reports and meeting minutes. Tape recordings of the meetings will be available through the Clerk's Office in conformance with State law.

* * *

ADOPTED: February 12, 1975

AMENDED AS OF: February 19, 1975; September 1, 1976; August 3, 1977; December 1, 1982; February 5, 1992; June 2, 1993; Revised - December 11, 1997; Revised May 2, 2007.

APPENDIX A

Guiding Legislation

The Planning Commission serves in the capacity of planning commission as provided in Arizona Revised Statutes § 9-461.02. The City of Tucson Planning Commission derives its authority from and is governed by the following:

Tucson Code

Chapter 23, "Land Use Code"
Accessible online via <www.tucsonaz.gov/planning/codes/luc/> or through the City Clerk's Office web site <www.tucsonaz.gov/clerks/>.

- Section 5.1.5, entitled, "Planning Commission."
- Section 5.4.2, entitled, "Planning Commission Legislative Procedure."

Chapter 10A, "Community Affairs"
Accessible online via <www.tucsonaz.gov/clerks/> or via Municode.com at <www.municode.com/resources/gateway.asp?pid=11294&sid=3>.

- Article XIII, entitled, "Terms and Conditions of Membership on Boards, Committees and Commissions and Filing of Rules."

Arizona Revised Statutes
Accessible online via <www.azleg.gov/ArizonaRevisedStatutes.asp>.

Title 9. "Cities and Towns"

- Section 9-461 et seq. " Municipal Planning"
- Section 9-462 et seq. "Municipal Zoning"

Title 38. "Public Officers and Employees"

- Section 38-431 et seq. "Public Meetings and Proceedings"

Copies of the legislation can be obtained as a supplement to the Planning Commission's "Rules of Procedure" from:

City of Tucson Urban Planning & Design Department
<www.tucsonaz.gov/planning/news/planningcommission>
(520) 791-4505

– OR –

City of Tucson City Clerk's Office
<www.tucsonaz.gov/clerks/boards.php?board=38>
(520) 791-4213

CITY OF TUCSON, ARIZONA

LAW GOVERNING PLANNING AND ZONING

Prepared by the Department of Urban Planning & Design
as a supplement to the Planning Commission's Rules of Procedure
May 2007

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PREAMBLE

The City of Tucson Planning Commission serves in the capacity of planning commission as provided in Arizona Revised Statutes § 9-461.02. The City of Tucson Planning Commission derives its authority from and is governed by State and local legislation, copies of which are included herein as a reference and supplement to the Planning Commission's Rules of Procedure.

The information contained in this supplement is dated and should only be used as reference. Because legislation can change, it is recommended readers access the legislation directly using the data sources provided with each piece.

If you have any questions about this supplement or the Rules of Procedure document it relates to, please call the Tucson Department of Urban Planning & Design at (520) 791-4505.

TUCSON CITY CODE, Chapter 23. Land Use Regulation
Article V. Administration
Division 1. Powers and Duties

Data Source: Tucson Land Use Code, accessed May 1, 2007 via a link on the City of Tucson Urban Planning & Design web page, http://www.tucsonaz.gov/planning/codes/luc/

5.1.5 PLANNING COMMISSION

The Planning Commission is established to advise the Mayor and Council and the Department of Urban Planning and Design on the adoption of long-range plans, policies, specific plans, and regulations that affect land use and development. The Planning Commission serves in the capacity of a planning commission as provided in the ARS. (Ord. No. 9967, §5, 7/1/04)

5.1.5.1 Composition. The Planning Commission consists of thirteen (13) members as provided below.

A. *Appointment.* Each member of the City Council appoints two (2) members, both of whom must be residents of the city and at least one (1) of whom must be a resident of the Council Member's ward. The Mayor appoints one (1) member who must be a resident of the city. Should an appointment not be made within thirty (30) days of when the position becomes available, the appointment can be made by a majority vote of the Mayor and Council. All members of the Commission serve without compensation.

B. *Qualifications.* Members of the Planning Commission are appointed on the basis of their interest in the city and its future development, particularly as demonstrated by active participation in community affairs directly related to planning issues. No member shall hold any city, county, or state elective office or be a permanent employee of the City while appointed to the Commission.

C. *Terms and Removal from Office.* The term of appointment and the removal of a member of the Planning Commission shall be in accordance with Tucson Code, Chapter 10A, Article XIII. (Ord. No. 9374, §1, 4/10/00)

D. *Vacancies.* All vacant positions on the Planning Commission shall be filled by appointment as described in Sec. 5.1.5.1.A. An appointment to fill an unexpired term shall be for the unexpired portion of the term. (Ord. No. 9374, §1, 4/10/00)

5.1.5.2 Administrative Functions. The Planning Commission's administrative functions shall be accomplished as follows.

A. *Election of Officers.* The Planning Commission shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one (1) year which shall commence in February of each year.

B. *Meetings.* The Planning Commission shall hold at least one (1) meeting per month but may hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

C. *Quorum and Voting.* Seven (7) members of the Planning Commission present at a meeting constitute a quorum. A concurring vote of seven (7) members is necessary to make a recommendation to the Mayor and Council. A simple majority of those members present is required to approve or deny any other matter before the Planning Commission. If a concurring vote cannot be attained within the specified time allotted by the procedure on matters requiring Mayor and Council decision, the matter shall be forwarded to the Mayor and Council without recommendation.

D. *Records.* The Department of Urban Planning and Design shall keep public records of the Planning Commission's public hearings, findings, and recommendations. (Ord. No. 9967, §5, 7/1/04)

E. *Rules of Procedure.* The Planning Commission shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Department of Urban Planning and Design. (Ord. No. 9967, §5, 7/1/04)

F. *Subcommittees.* The Planning Commission may create such special subcommittees as it may deem necessary or desirable as provided under Chapter 10A of the Tucson Code. The members of such subcommittees shall be selected from among the members of the Planning Commission and may include other persons qualified to contribute to the work of the special subcommittee.

5.1.5.3 Powers and Duties. The Planning Commission performs the following duties.

A. *General Plan.* The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on the adoption of, and amendment to, the *General Plan* in accordance with the Planning Commission Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.2. (Ord. No. 9517, §4, 2/12/01; Ord. No. 9967, §5, 7/1/04)

B. *Specific Plans.* The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, specific plans and on regulations for the implementation of the *General Plan* in accordance with the Planning Commission Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.2. (Ord. No. 9517, §4, 2/12/01; Ord. No. 9967, §5, 7/1/04)

C. *Land Use Code (LUC).* The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, the text of the *Land Use Code* (*LUC*) in accordance with the Planning Commission Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.2. (Ord. No. 9967, §5, 7/1/04)

D. *Other Matters.* The Planning Commission shall review such other issues as may be required by the Mayor and Council, and upon agreement by seven (7) of its members, the Planning Commission may consider any other matter that pertains or is reasonably related to its duties as described above.

TUCSON CITY CODE, Chapter 23. Land Use Regulation
Article V. Administration
Division 4. Procedures

Data Source: Tucson Land Use Code, accessed May 1, 2007 via a link on the City of Tucson Urban Planning & Design web page, http://www.tucsonaz.gov/planning/codes/luc/

5.4.2 PLANNING COMMISSION LEGISLATIVE PROCEDURE.
Applications reviewed under this procedure require consideration by the Planning Commission at a public hearing(s) for recommendation to the Mayor and Council. This procedure is used for adoption of, re-adoption of, or amendment to, the General Plan and the specific plans, such as, but not limited to, subregional, area, neighborhood plans, the Major Streets and Routes (MS&R) Plan and redevelopment plans and amendments to the *LUC*, including amendments for the creation of overlay zones.

5.4.2.1 Planning Commission's Public Hearing. The Planning Commission shall hold at least one (1) public hearing. For the re-adoption of or a major amendment to the General Plan, the Planning Commission shall hold at least two (2) public hearings, each in a different location within the city and shall provide additional consultation and public notice in conformance with A.R.S. §9-461.06.

