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## Planning Commission Meeting

**TO:** PLANNING COMMISSION

**FROM:** EVA CUTRO, AICP, PLANNING MANAGER   
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**MEETING DATE:** NOVEMBER 6, 2024

**SUBJECT:** Z24-13 LDC TEXT AMENDMENT: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, SECTION 6.2 COMMON PROCEDURES, AND SECTION 6.7 AMENDMENTS TO ZONING CODE TEXT, A ZONING ORDINANCE OR THE OFFICIAL ZONING MAP. THE EFFECT OF THE AMENDMENT WILL BE TO CLARIFY THE CODE, ADDRESS ADMINISTRATIVE COMPLETENESS OF RESIDENTIAL ZONING APPLICATIONS, TIMEFRAME TO APPROVE OR DENY RESIDENTIAL ZONING APPLICATIONS, PROTEST PROCEDURES, AND MAKE TECHNICAL AND CONFORMING CHANGES.

**STRATEGIC INITIATIVE:** Exceptional Built Environment

The proposed text amendment will make conforming changes to comply with Senate Bill 1162.

### RECOMMENDED MOTION

For the reasons set forth in the staff report, move to recommend approval to the Town Council of Z24-13.

## **DISCUSSION**

### History

Date	Description
April 23, 2024	Arizona SB 1162 was approved.
September 24, 2024	Planning Commission held a citizen review and initiated Z24-13 relating to SB 1162
October 22, 2024	Town Council Study Session

On a continual basis, staff seek ways to improve the content and usefulness of the Land Development Code (LDC). With the recent end to the legislative session, staff have identified the need to update the Land Development Code to comply with recently adopted legislation. The Senate, with the adoption of Senate Bill 1162, requires that municipalities comply with timeframes for review on all residential zoning applications. Sample language follows:

### ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME

For each residential zoning application, the Planning Manager or designated staff member shall determine whether the application is administratively complete within thirty (30) days after receiving the application. If the application is deemed administratively incomplete, the staff member will provide the applicant with a written notice that includes a comprehensive list of the specific deficiencies. Upon issuance of the written notice, the administrative completeness review time frame and overall time frame contained in this Section are suspended until the staff member receives the resubmitted application. The staff member shall have fifteen (15) days to review the resubmitted application and determine whether every deficiency has been resolved for administrative completeness.

Exceptions. This Section does not apply to:

- (1) Land that is designated as a district of historical significance pursuant to Ariz. Rev. Stat. § 9-462.01(a); and
- (2) An area that is designated as historic on the national register of historic places;
- (3) Land that is already zoned as a planned area development (PAD).

### FINAL DECISIONS

For all applications other than Residential Zoning:

A final decision shall be deemed to have been made at the time action is taken by the Board of Adjustment, Planning Commission, Design Review Board, Redevelopment Commission, or Town Council. If action is not taken at a public meeting, a final decision shall be deemed to have been made on the date of issuance of Notice of Decision by the Zoning Hearing Officer, Zoning Administrator, or Planning Manager.

For Residential Zoning applications:

After determining that a residential zoning application is administratively complete, the Town Council shall approve or deny the application within one hundred eighty (180) days. The Town may extend the time frame to approve or deny beyond one hundred eighty (180) days as follows:

- (1) staff may grant a one-time extension of not more than thirty (30) days for extenuating circumstances; or
- (2) staff may grant extensions in thirty (30) days increments at the request of the applicant.

SB 1162 also contains language to clarify the protest procedures for a super majority vote. The existing code language shall be modified to exclude government owned property from the protest; and clarify the process should a Councilmember have a conflict of interest.

Regulations must be adopted by January 1, 2025.

## **PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town and an official notice was posted in all the required public places within the Town of Gilbert limits. The notification requirements of LDC Section 6.2.6 have been satisfied.

A Citizen Review meeting was held at the September 24, 2024, Planning Commission meeting. No citizens spoke at this meeting regarding the proposed text amendment.

Staff have received no comment from the public currently.

## **STAFF RECOMMENDATION**

Recommend to the Town Council approval of Z24-13, a request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 6.2 Common Procedures, and Section 6.7 Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map. The effect of the amendment will be to clarify the Code, address administrative completeness of residential zoning applications, timeframe to approve or deny residential zoning applications, protest procedures, and make technical and conforming changes.

Respectfully submitted,



Eva Cutro  
Planning Manager

## **Attachments and Enclosures:**

- 1) Notice of Public Hearing
- 2) SB1162



## **NOTICE OF PUBLIC HEARING**

PURSUANT TO ARS Sections 39-204 & 9-462.04, NOTICE IS HEREBY GIVEN OF PUBLIC HEARING in the Town of Gilbert, Arizona, relating to the following requests for changes in land use regulations:

**Z24-05 LDC TEXT AMENDMENT:** Request to amend the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 2.0 Terms, related to the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 5.2.3 Incidental Dwelling Unit.

