

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

# HOUSE BILL 2252

AN ACT

AMENDING SECTIONS 9-801, 11-829 AND 11-861, ARIZONA REVISED STATUTES;  
REPEALING SECTION 9-805, ARIZONA REVISED STATUTES; RELATING TO THE STATE  
PLUMBING CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-801, Arizona Revised Statutes, is amended to  
3 read:

4 9-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Code" means a published compilation of rules or regulations  
7 prepared by a technical trade association and includes any building code,  
8 electrical wiring code, health or sanitation code, fire prevention code,  
9 wildland-urban interface code, inflammable liquids code, code for  
10 slaughtering, processing and selling meat and meat products or for  
11 production, pasteurizing and sale of milk and milk products, or other code  
12 which embraces rules and regulations pertinent to a subject which is a proper  
13 subject of municipal legislation.

14 2. "Municipality" means a city or town organized in accordance with  
15 law, including a home rule or charter city.

16 3. "Public record" includes a statute, rule or regulation of the  
17 United States, this state or the municipality which is desired to be adopted  
18 by reference.

19 4. "Published" means printed, lithographed, multigraphed, mimeographed  
20 or otherwise reproduced.

21 ~~5. "State plumbing code" means the code adopted by the Arizona uniform~~  
22 ~~plumbing code commission established by section 41-619.~~

23 Sec. 2. Repeal

24 Section 9-805, Arizona Revised Statutes, is repealed.

25 Sec. 3. Section 11-829, Arizona Revised Statutes, is amended to read:

26 11-829. Amendment of ordinance or change of zoning district  
27 boundaries: definition

28 A. A property owner or authorized agent of a property owner desiring  
29 an amendment or change in the zoning ordinance changing the zoning district  
30 boundaries within an area previously zoned shall file an application for the  
31 amendment or change. All zoning and rezoning ordinances, regulations or  
32 specific plans adopted under this article shall be consistent with and  
33 conform to the adopted county plan. In the case of uncertainty in  
34 constructing or applying the conformity of any part of a proposed rezoning  
35 ordinance to the adopted county plan, the ordinance shall be construed in a  
36 manner that will further the implementation of, and not be contrary to, the  
37 goals, policies and applicable elements of the county plan. A rezoning  
38 ordinance conforms with the county plan if it proposes land uses, densities  
39 or intensities within the range of identified uses, densities and intensities  
40 of the county plan.

41 B. The board of supervisors shall adopt by ordinance a citizen review  
42 process that applies to all rezoning and specific plan applications that  
43 require a public hearing. The citizen review process shall include at least  
44 the following requirements:

1           1. Adjacent landowners and other potentially affected citizens will be  
2 notified of the application.

3           2. The county will inform adjacent landowners and other potentially  
4 affected citizens of the substance of the proposed rezoning.

5           3. Adjacent landowners and other potentially affected citizens will be  
6 provided an opportunity to express any issues or concerns that they may have  
7 with the proposed rezoning before the public hearing.

8           C. Upon receipt of the application the board shall submit it to the  
9 commission for a report. Prior to reporting to the board, the commission  
10 shall hold at least one public hearing thereon after giving at least fifteen  
11 days' notice thereof by one publication in a newspaper of general circulation  
12 in the county seat and by posting of the area included in the proposed  
13 change. If the matter to be considered applies to territory in a high noise  
14 or accident potential zone as defined in section 28-8461, the notice shall  
15 include a general statement that the matter applies to property located in  
16 the high noise or accident potential zone. In case of a rezoning, the  
17 posting shall be in no less than two places with at least one notice for each  
18 quarter mile of frontage along perimeter public rights-of-way so that the  
19 notices are visible from the nearest public right-of-way. The commission  
20 shall also send notice by first class mail to each real property owner as  
21 shown on the last assessment of the property within three hundred feet of the  
22 proposed amendment or change and each county and municipality which is  
23 contiguous to the area of the amendment or change. In proceedings involving  
24 rezoning of land that is located within territory in the vicinity of a  
25 military airport or ancillary military facility as defined in section  
26 28-8461, the commission shall send copies of the notice of public hearing by  
27 first class mail to the military airport. The notice sent by mail shall  
28 include, at a minimum, the date, time and place of the hearing on the  
29 proposed amendment or change including a general explanation of the matter to  
30 be considered, a general description of the area of the proposed amendment or  
31 change, how the real property owners within the zoning area may file  
32 approvals or protests of the proposed rezoning, and notification that if  
33 twenty per cent of the property owners by area and number within the zoning  
34 area file protests, an affirmative vote of three-fourths of all members of  
35 the board will be required to approve the rezoning. The following specific  
36 notice provisions also apply:

37           1. In proceedings that are initiated by the commission involving  
38 rezoning, notice by first class mail shall be sent to each real property  
39 owner, as shown on the last assessment of the property, of the area to be  
40 rezoned and all property owners, as shown on the last assessment of the  
41 property, within three hundred feet of the property to be rezoned.

42           2. In proceedings involving one or more of the following proposed  
43 changes or related series of changes in the standards governing land uses,  
44 notice shall be provided in the manner prescribed by paragraph 3 of this  
45 subsection:

1 (a) A ten per cent or more increase or decrease in the number of  
2 square feet or units that may be developed.

3 (b) A ten per cent or more increase or reduction in the allowable  
4 height of buildings.

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

7 (d) A ten per cent or more increase or decrease in setback or open  
8 space requirements.

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

10 3. In proceedings governed by paragraph 2 of this subsection, the  
11 county shall provide notice to real property owners pursuant to at least one  
12 of the following notification procedures:

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

16 (b) If the county issues utility bills or other mass mailings that  
17 periodically include notices or other informational or advertising materials,  
18 the county shall include notice of such changes with such utility bills or  
19 other mailings.

20 (c) The county shall publish such changes prior to the first hearing  
21 on such changes in a newspaper of general circulation in the county. The  
22 changes shall be published in a display advertisement covering not less than  
23 one-eighth of a full page.

24 4. If notice is provided pursuant to paragraph 3, subdivision (b) or  
25 (c) of this subsection, the county shall also send notice by first class mail  
26 to persons who register their names and addresses with the county as being  
27 interested in receiving such notice. The county may charge a fee not to  
28 exceed five dollars per year for providing this service and may adopt  
29 procedures to implement this paragraph.

30 5. Notwithstanding the notice requirements set forth in paragraph 2 of  
31 this subsection, the failure of any person or entity to receive notice shall  
32 not constitute grounds for any court to invalidate the actions of a county  
33 for which the notice was given.

34 D. If the planning commission or hearing officer has held a public  
35 hearing, the board may adopt the recommendations of the planning commission  
36 or hearing officer through use of a consent calendar without holding a second  
37 public hearing if there is no objection, request for public hearing or other  
38 protest. If there is an objection, a request for public hearing or a  
39 protest, the board shall hold a public hearing thereon at least fifteen days'  
40 notice of which shall be given by one publication in a newspaper of general  
41 circulation in the county seat and by posting the area included in the  
42 proposed change. In counties with territory in the vicinity of a military  
43 airport or ancillary military facility as defined in section 28-8461, the  
44 board shall hold a public hearing if, after notice is mailed to the military  
45 airport pursuant to subsection C of this section and before the public

1 hearing, the military airport provides comments or analysis concerning the  
2 compatibility of the proposed rezoning with the high noise or accident  
3 potential generated by military airport or ancillary military facility  
4 operations that may have an adverse impact on public health and safety, and  
5 the board shall consider and analyze the comments or analysis before making a  
6 final determination. After holding the hearing the board may adopt the  
7 amendment, but if twenty per cent of the owners of property by area and  
8 number within the zoning area file a protest to the proposed change, the  
9 change shall not be made except by a three-fourths vote of all members of the  
10 board. If any members of the board are unable to vote on the question  
11 because of a conflict of interest, the required number of votes for the  
12 passage of the question is three-fourths of the remaining membership of the  
13 board, except that the required number of votes in no event shall be less  
14 than a majority of the full membership of the board. In calculating the  
15 owners by area, only that portion of a lot or parcel of record situated  
16 within three hundred feet of the property to be rezoned shall be  
17 included. In calculating the owners by number or area, county property and  
18 public rights-of-way shall not be included.

19 E. The planning commission ~~may~~, on its own motion, MAY propose an  
20 amendment to the zoning ordinance and ~~may~~, after holding a public hearing as  
21 required by this chapter, MAY transmit the proposal to the board which shall  
22 thereupon proceed as set forth in this chapter for any other amendment.

