

REFERENCE TITLE: parcel splits; annexations; taxing districts

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2091

Introduced by
Representative Nelson

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 1, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-272; RELATING TO REAL PROPERTY PARCEL BOUNDARIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-471, Arizona Revised Statutes, is amended to
3 read:

4 9-471. Annexation of territory; procedures; notice; petitions;
5 access to information; restrictions

6 A. The following procedures are required to extend and increase the
7 corporate limits of a city or town by annexation:

8 1. A city or town shall file in the office of the county recorder of
9 the county in which the annexation is proposed a blank petition required by
10 paragraph 4 of this subsection setting forth a description and an accurate
11 map of all the exterior boundaries of the territory contiguous to the city or
12 town proposed to be annexed, except that a city or town shall not file an
13 annexation petition that includes any territory for which an unsuccessful
14 annexation was attempted by the same city or town until at least forty-five
15 days after completion of the unsuccessful attempt. A property owner may
16 waive the forty-five day waiting period for ~~their~~ THE OWNER'S property that
17 was part of the original unsuccessful annexation. FOR ANY ANNEXATION
18 PETITION THAT IS FILED AFTER NOVEMBER 1, 2007, THE PROPOSED BOUNDARIES SHALL
19 INCLUDE ONLY ENTIRE PARCELS OF REAL PROPERTY AS DETERMINED BY THE COUNTY
20 ASSESSOR AND SHALL NOT SPLIT PARCELS. Notice and a copy of the filing shall
21 be given to the clerk of the board of supervisors and to the county
22 assessor. The accurate map shall include all county rights-of-way and
23 roadways with no taxable value that are within or contiguous to the exterior
24 boundaries of the area of the proposed annexation. If state land, other than
25 state land utilized as state rights-of-way or land held by the state by tax
26 deed, is included in the territory, written approval of the state land
27 commissioner and the selection board established by section 37-202 shall also
28 be filed. For the purposes of this paragraph, "unsuccessful annexation"
29 means an annexation attempt that was withdrawn or that was not completed
30 pursuant to this section.

31 2. Signatures on petitions filed for annexation shall not be obtained
32 for a waiting period of thirty days after filing the blank petition.

33 3. After filing the blank petition pursuant to paragraph 1 of this
34 subsection, the governing body of the city or town shall hold a public
35 hearing within the last ten days of the thirty day waiting period to discuss
36 the annexation proposal. The public hearing shall be held in accordance with
37 title 38, chapter 3, article 3.1, except that, notwithstanding section
38 38-431.02, subsections C and D, the following notices of the public hearing
39 to discuss the annexation proposal shall be given at least six days before
40 the hearing:

41 (a) Publication at least once in a newspaper of general circulation,
42 which is published or circulated in the city or town and the territory
43 proposed to be annexed, at least fifteen days before the end of the waiting
44 period.

1 (b) Posting in at least three conspicuous public places in the
2 territory proposed to be annexed.

3 (c) Notice by first class mail sent to the chairman of the board of
4 supervisors of the county in which the territory proposed to be annexed is
5 located.

6 (d) Notice by first class mail with an accurate map of the territory
7 proposed to be annexed sent to each owner of the real and personal property
8 as shown on the list furnished pursuant to subsection G of this section that
9 would be subject to taxation by the city or town in the event of annexation
10 in the territory proposed to be annexed. For the purposes of this
11 subdivision, "real and personal property" includes mobile, modular and
12 manufactured homes and trailers only if the owner also owns the underlying
13 real property.

14 4. Within one year after the last day of the thirty day waiting period
15 a petition in writing signed by the owners of one-half or more in value of
16 the real and personal property and more than one-half of the persons owning
17 real and personal property that would be subject to taxation by the city or
18 town in the event of annexation, as shown by the last assessment of the
19 property, may be circulated and filed in the office of the county recorder.
20 For the purposes of this paragraph, "real and personal property" includes
21 mobile, modular and manufactured homes and trailers only if the owner also
22 owns the underlying real property.

23 5. No alterations increasing or reducing the territory sought to be
24 annexed shall be made after a petition has been signed by a property owner.

25 6. The petitioner shall determine and submit a sworn affidavit
26 verifying that no part of the territory for which the filing is made is
27 already subject to an earlier filing for annexation. The county recorder
28 shall not accept a filing for annexation without the sworn affidavit.

29 B. All information contained in the filings, the notices, the
30 petition, tax and property rolls and other matters regarding a proposed or
31 final annexation shall be made available by the appropriate official for
32 public inspection during regular office hours.

33 C. Any city or town, the attorney general, the county attorney, or any
34 other interested party may upon verified petition move to question the
35 validity of the annexation for failure to comply with this section. The
36 petition shall set forth the manner in which it is alleged the annexation
37 procedure was not in compliance with this section and shall be filed within
38 thirty days after adoption of the ordinance annexing the territory by the
39 governing body of the city or town and not otherwise. The burden of proof
40 shall be upon the petitioner to prove the material allegations of the
41 verified petition. No action shall be brought to question the validity of an
42 annexation ordinance unless brought within the time and for the reasons
43 provided in this subsection. All hearings provided by this section and all
44 appeals therefrom shall be preferred and heard and determined in preference
45 to all other civil matters, except election actions. In the event more than

1 one petition questioning the validity of an annexation ordinance is filed,
2 all such petitions shall be consolidated for hearing. If two or more cities
3 or towns show the court that they have demonstrated an active interest in
4 annexing any or all of the area proposed for annexation, the court shall
5 consider any oral or written agreements or understandings between or among
6 the cities and towns in making its determination pursuant to this subsection.