A. *Notice of Public Hearings.* Notice of public hearings shall be given at least fifteen (15) days and not more than thirty (30) days before the public hearing. Notice of the time and date of the hearing and the general subject matter shall be published at least once in a newspaper with general circulation in the City. A display ad shall be provided for amendments to the *LUC*.

B. *Notice for Specific Plan Amendments.* Notice for proposed amendments to specific plans, including neighborhood plans, area plans and subregional plans, where the amendment changes the plan application to a limited, specific site within the plan area, shall be mailed to property owners within three hundred (300) feet of the amendment site and to neighborhood associations within one mile of the site.

C. *Notice for Applications of Overlay Zones to Specific Property.* Where an application provides for a text amendment to create a new overlay zone and also provides for specific application of that overlay zone to specific properties, mailed notice shall be given in accordance with Sec. 5.4.3.B.1 for the area to be designated subject to the new overlay zone.

D. *Public Comment.* Property owners and other interested persons may submit their comments and expressions of any issues or concerns regarding an application prior to a public hearing by submitting them to the Planning Commission in care of the Planning Director. The Planning Director shall forward the comments to the Planning Commission, or submit them to the Planning Commission at the public hearing.

E. *Planning Commission's Recommendation.* Except for redevelopment plans, the Planning Commission may close a public hearing or may decide to continue a public hearing to a

future time and place provided it is closed within ninety (90) days of the date of the initial hearing. The Planning Commission shall issue a recommendation, including a statement of the reasons for the recommendation, within forty-five (45) days of the close of the hearing(s). The application, together with the Planning Commission Recommendation and the City Manager's Recommendation, is forwarded to the Mayor and Council for decision. If the Planning Commission fails to issue a recommendation within the prescribed time, the application will be forwarded as a recommendation to the Mayor and Council for a decision and shall state the reasons for the positions taken by members of the Planning Commission.

F. *Planning Commission's Recommendation for Redevelopment Plans.* For redevelopment plans, the Planning Commission reviews the plan for compliance with the General Plan and any applicable specific plans at a public meeting or a public hearing. The Planning Commission shall forward a recommendation to Mayor and Council within thirty (30) days from the date of its receipt of the plans for review. If no recommendation is forwarded within thirty (30) days, the Mayor and Council may proceed with the public hearing on the redevelopment plan.

TUCSON CITY CODE, Chapter 10-A. Community Affairs
Article XIII. Terms and Conditions of Membership on Boards, Committees and Commissions and Filing of Rules

Data Source: Tucson City Code (via Municode.com); accessed May 1, 2007 via a link on the City of Tucson City Clerk's Office web page, http://www.tucsonaz.gov/clerks/

Sec. 10A-133. Applicability.

The provisions of this article shall apply to all boards, committees and commissions of the city, notwithstanding any other ordinance or resolution unless specifically exempted from the provisions hereof, or except when they conflict with the Charter, Arizona Revised Statutes, intergovernmental agreements, or corporate articles or bylaws of instrumentalities of the city. Where there is a conflict, the applicable provisions of the Charter, Arizona Revised Statutes, intergovernmental agreement, or corporate articles or bylaws shall prevail.

(Ord. No. 7018, § 2, 9-6-88)

Sec. 10A-134. Terms and removal.

(a) The terms of members of a body shall be coterminous with the terms of office of the mayor or members of the city council who appointed them, or until their successors on the body are appointed, except such members may be removed with or without cause prior to the expiration of their term by the mayor or members of the city council who appointed them or by such mayor's or member of the city council's successor in office.

(b) Members of such bodies shall be eligible for reappointment; but in no event may any individual serve more than a total of eight (8) continuous years on the same body, except members of bodies whose terms are more than four (4) years may serve two (2) complete coterminous terms. Once a member has served eight (8) years on a body, he may not be reappointed to that body until he has had a break in service of at least one (1) continuous year. Whenever a body is dissolved and reconstituted, time previously spentin office shall count towards the eight-year limitation. The following technical code committees are exempt from the eight-year service limitation: the Citizens Sign Code Committee, the Uniform Building Code Committee, the Electrical Code Committee, the Uniform Fire Code Committee, the Light Pollution Code Committee, the Mechanical Code Committee, the Plumbing Code Committee, the Spa/Pool Code Committee.

(c) Appointees, except for advisory members and members of the technical code committees named herein, may not serve on more than one (1) body at a time.

(d) The terms of office of members of a body serving unspecified terms shall be four (4) years commencing December 31, 1988, subject to the eight-year continuous service limitation.

(e) A member of a body, except for advisory members, who misses four (4) consecutive meetings for any reason or who fails to attend for any reason at least forty (40) percent of the meetings called in a calendar year is automatically and immediately removed as a member of the body.

(f) No city employee may serve on a body except in a nonvoting, ex officio capacity.

(g) Except as provided in subsection (h), should the appointment of a member of a body authorized to be appointed by the mayor, a member of the council, or the city manager (hereafter referred to as the "appointing authority") fail to be made within thirty (30) days after the expiration of the term of the member or thirty (30) days after a vacancy occurs, the appointment may be made by the mayor and council.

(h) Prior to the expiration of the term of members of bodies referred to in subsection (g), or within thirty (30) days after a vacancy on such a body occurs, the appointing authority may request an extension of time from the mayor and council to make the appointment.

(Ord. No. 7018, § 2, 9-6-88; Ord. No. 7260, § 1, 8-7-89; Ord. No. 10064, § 1, 10-18-04)

Sec. 10A-135. Effective date.

(a) The term of office for those members of a body who will have served eight (8) or more years continuously on a body as of December 31, 1988, will end on December 31, 1988, regardless of whether the member is serving a specified or unspecified term.

(b) The term of office for those voting members of a body who are city employees will end on December 31, 1988.

(Ord. No. 7018, § 2, 9-6-88)

Sec. 10A-136. Rules and regulations of commissions, boards, departments to be filed.

Two (2) copies of all rules and regulations of general application and future effect of every commission, board or department of the city, affecting the rights or procedure available to the public, including amendments and repeals thereof, shall be filed with the city clerk. All such rules and regulations, including amendments or repeals thereof, not so filed shall be of no force or effect.

It is hereby made the duty of the chairman of each commission or board of the city or the head of each department of the city to file such copies of such rules and regulations and of all repeals and amendments thereof in true and correct form with the city clerk.

(Ord. No. 7018, § 2, 9-6-88)

Cross references: Filing of regulations of building board of appeals required, § 16-13.

Sec. 10A-137. Nonvoting, advisory members.

(a) Except as provided in section 10A-138, the chairperson of a body may, with the consent of a majority of the regular members of the body, appoint no more than four (4) advisory members to the body. Advisory members may be appointed for a period not to exceed two (2) years.

(b) Such advisory members shall have the right to be present at all meetings and to take part in the deliberations, but shall be nonvoting and shall not be counted in determining whether a quorum is present.

(Ord. No. 7079, § 1, 10-24-88; Ord. No. 8023, § 1, 4-12-93)

Sec. 10A-138. Citizens Advisory Planning Committee* zoning code revision subcommittee. [Omitted – Committee has not been in operation for 12 years.]

Sec. 10A-139. Requirements for creation of boards, committees, and commissions.

(a) Boards established by ordinance or resolution. All city boards, committees, and commissions (hereinafter collectively referred to in this section as "board") that serve an on-going advisory or quasi-judicial function shall be established by ordinance adopted by the mayor and council. All other city boards that are intended to serve for a limited time for the purpose of advising the mayor and council on a specific issue shall be established by a resolution adopted by the mayor and council.

(b) Resolution contents. Except as provided in subsection (c), the resolution referred to in subsection (a) shall contain the following provisions:

(1) Sunset clause. Unless mandated by the resolution to have a longer term, the board shall automatically terminate twenty-four (24) months after the effective date of the resolution.

(2) Staff support. Unless otherwise specified and budgeted, support for all boards shall be limited to complying with the requirements of the open meeting law.

(3) Strategic plan. The mission, responsibilities, and functions of the board shall be specified and consistent with the city's strategic plan.

