

**THE PLANNING & ZONING ADVISORY COMMISSION  
FOR THE TOWN OF DEWEY-HUMBOLDT  
REGULAR MEETING NOTICE  
Thursday, November 8, 2018 6:00 P.M.**

**P&Z MEETING  
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL  
DEWEY-HUMBOLDT, ARIZONA**

## **AGENDA**

The issues that come before the Planning & Zoning Advisory Commission are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Commission believes that the meeting be a safe place for people to speak. With this in mind, the Commission asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Agenda items may be taken out of order. Please turn off all cell phones. The Commission meeting may be broadcast via live streaming video on the internet in both audio and visual formats. A quorum of Council may be present. One or more members of the Commission may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

### **1. Call To Order**

### **2. Opening Ceremonies**

#### **A. Pledge of Allegiance**

### **3. Roll Call** Commissioners Karen Brooks, Lori Crofutt, Ken, Murphy, Rich Schauwecker, Lon Ullmann, Vice Chair Jeff Siereveld and Chair Victor Hambrick.

### **4. Informational Reports**

Individual members of the Commission and public may provide brief summaries of current events and activities. These summaries are strictly for the purpose of informing the Commission and public of such events, actions or activities. The Commission will take no discussion, consideration, or action on any such item except that an individual member of the Commission may request an item be placed on a future agenda.

### **5. Planner's Update on Current Events and Activities**

No discussion, deliberation or legal action can occur.

### **6. Consent Agenda**

All matters listed under the Consent Agenda are considered to be routine by the Commission and will be enacted by one motion. Any item may be removed from the Consent Agenda for separate consideration at a Commissioner's request. If a citizen desires separate consideration of an item, he or she should approach a Commissioner prior to the meeting and ask that the Commissioner request that the item be removed.

#### **A. Approval of Meeting Minutes**

##### **1. Planning and Zoning Meeting of May 3, 2018**

## 7. Public Comment on Non-agendized Items

The Commission wishes to hear from Citizens at each meeting. Those wishing to address the Commission need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Commission. Individuals may address the Commission on any issue within its jurisdiction. At the conclusion of Comments from the Public, Commissioners may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Commissioners are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Comments from the Public is **20** minutes. A 3-minute time limit may be imposed on individuals within this total. The audience is asked to please be courteous and silent while others are speaking.

## 8. Unfinished Business

Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

## 9. New Business

Discussion and Possible Action on matters not previously presented to the Commission.

Page 7 **10. Public Hearing Agenda**

Discussion and Possible Action may be taken.

### **A. Consideration of the Readoption of The Town of Dewey-Humboldt's General Plan, first adopted by the Town Council on May 19, 2009.**

- 1. Staff Report**
- 2. Open Public Hearing and Receive Public Comments**
- 3. Close Public Hearing**
- 4. Commission Discussion**
- 5. Adopt a Recommendation to the Town Council regarding the Readoption of the Town's 2009 General Plan.**

## 11. Adjourn

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.

### **Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the 26<sup>th</sup> day of October, 2018, at 4:00 p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: \_\_\_\_\_, Town Clerk's Office.

### **For Your Information:**

Next Town Council Work Session: Tuesday, November 6, 2018 at 2:00 p.m.

Next Town Council Meeting: Tuesday, November 20, 2018 at 6:30 p.m.

Next Planning & Zoning Commission Meeting: Thursday, December 6, 2018 at 6:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at [AgendaList@dhaz.gov](mailto:AgendaList@dhaz.gov) and type Subscribe in the subject line, or call 928-632-7362 and speak with Julie Gibson, Town Clerk.

**TOWN OF DEWEY-HUMBOLDT  
PLANNING AND ZONING ADVISORY COMMISSION  
REGULAR MEETING MINUTES  
MAY 3, 2018**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT PLANNING AND ZONING COMMISSION WAS HELD ON THURSDAY, MAY 3, 2018 AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA, CHAIR VICTOR HAMBRICK PRESIDED.**

**1. Call To Order**

Chair Hambrick called the meeting to order at 6:00 p.m.

**2. Opening Ceremonies**

**A. Pledge of Allegiance**

Led by Commissioner Rich Schauwecker.

**B. Swearing in of new Commissioner, Ken Murphy, to the Planning & Zoning Commission**

Town Clerk Gibson swore in new Commissioner Ken Murphy.

**3. Roll Call** Commissioners: Lori Crofutt, Rich Schauwecker, Ken Murphy, Lon Ullmann, and Chair Victor Hambrick were present. Commissioner Karen Brooks and Vice Chair Jeff Siereveld were absent.

**4. Informational Reports**

None.