7 D. The annexation shall become final after the expiration of thirty
8 days from the adoption of the ordinance annexing the territory by the city or
9 town governing body, provided the annexation ordinance has been finally
10 adopted in accordance with procedures established by statute, charter
11 provisions or local ordinances, whichever is applicable, subject to the
12 review of the court to determine the validity thereof if petitions in
13 objection have been filed.

14 E. For the purpose of determining the sufficiency of the percentage of
15 the value of property under this section, such values of property shall be
16 determined as follows:

17 1. In the case of property assessed by the county assessor, values
18 shall be the same as shown by the last assessment of the property.

19 2. In the case of property valued by the department of revenue, values
20 shall be appraised by the department in the manner provided by law for
21 municipal assessment purposes.

22 F. For the purpose of determining the sufficiency of the percentage of
23 persons owning property under this section, the number of persons owning
24 property shall be determined as follows:

25 1. In the case of property assessed by the county assessor, the number
26 of persons owning property shall be as shown on the last assessment of the
27 property.

28 2. In the case of property valued by the department of revenue, the
29 number of persons owning property shall be as shown on the last valuation of
30 the property.

31 3. If an undivided parcel of property is owned by multiple owners,
32 such owners shall be deemed as one owner for the purposes of this section.

33 4. If a person owns multiple parcels of property, such owner shall be
34 deemed as one owner for the purposes of this section.

35 G. The county assessor and the department of revenue, respectively,
36 shall furnish to the city or town proposing an annexation within thirty days
37 after a request therefor a statement in writing showing the owner, the
38 address of each owner and the appraisal and assessment of all such property.

39 H. Territory is not contiguous for the purposes of subsection A,
40 paragraph 1 of this section unless:

41 1. It adjoins the exterior boundary of the annexing city or town for
42 at least three hundred feet.

43 2. It is, at all points, at least two hundred feet in width, excluding
44 rights-of-way and roadways.

1 3. The distance from the existing boundary of the annexing city or
2 town where it adjoins the annexed territory to the furthest point of the
3 annexed territory from such boundary is no more than twice the maximum width
4 of the annexed territory.

5 I. A city or town shall not annex territory if as a result of such
6 annexation unincorporated territory is completely surrounded by the annexing
7 city or town.

8 J. Notwithstanding any provisions of this article to the contrary, any
9 town incorporated prior to 1950 which had a population of less than two
10 thousand persons by the 1970 census and which is bordered on at least three
11 sides by Indian lands may annex by ordinance territory owned by the state
12 within the same county for a new townsite which is not contiguous to the
13 existing boundaries of the town.

14 K. Subsections H and I of this section do not apply to territory
15 which is surrounded by the same city or town or which is bordered by the same
16 city or town on at least three sides.

17 L. A city or town annexing an area shall adopt zoning classifications
18 which permit densities and uses no greater than those permitted by the county
19 immediately before annexation. Subsequent changes in zoning of the annexed
20 territory shall be made according to existing procedures established by the
21 city or town for the rezoning of land.

22 M. The annexation of territory within six miles of territory included
23 in a pending incorporation petition filed with the county recorder pursuant
24 to section 9-101.01, subsection C shall not cause an urbanized area to exist
25 pursuant to section 9-101.01 which did not exist prior to the annexation.

26 N. As an alternative to the procedures established in this section, a
27 county right-of-way or roadway with no taxable real property may be annexed
28 to an adjacent city or town by mutual consent of the governing bodies of the
29 county and city or town if the property annexed is adjacent to the annexing
30 city or town for the entire length of the annexation and if the city or town
31 and county each approve the proposed annexation as a published agenda item at
32 a regular public meeting of their governing bodies.

33 O. On or before the date the governing body adopts the ordinance
34 annexing territory, the governing body shall have approved a plan, policy or
35 procedure to provide the annexed territory with appropriate levels of
36 infrastructure and services to serve anticipated new development within ten
37 years after the date when the annexation becomes final pursuant to subsection
38 D of this section.

39 P. If a property owner prevails in any action to challenge the
40 annexation of the property owner's property, the court shall allow the
41 property owner reasonable attorney fees and costs relating to the action from
42 the annexing municipality.

43 Q. A city or town may annex territory that is a county owned park or a
44 park operated on public lands by a county as part of a management agreement
45 if otherwise agreed to by the board of supervisors. If the board of

1 supervisors does not agree to the annexation, the county owned park or park
2 operated on public lands by a county as part of a management agreement shall
3 be excluded from the annexation area, notwithstanding subsections H and I of
4 this section. A county owned park or park operated on public lands by a
5 county as part of a management agreement that is excluded from the annexation
6 area pursuant to this subsection may subsequently be annexed with the
7 permission of the board of supervisors notwithstanding any other provision of
8 this section. For the purposes of this subsection, "public lands":

- 9 1. Has the same meaning prescribed in section 37-901.
- 10 2. Does not include lands owned by a flood control district.

11 Sec. 2. Title 48, chapter 1, article 11, Arizona Revised Statutes, is
12 amended by adding section 48-272, to read:

13 48-272. Special district boundary requirements; parcel splits
14 prohibited

15 A SPECIAL TAXING DISTRICT ORGANIZED PURSUANT TO THIS TITLE THAT IS
16 SUBMITTING PROPOSED DISTRICT BOUNDARIES AFTER NOVEMBER 1, 2007 SHALL INCLUDE
17 ONLY ENTIRE PARCELS OF REAL PROPERTY WITHIN ITS PROPOSED BOUNDARIES AS
18 DETERMINED BY THE COUNTY ASSESSOR AND SHALL NOT SPLIT PARCELS.