(4) Outside financial support. The mayor and council shall approve any application for financial support outside of the city, and the county for joint City-Pima County Boards, before the board may apply for the same. Any such financial support shall include funds for administrative assistance.

* The Citizens Advisory Planning Committee was renamed the Planning Commission, effective July 1, 1995.

(5) Annual report. The board shall file an annual report with the city clerk summarizing the board's previous year's activities.

(c) Exceptions. The mayor and council may exempt a board from any of the provisions of subsection (b) by specifically designating the provision to be exempted in the resolution creating the board and specifying the alternative, if any, to the provision.

(Ord. No. 9943, § 1, 3-22-04)

Editor's note: It should be noted that § 2 of Ord. No. 9943 states that the provisions of § 10A-139 shall not apply to boards, committees, or commissions existing on the effective date of this ordinance (March 22, 2004).

Secs. 10A-140--10A-144. Reserved.

Arizona Revised Statues, Title 9. Cities and Towns
Chapter 4. General Powers
Article 6. Municipal Planning

Data Source: Arizona Revised Statutes, accessed May 1, 2007 via the Arizona State Legislature web site, http://www.azleg.gov/ArizonaRevisedStatutes.asp

9-461. Definitions

In this article, unless the context otherwise requires:

1. "General plan" means a municipal statement of land development policies, which may include maps, charts, graphs and text which set forth objectives, principles and standards for local growth and redevelopment enacted under the provisions of this article or any prior statute.
2. "Municipal" or "municipality" means an incorporated city or town.
3. "Planning agency" means the official body designated by local ordinance to carry out the purposes of this article and may be a planning department, a planning commission, a hearing officer, the legislative body itself, or any combination thereof.
4. "Right-of-way" means any public right-of-way and includes any area required for public use pursuant to any general or specific plan.
5. "Specific plan" means a detailed element of the general plan enacted under the provisions of this article or a prior statute.
6. "Street" means streets, highways, freeways, expressways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public access easements and rights-of-way.
7. "Subdivision regulations" means a municipal ordinance regulating the design and improvement of subdivisions enacted under the provisions of article 6.2 of this chapter, or any prior statute, regulating the design and improvement of subdivisions.
8. "Zoning ordinance" means a municipal ordinance regulating the use of land, structures or both, under the provisions of this article.

9-461.01. Planning agency; powers and duties

A. The legislative body of a municipality may by ordinance establish a planning agency.

B. The planning agency shall:
   1. Develop and maintain a general plan.
   2. Develop such specific plans as may be necessary to implement the general plan.
   3. Periodically review the capital improvement program of the municipality.
   4. Perform such other planning functions as the legislative body may provide.

C. Each planning agency has the powers necessary to enable it to fulfill its planning functions as provided in this article. It may:
   1. Contract for, receive and utilize any grants or other financial assistance made available by a municipality, a county, the state or the federal government.
   2. Contract with the state or federal government and any of its agencies, or the legislative body of any municipality or county.

9-461.02. Planning commission; creation; limitations

If a municipal planning commission is created, the organization, number of members, the terms of office and the method of appointment and removal shall be as provided by local ordinance, except that each municipal planning commission shall have at least five members.

9-461.03. Planning department

A. The legislative body of any municipality may establish a planning department. The officers and employees that the legislative body deems necessary for the department shall be appointed by the appointing authority of the municipality.

B. The appointing authority of each municipality may appoint a director of planning.

C. The legislative body of any municipality may employ or contract with consultants for such services as it requires.

9-461.04. Financing

The municipal legislative body shall provide the funds, equipment and accommodations necessary for the work of the planning agency of the municipality.

9-461.05. General plans; authority; scope

A. Each planning agency shall prepare and the governing body of each municipality shall adopt a comprehensive, long-range general plan for the development of the municipality. The planning agency shall coordinate the production of its general plan with the creation of the state land department conceptual land use plans under title 37, chapter 2, article 5.1 and shall cooperate with the state land department regarding integrating the conceptual state land use plans into the municipality's general land use plan. The general plan shall include provisions that identify changes or modifications to the plan that constitute amendments and major amendments. The plan shall be adopted and readopted in the manner prescribed by section 9-461.06.

B. The general plan shall be so prepared that all or individual elements of it may be adopted by the governing body and that it may be made applicable to all or part of the territory of the municipality.

C. The general plan shall consist of a statement of community goals and development policies. It shall include maps, any necessary diagrams and text setting forth objectives, principles, standards and plan proposals. The plan shall include the following elements:

1. land use element that:
   (a) Designates the proposed general distribution and location and extent of such uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land as may be appropriate to the municipality.
   (b) Includes a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan.
   (c) Identifies specific programs and policies that the municipality may use to promote infill or compact form development activity and locations where those development patterns should be encouraged.
   (d) Includes consideration of air quality and access to incident solar energy for all general categories of land use.
   (e) Includes policies that address maintaining a broad variety of land uses including the range of uses existing in the municipality when the plan is adopted, readopted or amended.
   (f) For cities and towns with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, includes consideration of military airport or ancillary military facility operations. On or before December 31, 2005, if a city or town includes land in a high noise or accident potential zone as defined in section 28-8461, the city or town shall identify the boundaries of the high noise or accident potential zone in its general plan for purposes of planning land uses in the high noise or accident potential zone that are compatible with the operation of the military airport or ancillary military facility pursuant to section 28-8481, subsection J.
2. A circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, bicycle routes and any other modes of transportation as may be appropriate, all correlated with the land use element of the plan.

D. For cities and towns 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 for cities and towns having a population of ten thousand or more persons according to the most recent United States decennial census, the general plan shall include, and for other cities and towns the general plan may include:
1. An open space element that includes:
   (a) A comprehensive inventory of open space areas, recreational resources and designations of access points to open space areas and resources.
   (b) An analysis of forecasted needs, policies for managing and protecting open space areas and resources and implementation strategies to acquire additional open space areas and further establish recreational resources.
   (c) Policies and implementation strategies designed to promote a regional system of integrated open space and recreational resources and a consideration of any existing regional open space plans.

2. A growth area element, specifically identifying those areas, if any, that are particularly suitable for planned multimodal transportation and infrastructure expansion and improvements designed to support a planned concentration of a variety of uses, such as residential, office, commercial, tourism and industrial uses. This element shall include policies and implementation strategies that are designed to:
   (a) Make automobile, transit and other multimodal circulation more efficient, make infrastructure expansion more economical and provide for a rational pattern of land development.
   (b) Conserve significant natural resources and open space areas in the growth area and coordinate their location to similar areas outside the growth area's boundaries.
   (c) Promote the public and private construction of timely and financially sound infrastructure expansion through the use of infrastructure funding and financing planning that is coordinated with development activity.
3. An environmental planning element that contains analyses, policies and strategies to address anticipated effects, if any, of plan elements on air quality, water quality and natural resources associated with proposed development under the general plan. The policies and strategies to be developed under this element shall be designed to have community-wide applicability and shall not require the production of an additional environmental impact statement or similar analysis beyond the requirements of state and federal law.
4. A cost of development element that identifies policies and strategies that the municipality will use to require development to pay its fair share toward the cost of additional public service needs generated by new development, with appropriate exceptions when in the public interest. This element shall include:
   (a) A component that identifies various mechanisms that are allowed by law and that can be used to fund and finance additional public services necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees, facility construction, dedications and service privatization.
   (b) A component that identifies policies to ensure that any mechanisms that are adopted by the municipality under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the municipality to provide additional necessary public services to the development and otherwise are imposed according to law.
5. A water resources element that addresses:
   (a) The known legally and physically available surface water, groundwater and effluent supplies.
   (b) The demand for water that will result from future growth projected in the general plan, added to existing uses.
   (c) An analysis of how the demand for water that will result from future growth projected in the general plan will be served by the water supplies identified in subdivision (a) of this paragraph or a plan to obtain additional necessary water supplies.

