

## MARANA RESOLUTION NO. 2022-134

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RELATING TO DEVELOPMENT; ADOPTING A MINOR AMENDMENT TO THE MARANA 2040 GENERAL PLAN TO PROVIDE THAT PROPOSED MAJOR AMENDMENTS TO THE GENERAL PLAN SHALL BE PRESENTED AT A PUBLIC HEARING WITHIN TWELVE MONTHS OF WHEN THE AMENDMENT IS PROPOSED

WHEREAS Town of Marana Resolution 2019-120 adopted the Marana 2040 General Plan and called for an August 4, 2020 primary election for voter ratification as required by A.R.S. § 9-461.06 paragraph M; and

WHEREAS the Marana 2040 General Plan was ratified by the voters on August 4, 2020; and

WHEREAS A.R.S. § 9-461.06 and the General Plan itself define a major amendment as a substantial alteration of the Town's land use mixture or balance as established in the General Plan land use element; and

WHEREAS in accordance with state law in effect at the time of its adoption, the General Plan provides that the Town Council may only consider major amendments once a year at a single public hearing held for this purpose, and that requests for major amendments must be submitted within the same calendar year they will be heard; and

WHEREAS the 55th Arizona Legislature adopted HB2482, signed by the governor on April 22, 2022, which amends A.R.S. § 9-461.06 to require that proposed major amendments be presented in a public hearing within twelve months of the proposal being made; and

WHEREAS the General Plan amendment adopted by this resolution does not meet the definition of a major amendment, and is therefore a minor amendment; and

WHEREAS the Town of Marana has provided the notice and held the public hearings required for the adoption of the General Plan amendment adopted by this resolution; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. Marana 2040 General Plan Chapter 1 (Introduction) is hereby amended as follows (with deletions shown with ~~strikeouts~~ and additions shown with double underlining):

**Major Amendments**

The General Plan must identify changes or modifications that constitute major amendments to the Plan. Arizona law defines a major amendment as any change that would represent a "substantial alteration" in the land use mixture or balance established in the existing General Plan. The Town Council ~~may only~~ shall consider major amendments ~~once a year~~ at a single public hearing held for this purpose within 12 months of when the proposed amendment is made. ~~Requests for major amendments must be submitted within the same calendar year they will be heard.~~ Prior to the Council hearing, the Planning Commission shall hold two or more public hearings on the proposed major amendment at different locations. At least two-thirds of the members of the Town Council must approve a General Plan major amendment. The Council may not enact a major amendment as an emergency measure. The Town of Marana identifies the following changes as major amendments, effecting a substantial alteration of the Town's land use mixture or balance:

1. A text change that is in conflict with, or significantly alters, the goals and policies of the Plan.
2. A change to the Future Land Use Map that constitutes a major amendment per Table 1-1.

SECTION 2. The Town Manager and staff are hereby directed and authorized to modify the General Plan documentation and undertake all other and further tasks required or beneficial to carry out the terms and objectives of this resolution.

SECTION 3. All resolutions, orders, or actions of the Town, or parts thereof that are inconsistent with the provisions of this resolution are hereby repealed to the extent of such inconsistency.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 20th day of December, 2022.



\_\_\_\_\_  
Mayor Ed Honea

ATTEST:



\_\_\_\_\_  
David L. Udall, Town Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Jane Fairall, Town Attorney

House Engrossed

municipality; general plan; adoption; amendment

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

**CHAPTER 166**  
**HOUSE BILL 2482**

AN ACT

AMENDING SECTION 9-461.06, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-461.06, Arizona Revised Statutes, is amended  
3 to read:

4 9-461.06. Adoption and amendment of general plan; expiration  
5 and readoption

6 A. In municipalities that have territory in a high noise or  
7 accident potential zone as defined in section 28-8461, the legislature  
8 finds that in general plans and amendments to general plans land use  
9 compatibility with the continued operation of a military airport or  
10 ancillary military facility as defined in section 28-8461 is a matter of  
11 statewide concern.

12 B. The general plan and any amendment to such plan shall be adopted  
13 or readopted in the manner provided in this article.

14 C. The governing body shall:

15 1. Adopt written procedures to provide effective, early and  
16 continuous public participation in the development and major amendment of  
17 general plans from all geographic, ethnic and economic areas of the  
18 municipality. The procedures shall provide for:

19 (a) The broad dissemination of proposals and alternatives.

20 (b) The opportunity for written comments.

21 (c) Public hearings after effective notice.

22 (d) Open discussions, communications programs and information  
23 services.

24 (e) Consideration of public comments.

25 2. Consult with, advise and provide an opportunity for official  
26 comment by public officials and agencies, the county, school districts,  
27 associations of governments, public land management agencies, the military  
28 airport if the municipality has territory in the vicinity of a military  
29 airport or ancillary military facility as defined in section 28-8461,  
30 other appropriate government jurisdictions, public utility companies,  
31 civic, educational, professional and other organizations, property owners  
32 and citizens generally to secure maximum coordination of plans and to  
33 indicate properly located sites for all public purposes on the general  
34 plan.

35 D. At least sixty days before the general plan or an element or  
36 major amendment of a general plan is noticed pursuant to subsection E of  
37 this section, the planning agency shall transmit the proposal to the  
38 planning commission, if any, and the governing body and shall submit a  
39 copy for review and further comment to:

40 1. The planning agency of the county in which the municipality is  
41 located.