**Z24-13 LDC TEXT AMENDMENT – ZONING APPLICATIONS:** Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 6.2 Common Procedures, and Section 6.7 Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map. The effect of the amendment will be to clarify the Code, address administrative completeness of zoning applications, timeframe to approve or deny zoning applications, protest procedures, and make technical and conforming changes.

**Z24-09 LDC TEXT AMENDMENT:** Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 3 Base Zoning Districts and Use Regulations, Section 2 Terms, Section 5 Additional Use and Site Regulations, and Section 6 Administrations. The effect of the amendment will be to clarify the Code, address adaptive reuse, and make technical and conforming changes.

**The applications and project files may be viewed by the public Monday through Thursday, 7:00 am to 6:00 pm at the Town of Gilbert, Planning and Development Services office located at 90 East Civic Center Drive, Gilbert, AZ. Written comments may be sent to Town of Gilbert, Planning and Development Services, 90 East Civic Center Drive, Gilbert, AZ 85296. Written comments may also be submitted at the public hearing. Any interested person may appear and be heard at the following public hearing:**

**Planning Commission: Wednesday, November 6, 2024 at 5:00 p.m.**

**Gilbert Municipal Center, Council Chambers, 50 East Civic Center Drive, Gilbert, AZ**

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Chaveli Herrera, Town Clerk

House Engrossed Senate Bill

~~telecommunications fund; report; posting~~  
(now: residential zoning; housing; assessment; hearings)

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

**CHAPTER 172**  
**SENATE BILL 1162**

AN ACT

AMENDING SECTION 9-462.04, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-462.10; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-469; RELATING TO MUNICIPALITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-462.04. Public hearing required; definition

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

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

19 2. In proceedings involving rezoning of land that abuts other  
20 municipalities or unincorporated areas of the county or a combination of a  
21 municipality and an unincorporated area, copies of the notice of public  
22 hearing shall be transmitted to the planning agency of the governmental  
23 unit abutting such land. In proceedings involving rezoning of land that  
24 is located within the territory in the vicinity of a military airport or  
25 ancillary military facility as defined in section 28-8461, the  
26 municipality shall send copies of the notice of public hearing by first  
27 class mail to the military airport. In addition to notice by publication,  
28 a municipality may give notice of the hearing in any other manner that the  
29 municipality deems necessary or desirable.

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

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

40 (a) A ten percent or more increase or decrease in the number of  
41 square feet or units that may be developed.

42 (b) A ten percent or more increase or reduction in the allowable  
43 height of buildings.

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

3 (d) A ten percent or more increase or decrease in setback or open  
4 space requirements.

5 (e) An increase or reduction in permitted uses.

6 5. In proceedings governed by paragraph 4 of this subsection, the  
7 municipality shall provide notice to real property owners pursuant to at  
8 least one of the following notification procedures:

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

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

16 (c) The municipality shall publish the changes before the first  
17 hearing on such changes in a newspaper of general circulation in the  
18 municipality. The changes shall be published in a "display ad" covering  
19 not less than one-eighth of a full page.

20 6. If notice is provided pursuant to paragraph 5, subdivision (b)  
21 or (c) of this subsection, the municipality shall also send notice by  
22 first class mail to persons who register their names and addresses with  
23 the municipality as being interested in receiving such notice. The  
24 municipality may charge a fee not to exceed \$5 per year for providing this  
25 service and may adopt procedures to implement this paragraph.

26 7. Notwithstanding the notice requirements in paragraph 4 of this  
27 subsection, the failure of any person or entity to receive notice does not  
28 constitute grounds for any court to invalidate the actions of a  
29 municipality for which the notice was given.

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

35 C. After the hearing, the planning commission or hearing officer  
36 shall render a decision in the form of a written recommendation to the  
37 governing body. The recommendation shall include the reasons for the  
38 recommendation and be transmitted to the governing body in the form and  
39 manner prescribed by the governing body.

40 D. If the planning commission or hearing officer has held a public  
41 hearing, the governing body may adopt the recommendations of the planning  
42 commission or hearing officer without holding a second public hearing if  
43 there is no objection, request for public hearing or other protest. The  
44 governing body shall hold a public hearing if requested by the party  
45 aggrieved or any member of the public or of the governing body, or, in any



1 case, if a public hearing has not been held by the planning commission or  
2 hearing officer. The governing body may consider the testimony of any  
3 party aggrieved when making its decision. In municipalities with  
4 territory in the vicinity of a military airport or ancillary military  
5 facility as defined in section 28-8461, the governing body shall hold a  
6 public hearing if, after notice is transmitted to the military airport  
7 pursuant to subsection A of this section and before the public hearing,  
8 the military airport provides comments or analysis concerning the  
9 compatibility of the proposed rezoning with the high noise or accident  
10 potential generated by military airport or ancillary military facility  
11 operations that may have an adverse impact on public health and safety,  
12 and the governing body shall consider and analyze the comments or analysis  
13 before making a final determination. Notice of the time and place of the  
14 hearing shall be given in the time and manner provided for the giving of  
15 notice of the hearing by the planning commission as specified in  
16 subsection A of this section. A municipality may give additional notice  
17 of the hearing in any other manner as the municipality deems necessary or  
18 desirable. For the purposes of this subsection, "party aggrieved" means  
19 any property owner within the notification area prescribed by subsection  
20 A, paragraph 3 of this section.