E. The general plan shall include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons the following elements or any part or phase of the following elements:

1. A conservation element for the conservation, development and utilization of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation element may also cover:
   (a) The reclamation of land.
   (b) Flood control.
   (c) Prevention and control of the pollution of streams and other waters.
   (d) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
   (e) Prevention, control and correction of the erosion of soils, beaches and shores.
   (f) Protection of watersheds.
2. A recreation element showing a comprehensive system of areas and public sites for recreation, including the following and, if practicable, their locations and proposed development:
   (a) Natural reservations.
   (b) Parks.
   (c) Parkways and scenic drives.
   (d) Beaches.
   (e) Playgrounds and playfields.
   (f) Open space.
   (g) Bicycle routes.
   (h) Other recreation areas.
3. The circulation element provided for in subsection C, paragraph 2 of this section shall also include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons recommendations concerning parking facilities, building setback requirements and the delineations of such systems on the land, a system of street naming and house and building numbering and other matters as may be related to the improvement of circulation of traffic. The circulation element may also include:
   (a) A transportation element showing a comprehensive transportation system, including locations of rights-of-way, terminals, viaducts and grade separations. This element of the plan may also include port, harbor, aviation and related facilities.
   (b) A transit element showing a proposed system of rail or transit lines or other mode of transportation as may be appropriate.
4. A public services and facilities element showing general plans for police, fire, emergency services, sewage, refuse disposal, drainage, local utilities, rights-of-way, easements and facilities for them.
5. A public buildings element showing locations of civic and community centers, public schools, libraries, police and fire stations and other public buildings.

6. A housing element consisting of standards and programs for the elimination of substandard dwelling conditions, for the improvement of housing quality, variety and affordability and for provision of adequate sites for housing. This element shall contain an identification and analysis of existing and forecasted housing needs. This element shall be designed to make equal provision for the housing needs of all segments of the community regardless of race, color, creed or economic level.
7. A conservation, rehabilitation and redevelopment element consisting of plans and programs for:
   (a) The elimination of slums and blighted areas.
   (b) Community redevelopment, including housing sites, business and industrial sites and public building sites.
   (c) Neighborhood preservation and revitalization.
   (d) Other purposes authorized by law.
8. A safety element for the protection of the community from natural and artificial hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths according to function, clearances around structures and geologic hazard mapping in areas of known geologic hazards.
9. A bicycling element consisting of proposed bicycle facilities such as bicycle routes, bicycle parking areas and designated bicycle street crossing areas.

F. The water resources element of the general plan does not require:
   1. New independent hydrogeologic studies.
   2. The city or town to be a water service provider.

G. The land use element of a general plan of a city with a population of more than one million persons shall include protections from encroaching development for any shooting range that is owned by this state and that is located within or adjacent to the exterior municipal boundaries on or before January 1, 2004. The general plan shall establish land use categories within at least one-half mile from the exterior boundaries of the shooting range that are consistent with the continued existence of the shooting range and that exclude incompatible uses such as residences, schools, hotels, motels, hospitals or churches except that land zoned to permit these incompatible uses on the effective date of this amendment to this section are exempt from this exclusion. For the purposes of this subsection, "shooting range" means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range does not include:
   1. Any area for the exclusive use of archery or air guns.
   2. An enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.
   3. A National Guard facility located in a city or town with a population of more than one million persons.

4. A facility that was not owned by this state before January 1, 2002.

H. The policies and strategies to be developed under these elements shall be designed to have community-wide applicability and this section does not authorize the imposition of dedications, exactions, fees or other requirements that are not otherwise authorized by law.

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 department of commerce 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 web site. 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.

9-461.07. Administration of general plan

A. After the municipal legislative body has adopted a general plan, or amendment thereto, the planning agency shall undertake the following actions to encourage effectuation of the plan:
   1. Investigate and make recommendations to the legislative body upon reasonable and practical means for putting into effect the general plan or part thereof in order that it will serve as a pattern and guide for the orderly growth and development of the municipality and as a basis for the efficient expenditure of its funds relating to the subjects of the general plan. The measures recommended may include plans, regulations, financial reports and capital budgets.
   2. Render an annual report to the legislative body on the status of the plan and progress in its application.
   3. Endeavor to promote public interest in and understanding of the general plan and regulations relating to it.
   4. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens generally with relation to carrying out the general plan.

B. Upon adoption of a general plan or part thereof, each municipal officer, department, board or commission, and each governmental body, commission or board whose jurisdiction lies entirely or partially within the municipality, whose functions include recommending, preparing plans for or constructing major public works, shall submit to an agency, as designated by the respective municipal legislative body, a list of the proposed public works located entirely or partially within the municipality recommended for planning, initiation or construction during the ensuing fiscal year. The agency shall list and classify all such recommendations and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such coordinated program shall be submitted to the municipal planning agency for review and report to such agency as to conformity with the adopted general plan or part thereof.

C. No public real property may be acquired by dedication or otherwise for street, square, park or other public purposes, no public real property may be disposed of, no public street may be vacated or abandoned and no public building or structure may be constructed or authorized, if an adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with such adopted general plan or part thereof. The planning agency shall render its report as to conformity with such adopted

general plan or part thereof within forty days after the matter was submitted to it. The provisions of this subsection do not apply to acquisitions or abandonments for street widening or alignment projects of a minor nature if the legislative body so provides by ordinance or resolution.

9-461.08. Authority, scope of specific plans

A. The planning agency may, or if so directed by the legislative body shall, prepare specific plans based on the general plan and drafts of such regulations, programs and legislation as may in the judgment of the agency be required for the systematic execution of the general plan. The planning agency may recommend such plans and measures to the legislative body for adoption.

B. Specific plans may, in addition to recommended zoning ordinances and subdivision regulations, include:
   1. Regulations determining the location of buildings and other improvements with respect to existing rights-of-way, floodplains and public facilities.
   2. Regulations of the use of land, buildings and structures, the height and bulk of buildings and structures and the open spaces around buildings and structures.
   3. Street and highway naming and numbering plans in order to establish the official names of streets and highways, to remove conflicts, duplication and uncertainty among such names, and to provide an orderly system for the numbering of buildings and properties.
   4. A plan and regulations determining the location of infrastructure service area boundaries, consistent with the growth areas element of the general plan, beyond which the municipality may limit or prescribe conditions on publicly financed extensions of water, sewer and street improvements that are necessary to service needs generated by new development. The plan and regulations shall consider all elements of the general plan, including the circulation and public facilities elements. For purposes of this paragraph, publicly financed does not include special taxing district financing other than municipal or county improvement district revenues or bonds. The regulations shall also provide for:
      (a) Assigning or delegating administrative functions, powers and duties to municipal officers.
      (b) Establishing the procedure for the initial infrastructure service area boundaries and the methodology and procedures for adjusting the boundaries.
   5. Measures required to insure the execution of the general plan.
   6. Other matters which will accomplish the purposes of this article, including procedures for the administration of such regulations.

9-461.09. Procedure for adoption of specific plans and regulations

A. If a municipality has a planning commission, the planning commission shall hold at least one public hearing on a specific plan or regulation prior to any hearing by the legislative body. Notice of the time and place of such 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, by posting 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.

B. A copy of any specific plan, regulation or amendment together with the recommendation of the planning commission shall be submitted to the legislative body accompanied by a statement of the planning commission's reasons for such recommendation.

C. Upon receipt of a copy of any proposed specific plan, regulation or amendment of such plan or regulation, the legislative body may by ordinance or resolution adopt the plan or regulation. Before adopting the proposed specific plan or regulation, the legislative body shall hold at least one public hearing. Notice of the time and place of such hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as provided in subsection A. The specific plan or regulation, as adopted, shall be designated as a specific plan or regulation.

D. If the municipality does not have a planning commission, the only procedural steps required for the adoption of a specific plan, regulation or any amendment to a specific plan or regulation are those provided in this article for action by the legislative body.

9-461.10. Administration of specific plans and regulations

A. The legislative body shall determine and establish administrative rules and procedures for the application and enforcement of specific plans and regulations.