**5. Planner's Update on Current Events and Activities**

**A.** Community Planner (CP) Steven Brown stated there are no updates at this time.

**6. Consent Agenda**

**A. Approval of Meeting Minutes:**

Commissioner Schauwecker made a motion to approve the Minutes from the April 5, 2018 Planning & Zoning Regular Meeting, seconded by Commission Ullmann. The motion passed unanimously.

**7. Public Comment on Non-agenized Items**

None.

**8. Unfinished Business** Discussion and Possible Legal Action may be taken.

None.

**9. New Business** Discussion and Possible Legal Action may be taken.

None.

## 10. Public Hearing Agenda Discussion and Possible Legal Action may be taken.

- A. **Request for a Use Permit UP 17-003 for approximately 2.99 acres of real property, applied for by Luis Pena, representing Heli Swift Aviation, located at 2845 S. SR 69, also known as Yavapai County Assessor's Parcel Number 402-08-069W in the C3-35 (Commercial and Minor Industrial) zoning district to allow the operation of a helicopter training facility, which utilizes flightless helicopter trainers on concrete pad, and with the trainer being stored inside a building when not in use.**

### 1. Staff Report

CP Brown stated the General Plan Designation is Commercial, Zoning is C3-35 (Commercial and Minor Industrial). The location is 2845 S. SR 69. An aerial photo of the property is attached. The applicants are seeking a Use Permit to allow the operation of a helicopter flight training school. To offer the general public an affordable means to aviation training. The Cicare SVH-4 flight trainer will be on the premises and stored inside in a metal building. Brought out on a concrete slab, not ever becoming airborne. Hours of operation will be Monday-Friday 9am-5pm and Saturday 10am-4pm.

Staff provided the following links to videos of the operation of the Cicare SVH4 for your information.

<https://www.youtube.com/watch?v=g1mrNmXVINo>

<https://www.youtube.com/watch?v=MD642Ygoccs>

The subject property to the north is zoned C2-1 Commercial, General Sales and Services. The property to the south is zoned C3-35 Commercial and Minor Industrial. The property to the west, across SR 69, is zoned M2-1 Industrial Heavy. The property to the east is zoned R1-12 Residential Single Family.

The property is accessed by Omega Dr., a private dirt road, north of Third St. There is no access to SR 69 currently, and none is proposed. The subject property is designated by the 2009 General Plan as "General Commercial", and is intended for retail, office, and industrial uses. Typical zoning districts applicable to this designation include all commercial and industrial zones. This proposal, if approved, would be in compliance with the General Plan.

The property where the Use Permit is sought, is zoned C3 (Commercial and Minor Industrial).

C3 zoning allows a number of uses by right, as well as all the principal and accessory uses permitted in any more restrictive zoning districts.

C2 zoning district, which is a more restrictive district than the C3, includes among the permitted uses dancing, art, music and **business and trade schools**.

The use proposed as a flight training school is a trade school in that it is an early step in a career in aviation.

Use Permits are required in the C3 district for commercial uses **contiguous to residential districts**.

The C3 zoning district where this Use Permit is sought is in direct contact with the R1-12 Residential zoning district directly to the east. Therefore, a Use Permit is required.

Additionally, due to the proximity of the residential zoning district and uses, it would be reasonable to impose limitations on any approval of a Use Permit, on the hours of operation, if the Commission feels that is appropriate.

Public notices were sent to property owners within a 300-foot radius of the project site. One neighbor attended the Public Participation Meeting held by Mr. and Ms. Pena at the property at 11:00am on Wednesday, March 28, 2018. Following the Public Participation meeting and to date, the Town has received no letters of support, and one letter opposing the request.

Staff will forward to the Commission any public further comments as they are received. That concludes the Staff's report.

## **2. Open Public Hearing**

Chair Victor Hambrick opened the Public Hearing at 6:21 p.m.

Mr. Pena came forward and answered Commission questions. He explained that he owns the property and the helicopter. The facility will be used for helicopter flight training and expects to have 10-12 students. The helicopter has a gas engine that is naturally aspirated, and operates at approximately 88 decibels. The flight pad will be 60 feet in diameter. He noted that he is shielding the flight pad by a large building and there is a fence surrounding the property.

CP Brown stated plans were sent to ADOT and we did not receive any comments from them. The Building Official and him were both under the impression that the simulator would be housed in the building. Upon learning the pad was located outside, it was recommended that a Use Permit would be required.

Bob Mattheis lives next to the property and spoke about safety issues concerning this facility.

Myron King has lived next to this property for 5 years. His wife is asthmatic and since moving here her lung capacity has greatly improved. He is worried about her health. The noise from the helicopter is going to bounce off the mountain and will be a lot louder. Omega is a private road, that he maintains, and thinks it generate a lot more maintenance. He stated there are other neighbors that don't want the helicopter school there too.