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

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

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

30 H. If the owners of twenty percent or more of the property by area  
31 and number of lots, tracts and condominium units within the zoning area of  
32 the affected property, **EXCLUDING GOVERNMENT OWNED PROPERTY**, file a protest  
33 in writing against a proposed amendment, the change shall not become  
34 effective except by the favorable vote of three-fourths of all members of  
35 the governing body of the municipality. If any members of the governing  
36 body are unable to vote on such a question because of a conflict of  
37 interest, then the required number of votes for passage of the question  
38 shall be three-fourths of the remaining membership of the governing body,  
39 provided that such required number of votes shall not be less than a  
40 majority of the full membership of the legally established governing body.  
41 For the purposes of this subsection, the vote shall be rounded to the  
42 nearest whole number. A protest filed pursuant to this subsection shall  
43 be signed by the property owners, **EXCLUDING GOVERNMENT OWNED PROPERTY**,  
44 opposing the proposed amendment and filed in the office of the clerk of  
45 the municipality not later than 12:00 noon one business day before the

1 date on which the governing body will vote on the proposed amendment or on  
2 an earlier time and date established by the governing body.

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

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

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

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

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

19 Sec. 2. Title 9, chapter 4, article 6.1, Arizona Revised Statutes,  
20 is amended by adding section 9-462.10, to read:

21 9-462.10. Residential zoning; amendment; applications;  
22 deadline; extensions; applicability

23 A. ON OR BEFORE JANUARY 1, 2025, A MUNICIPALITY SHALL ADOPT AN  
24 AMENDMENT TO THE MUNICIPALITY'S ZONING ORDINANCE THAT REQUIRES THE  
25 MUNICIPALITY TO DETERMINE WHETHER A ZONING APPLICATION IS ADMINISTRATIVELY  
26 COMPLETE WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION. IF THE  
27 MUNICIPALITY DETERMINES THAT THE APPLICATION IS NOT ADMINISTRATIVELY  
28 COMPLETE, THE MUNICIPALITY SHALL FOLLOW THE PROCEDURES PRESCRIBED IN  
29 SECTION 9-835, SUBSECTION E UNTIL THE APPLICATION IS ADMINISTRATIVELY  
30 COMPLETE. THE MUNICIPALITY SHALL DETERMINE WHETHER A RESUBMITTED  
31 APPLICATION IS ADMINISTRATIVELY COMPLETE WITHIN FIFTEEN DAYS AFTER  
32 RECEIVING THE RESUBMITTED APPLICATION. AFTER DETERMINING THAT THE  
33 APPLICATION IS ADMINISTRATIVELY COMPLETE, THE MUNICIPALITY SHALL APPROVE  
34 OR DENY THE APPLICATION WITHIN ONE HUNDRED EIGHTY DAYS.

35 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE MUNICIPALITY  
36 MAY EXTEND THE TIME FRAME TO APPROVE OR DENY THE REQUEST BEYOND ONE  
37 HUNDRED EIGHTY DAYS FOR EITHER OF THE FOLLOWING REASONS:

38 1. FOR EXTENUATING CIRCUMSTANCES, THE MUNICIPALITY MAY GRANT A  
39 ONETIME EXTENSION OF NOT MORE THAN THIRTY DAYS.

40 2. IF AN APPLICANT REQUESTS AN EXTENSION, THE MUNICIPALITY MAY  
41 GRANT EXTENSIONS OF THIRTY DAYS FOR EACH EXTENSION GRANTED.

42 C. THIS SECTION DOES NOT APPLY TO LAND THAT IS DESIGNATED AS A  
43 DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO SECTION 9-462.01,  
44 SUBSECTION A, PARAGRAPH 10 OR AN AREA THAT IS DESIGNATED AS HISTORIC ON  
45 THE NATIONAL REGISTER OF HISTORIC PLACES OR PLANNED AREA DEVELOPMENTS.