B. The legislative body may assign or delegate administrative powers and duties to the planning agency or any other agency, as necessary, and may create administrative agencies, provide for other officials and for funds for the compensation of such officers, employees and agencies and for the support of their work.

C. No street may be improved and no sewers or connections or improvements may be laid or authorized in any street within any territory for which the legislative body has adopted a specific street or highway plan until the matter has been referred to the planning agency for a report as to conformity with the specific street or highway plan and a copy of the report has been filed with the legislative body, unless one of the following conditions applies:
   1. The street has been accepted, opened or has otherwise received the legal status of a public street prior to the adoption of the plan.
   2. The street corresponds with streets shown on the plan.

3. The street corresponds with streets shown on a subdivision map or record or survey approved by the legislative body.
4. The street corresponds with streets shown on a subdivision map previously approved by the planning commission. The report shall be submitted to the legislative body within forty days after the matter was referred to the planning agency.

9-461.11. Extraterritorial jurisdiction; development plans

A. In any county not having a county planning agency with jurisdiction in the unincorporated territory, the legislative body of any municipality may exercise the planning powers granted in this article both to territory within its corporate limits and to that which extends a distance of three contiguous miles in all directions of its corporate limits and is not located in a municipality. Any ordinance intended to have application beyond the corporate limits of the municipality shall expressly state the intention of such applications. Such ordinance shall be adopted in accordance with the provisions set forth therein.

B. The extraterritorial jurisdiction of two or more municipalities whose territorial boundaries are less than six miles apart terminates at a boundary line equidistant from the respective corporate limits of such municipalities, or at such line as is agreed to by the legislative bodies of the respective municipalities.

C. As a prerequisite to the exercise of extraterritorial jurisdiction, the membership of the planning agency charged with the preparation or administration of proposed comprehensive planning for the area of extraterritorial jurisdiction shall be increased to include at least two additional members to represent the unincorporated area. Any additional member shall be a resident of the extraterritorial jurisdiction area outside the corporate limits and shall be appointed by the board of supervisors of the county wherein the unincorporated area is situated. Any such member shall have equal rights, privileges and duties with other members of the planning agency in all matters pertaining to the plans and regulations of the unincorporated area in which they reside both in preparation of the original plans and regulations and in consideration of any proposed amendments to such plans and regulations.

D. Any municipal legislative body exercising the powers granted by this section may provide for the enforcement of its regulations for the area of extraterritorial jurisdiction in the same manner as the regulations for the area within the municipality are enforced.

E. A county may enter into an intergovernmental agreement under the provisions of title 11, chapter 7, article 3 with any tribal government, city or town within the county for the following purposes:
   1. Adoption of a joint development plan that may include land use, circulation, conservation, recreation, transportation and transit, public services and facilities, housing, economic development and public safety.

2. Adoption of a planning program addressing the timing and sequencing of public facilities and services to serve new and existing development and the staging of development in accordance with the availability of public facilities and services.
3. Adoption of a capital improvements program containing the following components:
   (a) Identification of capital improvements needed to serve new development based on adopted service levels and adequate facilities standards for roads and sewer, water and drainage facilities.
   (b) Estimated costs of construction of capital improvements and the timing of construction, expansion or extension of such facilities.
   (c) Projected funding sources for capital improvements for each type of facility.
4. Implementation of the joint development plan through the exercise of planning, zoning, subdivision or land division regulatory powers conferred by law on cities, towns or counties.
5. Implementation of the capital improvements program through any of the following:
   (a) Special assessment and county or municipal improvement districts.
   (b) Development fees.
   (c) Development agreements.
   (d) Utility fees and excise taxes.
   (e) Any other powers to finance capital improvements by cities or counties conferred by law.
   (f) The agreement shall specify how revenues derived from such measures are to be apportioned between the county and city and how such revenues are to be expended and accounted for.

F. The planning, zoning, subdivision or land division regulatory powers under subsection E, paragraph 4 may be exercised by any agency of the city, town or county as designated in the intergovernmental agreement. The agreement shall provide for:
   1. A method of assuring owners of private lands or improvements affected by a joint development plan that:
      (a) The exercise of any power conferred upon a city or county pursuant to the establishment of a joint development plan shall not impair or diminish the legal vested rights of any affected property owner.
      (b) The county shall not require as a condition of development approval of the construction of any public facility or other exaction which has been included in the calculation of a development fee enacted pursuant to a development fee ordinance unless a credit or reimbursement has been made for the reasonable or excess value of included facilities advanced, dedicated or improved by a developer.
      (c) No moratorium on final approval of subdivision plats, building permits or certificates of occupancy shall be adopted pending the adoption of the joint development plan.
      (d) A property owner shall be afforded the opportunity at a public hearing held prior to adoption and implementation of the joint development plan to present information and evidence related to any alleged deprivation of the economically

viable use of the property. If on the basis of the information and evidence presented there is reason to believe adoption or implementation of the joint development plan may result in a significant deprivation of the economically viable use of the property, adoption or implementation of the plan shall be postponed pending investigation and resolution of the alleged deprivation.

2. A method of notifying affected persons, including governmental entities, of public hearings on development decisions within the joint planning area.
3. A method of circulating development applications and recommendations for action for review by affected persons, including governmental entities.
4. Provisions for appearances at public hearings.
5. Provisions for defining aggrieved party status for administrative or judicial appeal of development decisions.

G. Notwithstanding any other extraterritorial jurisdictional limitations, the authority of an intergovernmental agreement made pursuant to subsection E may extend to a distance of twenty contiguous miles in any direction from the corporate limits of the city or town entering into such intergovernmental agreement with a county provided that the joint development plan shall apply to at least one of the following:
   1. An area of the county within a three mile radius of the corporate limits of the city or town.
   2. An area of the county within a three mile radius of an unincorporated population center where there is a reasonable expectation of annual population growth of at least six per cent using for purposes of projection the most recent United States decennial or special census.
   3. Any area within the extraterritorial jurisdiction if all the property owners consent in writing to inclusion in the development plan.

9-461.12. Joint action; cooperation with state agencies; land and facilities use

A. Municipal and county planning commissions may upon approval of their respective legislative bodies hold joint meetings concerning matters and problems which are common or impacting upon such jurisdictions.

B. Counties and municipal planning commissions, or any combination thereof, may make cooperative arrangements for a joint director of planning and for such other employees as may be required to operate a joint staff and may contract to render technical service to another commission in the same area. Such arrangements or contracts shall be approved by the legislative bodies having jurisdiction thereof.

C. State departments, agencies, boards or commissions or any political subdivision intending to acquire, dispose of, or construct upon any real property within a municipality shall, prior to such acquisition, disposal, or construction, notify the affected municipality and cooperate to the fullest extent possible to insure conformity with the adopted general plan or part thereof.

D. A county may enter into intergovernmental agreements under the provisions of title 11, chapter 7, article 3 with state departments, agencies, boards or commissions or with Indian tribes to jointly exercise powers relating to:
   1. The means of applying county land use regulations, including zoning and subdivision standards, to projects developed by lessees and transferees of agencies and tribes.
   2. The means of applying county adequate public facilities regulations pertaining to water, sewer, drainage, roads, parks and public safety, including dedication and construction requirements and development fees, to projects developed by lessees and transferees of agencies and Indian tribes.

9-461.13. Prohibited urban growth management requirements

(Caution: 1998 Prop. 105 applies)

A. There shall not be a state mandate that a city, charter city, town or county:
   1. Adopt by ordinance or otherwise any "growth management" plan, however denominated, containing any provisions relating to such issues as mandatory development fees, mandatory air and water quality controls and street and highway environmental impacts, and requiring that, before adoption, the growth management plan, amendments and exceptions be automatically referred to the voters for approval.
   2. Establish or recognize, formally or informally, urban growth boundaries, however denominated, that effectively prevent new urban development and extension of public services outside those boundaries.
   3. Apply or attempt to apply urban growth management restrictions or boundaries to lands owned or held in trust by this state, unless specifically authorized by act of the legislature.

B. There shall not be a state mandate that the attorney general file any action in any court in this state against any local government or official to enforce any provision prohibited by this section.