Philip Bagwell moved here 4 years ago. He is a Vietnam Vet that has PTSD and his wife has heart conditions. They moved here for the peaceful atmosphere and he is concerned that the helicopter will cause his PTSD to get worse. He is also concerned about arsenic problems.

Chair Hambrick asked for any other public comments or questions? None forthcoming.

## **3. Close Public Hearing**

Chair Victor Hambrick closed the Public Hearing at 6:48 p.m.

## **4. Commission Discussion and Possible Legal Action**

There was further Commission discussion regarding the Heli Swift Aviation application.

Chair Hamrick asked if there were any other questions?

CP Brown stated the Planning & Zoning Commission should review the attached material and make recommendation to the Town Council to either approve or deny the Use Permit.

Staff recommends the following conditions be made a part of this approval:

- 1) The use is compatible with permitted uses in the underlying zoning district.
- 2) The use is in compliance with the Town's General Plan and applicable town regulations.
- 3) The use meets or exceeds the conditions and criteria described in Town Code Section 153.091.
- 4) The hours of operation of the flight simulator outdoors shall be limited to Monday-Friday 9 a.m. - 5 p.m. and Saturday 10 a.m. – 4 p.m.
- 5) The Use Permit is approved for a term of five (5) years, to be reviewed at the end of that period to determine if renewal for an additional period is appropriate. Application for Renewal shall be made by the owners of the property following the same process as for a new Use Permit.

Commissioner Schauwecker stated, *"In hearing all the details, I don't see as much support for this application as against it. So, I make a motion that we do not recommend this permit to the Council."* Commissioner Crofutt seconded the motion. The motion passed by a vote of 4-1. Chair Hambrick voted against the motion.

CP Brown stated that Planning & Zoning will make a recommendation to the Town Council at the next Regular Council meeting on May 15th. The Town Council will make the final judgment on the Use Permit.

**11. Adjourn** The meeting was adjourned at 7:09 p.m.

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Chair Victor Hambrick

ATTEST:

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Julie Gibson, Town Clerk



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## STAFF REPORT

### Planning and Zoning Advisory Commission Meeting November 8, 2018

Date: November 8, 2018

To: Planning and Zoning Commission

From: Tom Wilson, Town Manager

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**10.A. Consideration of the Readoption of The Town of Dewey-Humboldt's General Plan, first adopted by the Town Council on May 19, 2009. At the October 16, 2018 Town Council Regular meeting, the Mayor and Council approved the process and timeline for consideration of the Readoption of the Town's General Plan.**

#### **BACKGROUND:**

All Arizona cities and towns are mandated by State statutes to have a General Plan.

- General Plans serve as an expression of a city or town's local intent to maintain and improve itself. It provides guidance and direction to all interested parties and all citizens as to the land use expectations and requirements for developing and sustaining the community.

Incorporated in 2004, Dewey-Humboldt adopted its General Plan on May 19, 2009. Cities and towns are required every 10 years to either develop and adopt a new General Plan or re-adopt the current Plan. The process of developing and adopting a new General Plan is prescribed in extensive detail by State statutes and appropriately requires substantial, broad-based citizen/community engagement and comment. This process must be comprehensively documented and is necessarily lengthy. (See attached A.R.S. § Sec 9-461.05 and § Sec 9-461.06.)

In order to manage the costs and provide adequate time for the work of preparing a new General Plan, a two-step process is proposed:

- 1) The Mayor and Council re-adopts the current Plan for a three year period;
- 2) The Mayor and Council appoints a General Plan steering committee to oversee the work of staff and consultant(s) in the preparation of a new General Plan.

There are two Public Hearings scheduled for the consideration of the Readoption of the Town's current General Plan. This Public Hearing by the Planning and Zoning Commission is the first. The Mayor and Council will hold a second/final Public Hearing on November 20, 2018, after which the Town Council may readopt the 2009 General Plan for a three-year term, period beginning May 19, 2019.

**STAFF RECOMMENDATION**

The Planning Commission should review the report attached material, take public testimony, and after discussion, make a recommendation to the Town Council supporting, or not supporting, the Readoption of the General Plan for a three-year period.

Staff recommends that the Planning Commission recommend to Council the Readoption of the General Plan.



Sign In Sign Up

Public Health

- Arizona Revised Statutes (Last Updated: March 31, 2016)
  - Title 9. Cities and Towns
    - Chapter 4. GENERAL POWERS
      - Article 6. Municipal Planning

## Sec 9-461.05. General plans; authority; scope

*Latest version.*

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. A 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.

(g) Includes sources of currently identified aggregates from maps that are available from state agencies, policies to preserve currently identified aggregates sufficient for future development and policies to avoid incompatible land uses, except that this subdivision shall not be construed to affect any permitted underground storage facility or limit any person's right to obtain a permit for an underground storage facility pursuant to title 45, chapter 3.1.

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) 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.