23 F. Notwithstanding ~~the provisions of~~ title 19, chapter 1, article 4, a  
24 decision by the governing body involving rezoning of land which is not owned  
25 by the county and which changes the zoning classification of such land or  
26 which changes the zoning standards of such land as set forth in subsection C,  
27 paragraph 2 of this section may not be enacted as an emergency measure and  
28 such a change shall not be effective for at least thirty days after final  
29 approval of the change in classification by the board. Unless a resident  
30 files a written objection with the board of supervisors, the rezoning may be  
31 enacted as an emergency measure that becomes effective immediately by a  
32 four-fifths majority vote of the board for those counties with five or more  
33 supervisors or a two-thirds majority vote of the board for those counties  
34 with less than five supervisors.

35 G. The legislature finds that a rezoning of land that changes the  
36 zoning classification of the land or that restricts the use or reduces the  
37 value of the land is a matter of statewide concern. Such a change in zoning  
38 that is initiated by the governing body or zoning body shall not be made  
39 without the express written consent of the property owner. In applying an  
40 open space element or a growth element of a county plan, a parcel of land  
41 shall not be rezoned for open space, recreation, conservation or agriculture  
42 unless the owner of the land consents to the rezoning in writing. For the  
43 purposes of this subsection, rezoning does not include the creation or  
44 expansion of overlay zones solely for the purpose of implementing airport  
45 safety and protection. Rezoning also does not include the redesignation of

1 areas of the county to which the residential provisions of the county  
2 building codes ~~or the state plumbing code~~ apply or do not apply. The county  
3 shall not adopt any change in a zoning classification to circumvent the  
4 purpose of this subsection.

5 H. For the purposes of this section, "zoning area" means the area  
6 within three hundred feet of the proposed amendment or change.

7 Sec. 4. Section 11-861, Arizona Revised Statutes, is amended to read:  
8 11-861. Adoption of codes by reference; limitations; method of  
9 adoption

10 A. In any county which has adopted zoning pursuant to this chapter,  
11 the board of supervisors may adopt and enforce, for the unincorporated areas  
12 of the county so zoned, a building code and other related codes to regulate  
13 the quality, type of material and workmanship of all aspects of construction  
14 of buildings or structures, except that the board may authorize that areas  
15 zoned rural or unclassified may be exempt from the provisions of the code  
16 adopted. Such codes may be adopted by reference after notice and hearings  
17 before the county planning and zoning commission and board of supervisors as  
18 provided in this chapter for amendments to the zoning ordinance of the  
19 county.

20 B. The board of supervisors may adopt a fire prevention code in the  
21 unincorporated areas of the county in which a fire district has not adopted  
22 the uniform fire code pursuant to section 48-805. Any fire code adopted by a  
23 board of supervisors pursuant to this subsection shall remain in effect until  
24 a fire district is established and adopts a code applicable within the  
25 boundaries of the district.

26 C. For the purpose of this article, codes authorized by subsections A  
27 and B of this section shall be limited to the following:

28 1. Any building, electrical, **PLUMBING**, or mechanical code that has  
29 been adopted by any national organization or association that is organized  
30 and conducted for the purpose of developing codes or that has been adopted by  
31 the largest city in that county. If the board of supervisors adopts a city  
32 code, it shall adopt, within ninety days after receiving a written  
33 notification of a change to the city code, the same change or shall terminate  
34 the adopted city code.

35 2. Any fire prevention code that has been adopted by a national  
36 organization or association organized or conducted for the purpose of  
37 developing fire prevention codes and that is as stringent as the state fire  
38 code adopted pursuant to section 41-2146.

39 D. The board of supervisors may adopt a current wildland-urban  
40 interface code. The code may be adapted from a model code adopted by a  
41 national or international organization or association for mitigating the  
42 hazard to life and property. The board must follow written public procedures  
43 in the development and adoption of the code and any revisions to the code to  
44 provide effective, early and continuous public participation through:

- 1           1. The broad dissemination and publicity of the proposed code and any
- 2 revisions to the code.
- 3           2. The opportunity for submission and consideration of written public
- 4 comments.
- 5           3. Open discussions, communications programs and information services.
- 6           4. Consultation with federal agencies and state and local officials.