Arizona Revised Statues, Title 9. Cities and Towns
Chapter 4. General Powers
Article 7. Municipal Zoning

Data Source: Arizona Revised Statutes, accessed May 1, 2007 via the Arizona State Legislature web site, http://www.azleg.gov/ArizonaRevisedStatutes.asp

9-462. Definitions; general provisions concerning evidence

A. In this article, unless the context otherwise requires:
   1. "Board of adjustment" means the official body designated by local ordinance to hear and decide applications for variances from the terms of the zoning ordinance and appeals from the decision of the zoning administrator.
   2. "Municipal" or "municipality" means an incorporated city or town.
   3. "Planning agency" means the official body designated by local ordinance to carry out the purposes of this article and may be a planning department, a planning commission, a hearing officer, the legislative body itself or any combination thereof.
   4. "Zoning administrator" means the official responsible for enforcement of the zoning ordinance.
   5. "Zoning ordinance" means a municipal ordinance regulating the use of the land or structures, or both, as provided in this article.

B. Formal rules of evidence or procedure which must be followed in court shall not be applied in zoning matters, except to the extent that a municipality may provide therefor.

9-462.01. Zoning regulations; public hearing; definitions

A. Pursuant to the provisions of this article, the legislative body of any municipality by ordinance may in order to conserve and promote the public health, safety and general welfare:
   1. Regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes.
   2. Regulate signs and billboards.
   3. Regulate location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts and other open spaces, the percentage of a lot which may be occupied by a building or structure, access to incident solar energy and the intensity of land use.
   4. Establish requirements for off-street parking and loading.
   5. Establish and maintain building setback lines.
   6. Create civic districts around civic centers, public parks, public buildings or public grounds and establish regulations therefor.

7. Require as a condition of rezoning public dedication of rights-of-way as streets, alleys, public ways, drainage and public utilities as are reasonably required by or related to the effect of the rezoning.
8. Establish floodplain zoning districts and regulations to protect life and property from the hazards of periodic inundation. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.
9. Establish special zoning districts or regulations for certain lands characterized by adverse topography, adverse soils, subsidence of the earth, high water table, lack of water or other natural or man-made hazards to life or property. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.
10. Establish districts of historical significance provided that:
    (a) The ordinances may require that special permission be obtained for any development within the district if the legislative body has adopted a plan for the preservation of districts of historical significance which meets the requirements of subdivision (b) of this paragraph, and the criteria contained in the ordinance are consistent with the objectives set forth in the plan.
    (b) A plan for the preservation of districts of historical significance shall identify districts of special historical significance, state the objectives to be sought concerning the development or preservation of sites, area and structures within the district, and formulate a program for public action including the provision of public facilities and the regulation of private development and demolition necessary to realize these objectives.
    (c) The ordinance establishing districts of historical significance shall set forth standards necessary to preserve the historical character of the area so designated.
    (d) The ordinances may designate or authorize any committee, commission, department or person to designate structures or sites of special historical significance in accordance with criteria contained in the ordinance, and no designation shall be made except after a public hearing upon notice of the owners of record of the property so designated. The ordinances may require that special permission be obtained for any development respecting the structures or sites.
11. Establish age specific community zoning districts in which residency is restricted to a head of a household or spouse who must be of a specific age or older and in which minors are prohibited from living in the home. Age specific community zoning districts shall not be overlayed over property without the permission of all owners of property included as part of the district unless all of the property in the district has been developed, advertised and sold or rented under specific age restrictions. The establishment of age specific community zoning districts is subject to all of the public notice requirements and other procedures prescribed by this article.
12. Establish procedures, methods and standards for the transfer of development rights within its jurisdiction. Any proposed transfer of development rights from the sending

property or to the receiving property shall be subject to the notice and hearing requirements of section 9-462.04 and shall be subject to the approval and consent of the property owners of both the sending and receiving property. Prior to any transfer of development rights, a municipality shall adopt an ordinance providing for:

(a) The issuance and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property. These instruments shall be executed by the affected property owners and lienholders.
(b) The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner.
(c) The severance of transferable development rights from the sending property and the delayed transfer of development rights to a receiving property.
(d) The purchase, sale, exchange or other conveyance of transferable development rights prior to the rights being affixed to a receiving property.
(e) A system for monitoring the severance, ownership, assignment and transfer of transferable development rights.
(f) The right of a municipality to purchase development rights and to hold them for resale.

B. For the purposes prescribed in subsection A of this section the legislative body may divide a municipality, or portion of a municipality, into zones of the number, shape and area it deems best suited to carry out the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

C. All zoning regulations shall be uniform for each class or kind of building or use of land throughout each zone, but the regulations in one type of zone may differ from those in other types of zones as follows:

1. Within individual zones, there may be uses permitted on a conditional basis under which additional requirements must be met, including requiring site plan review and approval by the planning agency. The conditional uses are generally characterized by any of the following:
   (a) Infrequency of use.
   (b) High degree of traffic generation.
   (c) Requirement of large land area.
2. Within residential zones, the regulations may permit modifications to minimum yard lot area and height requirements.

D. To carry out the purposes of this article and articles 6 and 6.2 of this chapter, the legislative body may adopt overlay zoning districts and regulations applicable to particular buildings, structures and land within individual zones. For the purposes of this subsection, "overlay zoning district" means a special zoning district that includes regulations which modify regulations in another zoning district with which the overlay zoning district is combined. Overlay zoning districts and regulations shall be adopted pursuant to section 9-462.04.

E. The legislative body may approve a change of zone conditioned upon a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms with the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

G. No regulation or ordinance under this section may prevent or restrict agricultural composting on farmland that is five or more contiguous acres and that meets the requirements of this subsection. An agricultural composting operation shall notify in writing the legislative body of the city or town and the nearest fire department of the location of the composting operation. If the nearest fire department is located in a different city or town from the agricultural composting operation, the agricultural composting operation shall also notify in writing the fire department of the city or town in which the operation is located. Agricultural composting is subject to the provisions of sections 3-112 and 49-141. Agricultural composting may not be conducted within one thousand three hundred twenty feet of an existing residential use, unless the operations are conducted on farmland or land leased in association with farmland. Any disposal of manure shall comply with section 49-247. For purposes of this subsection:
   1. "Agricultural composting" means the controlled biological decomposition of organic solid waste under in-vessel anaerobic or aerobic conditions where all or part of the materials are generated on the farmland or will be used on the farmland associated with the agricultural composting operation.
   2. "Farmland" has the same meaning prescribed in section 3-111 and is subject to regulation under section 49-247.

H. For purposes of this section:
   1. "Development rights" means the maximum development that would be allowed on the sending property under any general or specific plan and local zoning ordinance of a municipality in effect on the date the municipality adopts an ordinance pursuant to subsection A, paragraph 12 of this section respecting the permissible use, area, bulk or height of improvements made to the lot or parcel. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation or any other criteria

that will quantify a value for the development rights in a manner that will carry out the objectives of this section.

2. "Receiving property" means a lot or parcel within which development rights are increased pursuant to a transfer of development rights. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property without substantial adverse environmental, economic or social impact to the receiving property or to neighboring property.
3. "Sending property" means a lot or parcel with special characteristics, including farmland, woodland, desert land, mountain land, floodplain, natural habitats, recreation or parkland, including golf course area, or land that has unique aesthetic, architectural or historic value that a municipality desires to protect from future development.
4. "Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.

9-462.02. Nonconformance to regulations; outdoor advertising change; enforcement

A. The municipality may acquire by purchase or condemnation private property for the removal of nonconforming uses and structures. The elimination of such nonconforming uses and structures in a zoned district is for a public purpose. Nothing in an ordinance or regulation authorized by this article shall affect existing property or the right to its continued use for the purpose used at the time the ordinance or regulation takes effect, nor to any reasonable repairs or alterations in buildings or property used for such existing purpose.