10. An energy element that includes:

(a) A component that identifies policies that encourage and provide incentives for efficient use of energy.

(b) An assessment that identifies policies and practices that provide for greater uses of renewable energy sources.

11. A neighborhood preservation and revitalization element, including:

(a) A component that identifies city programs that promote home ownership, that provide assistance for improving the appearance of neighborhoods and that promote maintenance of both commercial and residential buildings in neighborhoods.

(b) A component that identifies city programs that provide for the safety and security of neighborhoods.

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 August 25, 2004 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.

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## 2017 Arizona Revised Statutes

### Title 9 - Cities and Towns

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

**Universal Citation:** AZ Rev Stat § 9-461.06 (2017)

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.

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4. The Arizona commerce authority or any other state agency that is subsequently designated as the general planning agency for this state.
5. The department of water resources for review and comment on the water resources element, if a water resources element is required.
6. If the general plan or an element or amendment of the general plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the military airport.
7. If the general plan or an element or major amendment of the general plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the attorney general. For the purposes of this paragraph, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.
8. Any person or entity that requests in writing to receive a review copy of the proposal.

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

1. Publication at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, the notice shall be posted in at least ten public places in the municipality.
2. Such other manner in addition to publication as the municipality may deem necessary or desirable.

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

G. Before adopting the general plan, or any amendment to it, the governing body shall hold at least one public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection E of this section.

H. The adoption or readoption of the general plan or any amendment to such plan shall be by resolution of the governing body of the municipality, after notice as provided for in subsection E of this section. The adoption or readoption of or a major amendment to the general plan shall be approved by affirmative vote of at least two-thirds of the members of the governing body of the municipality. All major amendments to the general plan proposed for adoption by the governing body of a municipality shall be presented at a single public hearing during the calendar year the proposal is made. The general plan, or any amendment to the plan, shall be endorsed in the manner provided by the governing body to show that it has been adopted by the governing body. If the municipality includes property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the governing body of the municipality shall send notice of the approval, adoption or readoption of the general plan or major amendment to the general plan to the attorney general by certified mail, return receipt requested, within three business days after the approval, adoption or readoption. If the attorney general determines the approval,

adoption or readoption of the general plan or major amendment to the general plan is not in compliance with section 28-8481, subsection J, the attorney general shall notify the municipality by certified mail, return receipt requested, of the determination of noncompliance. The municipality shall receive the notice from the attorney general within twenty-five days after the notice from the municipality to the attorney general is mailed pursuant to this subsection. The effective date of any approval, adoption or readoption of, or major amendment to, the general plan shall be thirty days after the governing body's receipt of the attorney general's determination of noncompliance. Within thirty days after the receipt of a determination of noncompliance by the attorney general as prescribed by this section, the governing body of the municipality shall reconsider any approval, adoption or readoption of, or major amendment to, the general plan that impacts property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461. If the governing body reaffirms a prior action subject to an attorney general's determination of noncompliance pursuant to this section, the attorney general may institute a civil action pursuant to section 28-8481, subsection L. If the governing body timely sends notice pursuant to this subsection and the attorney general fails to timely notify the governing body of a determination of noncompliance, the general plan or major amendment to the general plan shall be deemed to comply with section 28-8481, subsection J. If the motion to adopt or readopt a general plan or an amendment to the general plan fails to pass, the governing body may reconsider the motion in any manner allowed by the governing body's rules of procedure, but any subsequent motion for the adoption or readoption of the general plan or a major amendment to the general plan must be approved by an affirmative vote of at least two-thirds of the members of the governing body. For the purposes of this subsection, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element. The municipality's general plan shall define the criteria to determine if a proposed amendment to the general plan effects a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.

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

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

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

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

M. The governing body of a city or town having a population of more than two thousand five hundred persons but less than ten thousand persons and whose population growth rate exceeded an average of two per cent per year for the ten year period before the most recent United States decennial census, and any city or town having a population of ten thousand or more persons, shall submit each new general plan adopted pursuant to subsection K of this section to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body adopted the plan pursuant to section 16-204. The governing body shall include a general description of the plan and its elements in the municipal election pamphlet and shall provide public copies of the plan in at least two locations that are easily accessible to the public and may include posting on the municipality's official internet website. If a majority of the qualified electors voting on the proposition approves the new plan, it shall become effective as provided by law. If a majority of the qualified electors voting on the proposition fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters pursuant to this subsection. The governing body shall either resubmit the proposed new plan, or revise the new plan as provided by this section, for subsequent submission to the voters at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body readopted the new or revised new plan. All subsequent adoptions and submissions of the new plan or revised plans must comply with the procedures prescribed by this section until the plan is ratified.

N. In applying an open space element or a growth element of a general plan a municipality shall not designate private land or state trust land as open space, recreation, conservation or

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

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

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