1           Sec. 3. Title 9, chapter 4, article 6.4, Arizona Revised Statutes,  
2 is amended by adding section 9-469, to read:

3           9-469. Municipal housing needs assessment; annual report;  
4                                   applicability

5           A. BEGINNING JANUARY 1, 2025 AND EVERY FIVE YEARS THEREAFTER, A  
6 MUNICIPALITY SHALL PUBLISH A HOUSING NEEDS ASSESSMENT THAT INCLUDES THE  
7 FOLLOWING:

8           1. THE TOTAL POPULATION GROWTH PROJECTED FOR THE SUBSEQUENT  
9 FIVE-YEAR PERIOD.

10           2. THE TOTAL JOB GROWTH PROJECTED FOR THE SUBSEQUENT FIVE-YEAR  
11 PERIOD.

12           3. THE TOTAL AMOUNT OF RESIDENTIALLY ZONED LAND WITH DETAIL ON LAND  
13 ZONED AS SINGLE-FAMILY AND MULTIFAMILY.

14           4. THE TOTAL NEED FOR ADDITIONAL RESIDENTIAL HOUSING UNITS FOR RENT  
15 AND FOR SALE IN THE MUNICIPALITY TO MEET:

16           (a) ANY DEFICIENCIES IN HOUSING THE EXISTING POPULATION.

17           (b) ANY DEFICIENCIES IN HOUSING THE EXISTING WORKFORCE.

18           (c) POPULATION GROWTH PROJECTIONS.

19           (d) JOB GROWTH PROJECTIONS.

20           (e) HOUSING NEEDS ACROSS ALL VARIOUS INCOME LEVELS.

21           B. BEGINNING JANUARY 1, 2025 AND EVERY YEAR THEREAFTER, EACH  
22 MUNICIPALITY SHALL SUBMIT AN ANNUAL REPORT TO THE ARIZONA DEPARTMENT OF  
23 HOUSING ACCOUNTING FOR THE TOTAL NUMBER OF PROPOSED RESIDENTIAL HOUSING  
24 UNITS SUBMITTED TO THE MUNICIPALITY, THE TOTAL NUMBER OF NET NEW  
25 RESIDENTIAL HOUSING UNITS SUBMITTED TO THE MUNICIPALITY AND THE TOTAL  
26 NUMBER OF NEW RESIDENTIAL HOUSING UNITS THAT ARE ENTITLED, HAVE BEEN  
27 PLATTED, HAVE BEEN ISSUED A BUILDING PERMIT AND HAVE RECEIVED A  
28 CERTIFICATE OF OCCUPANCY BY THE MUNICIPALITY. THE ANNUAL REPORT SHALL  
29 INCLUDE ALL OF THE FOLLOWING:

30           1. THE NUMBER OF HOUSING DEVELOPMENT APPLICATIONS RECEIVED IN THE  
31 PRIOR YEAR.

32           2. THE NUMBER OF LOTS AND MULTIFAMILY UNITS INCLUDED IN ALL  
33 DEVELOPMENT APPLICATIONS IN THE PRIOR YEAR.

34           3. THE NUMBER OF LOTS AND MULTIFAMILY UNITS APPROVED AND  
35 DISAPPROVED OR OTHERWISE NOT APPROVED IN THE PRIOR YEAR.

36           4. A THRESHOLD PERCENTAGE REQUIREMENT OF MULTIFAMILY ZONED LAND  
37 VERSUS SINGLE-FAMILY ZONED LAND NEEDED TO MEET POPULATION DEMAND IN EACH  
38 MUNICIPALITY.

39           5. THE STATUS AND PROGRESS IN MEETING THE MUNICIPALITY'S HOUSING  
40 NEEDS.

41           6. A PLAN THAT SPECIFIES HOW THE MUNICIPALITY INTENDS TO SATISFY  
42 THE IDENTIFIED NEED FOR ADDITIONAL HOUSING UNITS WITHIN THE MUNICIPALITY.

43           C. A MUNICIPALITY THAT HAS CONDUCTED A HOUSING NEEDS ASSESSMENT  
44 REPORT AS OF JANUARY 1, 2021 SHALL AMEND ALL EXISTING REPORTS TO INCLUDE  
45 THE INFORMATION REQUIRED IN SUBSECTION A OF THIS SECTION.

1           D. THE ARIZONA DEPARTMENT OF HOUSING SHALL COMPILE THE REPORTS  
2 RECEIVED PURSUANT TO SUBSECTION B OF THIS SECTION AND SUBMIT THE REPORTS  
3 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE  
4 OF REPRESENTATIVES.  
5           E. THIS SECTION DOES NOT REQUIRE A MUNICIPALITY TO FULFILL THE  
6 PROJECTIONS IN THE HOUSING NEEDS ASSESSMENT REQUIRED BY SUBSECTION A OF  
7 THIS SECTION.  
8           F. THIS SECTION DOES NOT APPLY TO A MUNICIPALITY THAT IS LOCATED ON  
9 TRIBAL LAND OR A MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY  
10 THOUSAND PERSONS.

APPROVED BY THE GOVERNOR APRIL 23, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2024.