B. A municipality shall not require as a condition for a permit or for any approval, or otherwise cause, an owner or possessor of property to waive the right to continue an existing nonconforming outdoor advertising use or structure without acquiring the use or structure by purchase or condemnation and paying just compensation unless the municipality, at its option, allows the use or structure to be relocated to a comparable site in the municipality with the same or a similar zoning classification, or to another site in the municipality acceptable to both the municipality and the owner of the use or structure, and the use or structure is relocated to the other site. The municipality shall pay for relocating the outdoor advertising use or structure including the cost of removing and constructing the new use or structure that is at least the same size and height. This subsection does not apply to municipal rezoning of property at the request of the property owner.

C. A municipality must issue a citation and file an action involving an outdoor advertising use or structure zoning or sign code violation within two years after discovering the violation. Such an action shall initially be filed with a court having jurisdiction to impose all penalties sought by the action and that jurisdiction is necessary for effective filing. Only the superior court has jurisdiction to order removal, abatement, reconfiguration or relocation of an outdoor advertising use or structure. Notwithstanding any other law, a municipality shall not consider each day that an outdoor advertising use or structure is

illegally erected, constructed, reconstructed, altered or maintained as a separate offense unless the violation constitutes an immediate threat to the health and safety of the general public.

9-462.03. Amendment procedure

A. The governing body of the municipality shall adopt by ordinance a citizen review process that applies to all rezoning and specific plan applications that require a public hearing. The citizen review process shall include at least the following requirements:
   1. Adjacent landowners and other potentially affected citizens will be notified of the application.
   2. The municipality will inform adjacent landowners and other potentially affected citizens of the substance of the proposed rezoning.
   3. Adjacent landowners and other potentially affected citizens will be provided an opportunity to express any issues or concerns that they may have with the proposed rezoning before the public hearing.

B. A zoning ordinance that changes any property from one zone to another, that imposes any regulation not previously imposed or that removes or modifies any such regulation previously imposed must be adopted following the procedure prescribed in the citizen review process and in the manner set forth in section 9-462.04.

9-462.04. Public hearing required

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 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 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 other manner as it may deem necessary or desirable.

3. In proceedings that are not initiated by the property owner involving rezoning of land which 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:
   (a) A ten per cent or more increase or decrease in the number of square feet or units that may be developed.
   (b) A ten per cent 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 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, 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 changes with such utility bills or other mailings.
   (c) The municipality shall publish such changes prior to 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), 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, the failure of any person or entity to receive notice shall 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 public hearing has 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 notice of the hearing in such other manner as it may deem 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 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 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, file a protest in writing against a proposed amendment, it 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.

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 is not owned by the municipality and which changes the zoning classification of such land may not be enacted as an emergency

measure and such change shall not be effective for at least thirty days after final approval of the change in classification by the governing body.

9-462.05. Enforcement

A. The legislative body of a municipality has authority to enforce any zoning ordinance enacted pursuant to this article in the same manner as other municipal ordinances are enforced.

B. If any building structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of the provisions of this article or of any ordinance adopted pursuant to the provisions of this article, the legislative body of the municipality may institute any appropriate action to:
   1. Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
   2. Restrain, correct or abate the violation.
   3. Prevent the occupancy of such building, structure or land.
   4. Prevent any illegal act, conduct, business or use in or about such premises.

C. By ordinance, the legislative body shall establish the office of zoning administrator. The zoning administrator is charged with responsibility for enforcement of the zoning ordinance.

D. By ordinance, the legislative body shall establish all necessary and appropriate rules and procedures governing application for zoning amendment, review and approval of plans, issuance of any necessary permits or compliance certificates, inspection of buildings, structures and lands and any other actions which may be considered necessary or desirable for enforcement of the zoning ordinance.

9-462.06. Board of adjustment

A. The legislative body shall, by ordinance, establish a board of adjustment, which shall consist of not less than five nor more than seven members appointed by the legislative body in accordance with provisions of the ordinance, except that the ordinance may establish the legislative body as the board of adjustment. The legislative body may, by ordinance, delegate to a hearing officer the authority to hear and decide on matters within the jurisdiction of the board of adjustment as provided by this section, except that the right of appeal from the decision of a hearing officer to the board of adjustment shall be preserved.

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

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

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

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

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

G. A board of adjustment shall:
   1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article.
   2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
   3. Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the zoning administrator appealed from, and make such order, requirement, decision or determination as necessary.

H. A board of adjustment may not:
   1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.
   2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

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

J. In a municipality with a population of more than one hundred thousand persons according to the latest United States decennial census, the legislative body, by ordinance, may provide that a person aggrieved by a decision of the board or a taxpayer, officer or department of the municipality affected by a decision of the board may file, at any time within fifteen days after the board has rendered its decision, an appeal with the clerk of the legislative body. The legislative body shall hear the appeal in accordance with procedures adopted by the legislative body and may affirm or reverse, in whole or in part, or modify the board's decision.

K. A person aggrieved by a decision of the legislative body or board or a taxpayer, officer or department of the municipality affected by a decision of the legislative body or board may, at any time within thirty days after the board, or the legislative body, if the board decision was appealed pursuant to subsection J of this section, has rendered its decision, file a complaint for special action in the superior court to review the legislative body or board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

9-462.07. Extraterritorial jurisdiction

A. In any county not having a county zoning ordinance applicable to the unincorporated territory, the legislative body of a municipality may exercise the zoning powers granted in this article both to territory within its corporate limits and to that which extends a distance of three contiguous miles in all directions of its corporate limits and is not located in a municipality. Any ordinance intended to have application beyond the corporate limits of the municipality shall expressly state the intention of such application. Such ordinance shall be adopted in accordance with the provisions set forth therein.

B. The extraterritorial jurisdiction of two or more municipalities whose boundaries are less than six miles apart terminates at a boundary line equidistant from the respective corporate limits of such municipalities, or at such line as is agreed to by the legislative bodies of the respective municipalities.

C. As a prerequisite to the exercise of extraterritorial jurisdiction the membership of the planning agency charged with the preparation or administration of proposed comprehensive zoning regulations for the area of extraterritorial jurisdiction shall be increased to include two additional members to represent the unincorporated area. Any additional member shall be a resident of the three mile area outside the corporate limits and be appointed by the legislative body of the county wherein the unincorporated area is situated. Any additional member shall have equal rights, privileges and duties with the other members of the planning agency in all matters pertaining to the plans and regulations of the unincorporated area in which they reside, both in preparation of the original plans and regulations and in consideration of any proposed amendments to such plans and regulations.

D. If a municipal governing body adopts zoning regulations for the area outside its corporate limits, it shall increase the membership of the board of adjustment by adding one or two

additional members. Any such member shall be a resident of the area of extraterritorial jurisdiction outside the corporate limits and shall be appointed by the legislative body of the county wherein the unincorporated area is situated. Any such member shall have equal rights, privileges, and duties with other members of the board of zoning adjustment in all matters pertaining to the regulation of the unincorporated area in which they reside. The concurring vote of a majority of the members of the enlarged board is necessary to reverse any order, requirement, decision or determination of an administrative official charged with the enforcement of an ordinance.

E. Any municipal legislative body exercising the powers granted by this section may provide for the enforcement of its regulations for the area of extraterritorial jurisdiction in the same manner as the regulations for the area within the municipality are enforced.

9-462.08. Hearing officer

A. The legislative body of any municipality may establish the position of hearing officer and delegate to a hearing officer the authority to conduct hearings required by section 9-462.04 and on other matters as the legislative body may provide by ordinance.

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

Arizona Revised Statues, Title 38. Public Officers and Employees
Chapter 3. Conduct of Office
Article 3.1. Public Meetings and Proceedings

Data Source: Arizona Revised Statutes, accessed May 1, 2007 via the Arizona State Legislature web site, http://www.azleg.gov/ArizonaRevisedStatutes.asp

38-431. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" means a committee that is officially established, upon motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.
2. "Executive session" means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.
3. "Legal action" means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.
4. "Meeting" means the gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action.
5. "Political subdivision" means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.
6. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of the state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by the state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, such public body.
7. "Quasi-judicial body" means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies, except for subcommittees and advisory committees, shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, such minutes or recording shall include, but not be limited to:
   1. The date, time and place of the meeting.
   2. The members of the public body recorded as either present or absent.
   3. A general description of the matters considered.
   4. An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

D. The minutes or a recording shall be open to public inspection three working days after the meeting except as otherwise specifically provided by this article. The public bodies of the cities and towns with a population of more than two thousand five hundred persons that have an internet web site shall post a statement showing the legal actions taken by the public body of a city or town during a meeting or any recordings on their internet web site for public inspection within three working days after the meeting and shall also post the approved minutes of all city or town council meetings within two working days following approval of the minutes, except as otherwise specifically provided by this article.

E. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

F. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall distribute open meeting law materials prepared and approved by the attorney general to a person elected or appointed to a public body prior to the day that person takes office.

G. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open

call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

H. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:
   1. The public bodies of the state shall file a statement with the secretary of state stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
   2. The public bodies of the counties, school districts and other special districts shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
   3. The public bodies of the cities and towns shall file a statement with the city clerk or mayor's office stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
   4. The public bodies of the cities and towns that have an internet web site shall post all public notices of their meetings on their internet web site and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a city or town web site or that temporarily or permanently prevents the usage of all or part of the web site does not preclude the holding of the meeting for which the notice was posted if all other public notice requirements required by this section are complied with.

B. If an executive session will be held, the notice shall be given to the members of the public body, and to the general public, stating the specific provision of law authorizing the executive session.

C. Except as provided in subsections D and E, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A, and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during such calendar period, and at a regular place and time, may post public notice of such meetings at the beginning of such period. Such notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours prior to the meeting, except in the case of an actual emergency under subsection D.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. Such agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, where the matter was not listed on the agenda provided that a statement setting forth the reasons necessitating such discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately prior to the executive session.

K. Notwithstanding subsection H, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, provided that:
   1. The summary is listed on the agenda.
   2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.
2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.
3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.
5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

B. Minutes of and discussions made at executive sessions shall be kept confidential except from:
   1. Members of the public body which met in executive session.
   2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.
   3. The auditor general on a request made in connection with an audit authorized as provided by law.
   4. A county attorney or the attorney general when investigating alleged violations of this article.

C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.

D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in

subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.

E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

38-431.04. Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

38-431.05. Meeting held in violation of article; business transacted null and void; ratification

A. All legal action transacted by any public body during a meeting held in violation of any provision of this article is null and void except as provided in subsection B.

B. A public body may ratify legal action taken in violation of this article in accordance with the following requirements:
   1. Ratification shall take place at a public meeting within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.
   2. The notice for the meeting shall include a description of the action to be ratified, a clear statement that the public body proposes to ratify a prior action and information on how the public may obtain a detailed written description of the action to be ratified.
   3. The public body shall make available to the public a detailed written description of the action to be ratified and all deliberations, consultations and decisions by members of the public body that preceded and related to such action. The written description shall also be included as part of the minutes of the meeting at which ratification is taken.
   4. The public body shall make available to the public the notice and detailed written description required by this section at least seventy-two hours in advance of the public meeting at which the ratification is taken.

38-431.06. Investigations; written investigative demands

A. On receipt of a written complaint signed by a complainant alleging a violation of this article or on their own initiative, the attorney general or the county attorney for the county in which the alleged violation occurred may begin an investigation.

B. In addition to other powers conferred by this article, in order to carry out the duties prescribed in this article, the attorney general or the county attorney for the county in which the alleged violation occurred, or their designees, may:
   1. Issue written investigative demands to any person.
   2. Administer an oath or affirmation to any person for testimony.
   3. Examine under oath any person in connection with the investigation of the alleged violation of this article.
   4. Examine by means of inspecting, studying or copying any account, book, computer, document, minutes, paper, recording or record.
   5. Require any person to file on prescribed forms a statement or report in writing and under oath of all the facts and circumstances requested by the attorney general or county attorney.

C. The written investigative demand shall:
   1. Be served on the person in the manner required for service of process in this state or by certified mail, return receipt requested.
   2. Describe the class or classes of documents or objects with sufficient definiteness to permit them to be fairly identified.
   3. Prescribe a reasonable time at which the person shall appear to testify and within which the document or object shall be produced and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or county attorney on or before that time.
   4. Specify a place for the taking of testimony or for production of a document or object and designate a person who shall be the custodian of the document or object.

D. If a person objects to or otherwise fails to comply with the written investigation demand served on the person pursuant to subsection C, the attorney general or county attorney may file an action in the superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in Maricopa county or in the county in which the alleged violation occurred. Notice of hearing the action to enforce the demand and a copy of the action shall be served on the person in the same manner as that prescribed in the Arizona rules of civil procedure. If a court finds that the demand is proper, including that the compliance will not violate a privilege and that there is not a conflict of interest on the part of the attorney general or county attorney, that there is reasonable cause to believe there may have been a violation of this article and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe. If the person fails to comply with the court's order, the court may issue any of the following orders until the person complies with the order:
   1. Adjudging the person in contempt of court.

2. Granting injunctive relief against the person to whom the demand is issued to restrain the conduct that is the subject of the investigation.
3. Granting other relief the court deems proper.

38-431.07. Violations; enforcement; removal from office; in camera review

A. Any person affected by an alleged violation of this article, the attorney general or the county attorney for the county in which an alleged violation of this article occurred may commence a suit in the superior court in the county in which the public body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of, this article, by members of the public body, or to determine the applicability of this article to matters or legal actions of the public body. For each violation the court may impose a civil penalty not to exceed five hundred dollars against a person who violates this article or who knowingly aids, agrees to aid or attempts to aid another person in violating this article and order such equitable relief as it deems appropriate in the circumstances. The civil penalties awarded pursuant to this section shall be deposited into the general fund of the public body concerned. The court may also order payment to a successful plaintiff in a suit brought under this section of the plaintiff's reasonable attorney fees, by the defendant state, the political subdivision of the state or the incorporated city or town of which the public body is a part or to which it reports. If the court determines that a public officer with intent to deprive the public of information violated any provision of this article the court may remove the public officer from office and shall assess the public officer or a person who knowingly aided, agreed to aid or attempted to aid the public officer in violating this article, or both, with all of the costs and attorney fees awarded to the plaintiff pursuant to this section.

B. A public body shall not expend public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced pursuant to any provisions of this article, unless the public body has authority to make such expenditure pursuant to other provisions of law and takes a legal action at a properly noticed open meeting approving such expenditure prior to incurring any such obligation or indebtedness.

C. In any action brought pursuant to this section challenging the validity of an executive session, the court may review in camera the minutes of the executive session, and if the court in its discretion determines that the minutes are relevant and that justice so demands, the court may disclose to the parties or admit in evidence part or all of the minutes

38-431.08. Exceptions; limitation

A. This article does not apply to:
   1. Any judicial proceeding of any court or any political caucus of the legislature.
   2. Any conference committee of the legislature, except that all such meetings shall be open to the public.

3. The commissions on appellate and trial court appointments and the commission on judicial qualifications.
4. Good cause exception determinations and hearings conducted by the board of fingerprinting pursuant to section 41-619.55.

B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:
1. Prohibit, on written findings that are made public within five days of so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.
2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification which verifies the person's signature.
3. Prevent and prohibit any articles from being taken into a hearing except recording devices, and if the person who attends a hearing is a member of the media, cameras.
4. Require that a person who attends a hearing submit to a reasonable search on entering the facility.

C. The exclusive remedies available to any person who is denied attendance at or removed from a hearing by the director of the state department of corrections in violation of this section shall be those remedies available in section 38-431.07, as against the director only.

D. Either house of the legislature may adopt a rule or procedure pursuant to article IV, part 2, section 8, Constitution of Arizona, to provide an exemption to the notice and agenda requirements of this article or to allow standing or conference committees to meet through technological devices rather than only in person

38-431.09. Declaration of public policy

It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe any provision of this article in favor of open and public meetings