42 2. Each county or municipality that is contiguous to the corporate  
43 limits of the municipality or its area of extraterritorial jurisdiction.

44 3. The regional planning agency within which the municipality is  
45 located.

1           4. The Arizona commerce authority or any other state agency that is  
2 subsequently designated as the general planning agency for this state.

3           5. The department of water resources for review and comment on the  
4 water resources element, if a water resources element is required.

5           6. If the general plan or an element or amendment of the general  
6 plan is applicable to territory in the vicinity of a military airport or  
7 ancillary military facility as defined in section 28-8461, the military  
8 airport.

9           7. If the general plan or an element or major amendment of the  
10 general plan is applicable to property in the high noise or accident  
11 potential zone of a military airport or ancillary military facility as  
12 defined in section 28-8461, the attorney general. For the purposes of  
13 this paragraph, "major amendment" means a substantial alteration of the  
14 municipality's land use mixture or balance as established in the  
15 municipality's existing general plan land use element.

16           8. Any person or entity that requests in writing to receive a  
17 review copy of the proposal.

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

29           1. Publication at least once in a newspaper of general circulation  
30 published or circulated in the municipality, or if there is none, the  
31 notice shall be posted in at least ten public places in the municipality.

32           2. Such other manner in addition to publication as the municipality  
33 may deem necessary or desirable.

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

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

42           H. The adoption or readoption of the general plan or any amendment  
43 to such plan shall be by resolution of the governing body of the  
44 municipality, after notice as provided for in subsection E of this  
45 section. The adoption or readoption of or a major amendment to the

1 general plan shall be approved by affirmative vote of at least two-thirds  
2 of the members of the governing body of the municipality. All major  
3 amendments to the general plan proposed for adoption by the governing body  
4 of a municipality shall be presented at a ~~single~~ public hearing ~~during the~~  
5 ~~calendar year~~ WITHIN TWELVE MONTHS OF WHEN the proposal is made. The  
6 general plan, or any amendment to the plan, shall be endorsed in the  
7 manner provided by the governing body to show that it has been adopted by  
8 the governing body. If the municipality includes property in the high  
9 noise or accident potential zone of a military airport or ancillary  
10 military facility as defined in section 28-8461, the governing body of the  
11 municipality shall send notice of the approval, adoption or readoption of  
12 the general plan or major amendment to the general plan to the attorney  
13 general by certified mail, return receipt requested, within three business  
14 days after the approval, adoption or readoption. If the attorney general  
15 determines the approval, adoption or readoption of the general plan or  
16 major amendment to the general plan is not in compliance with section  
17 28-8481, subsection J, the attorney general shall notify the municipality  
18 by certified mail, return receipt requested, of the determination of  
19 noncompliance. The municipality shall receive the notice from the  
20 attorney general within twenty-five days after the notice from the  
21 municipality to the attorney general is mailed pursuant to this  
22 subsection. The effective date of any approval, adoption or readoption  
23 of, or major amendment to, the general plan shall be thirty days after the  
24 governing body's receipt of the attorney general's determination of  
25 noncompliance. Within thirty days after the receipt of a determination of  
26 noncompliance by the attorney general as prescribed by this section, the  
27 governing body of the municipality shall reconsider any approval, adoption  
28 or readoption of, or major amendment to, the general plan that impacts  
29 property in the high noise or accident potential zone of a military  
30 airport or ancillary military facility as defined in section 28-8461. If  
31 the governing body reaffirms a prior action subject to an attorney  
32 general's determination of noncompliance pursuant to this section, the  
33 attorney general may institute a civil action pursuant to section 28-8481,  
34 subsection L. If the governing body timely sends notice pursuant to this  
35 subsection and the attorney general fails to timely notify the governing  
36 body of a determination of noncompliance, the general plan or major  
37 amendment to the general plan shall be deemed to comply with section  
38 28-8481, subsection J. If the motion to adopt or readopt a general plan  
39 or an amendment to the general plan fails to pass, the governing body may  
40 reconsider the motion in any manner allowed by the governing body's rules  
41 of procedure, but any subsequent motion for the adoption or readoption of  
42 the general plan or a major amendment to the general plan must be approved  
43 by an affirmative vote of at least two-thirds of the members of the  
44 governing body. For the purposes of this subsection, "major amendment"  
45 means a substantial alteration of the municipality's land use mixture or

1 balance as established in the municipality's existing general plan land  
2 use element. The municipality's general plan shall define the criteria to  
3 determine if a proposed amendment to the general plan effects a  
4 substantial alteration of the municipality's land use mixture or balance  
5 as established in the municipality's existing general plan land use  
6 element.

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

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

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

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

31 M. The governing body of a city or town having a population of more  
32 than two thousand five hundred persons but less than ten thousand persons  
33 and whose population growth rate exceeded an average of two ~~per cent~~  
34 PERCENT per year for the ~~ten-year~~ TEN-YEAR period before the most recent  
35 United States decennial census, and any city or town having a population  
36 of ten thousand or more persons, shall submit each new general plan  
37 adopted pursuant to subsection K of this section to the voters for  
38 ratification at the next regularly scheduled municipal election or at a  
39 special election scheduled at least one hundred twenty days after the  
40 governing body adopted the plan pursuant to section 16-204. The governing  
41 body shall include a general description of the plan and its elements in  
42 the municipal election pamphlet and shall provide public copies of the  
43 plan in at least two locations that are easily accessible to the public  
44 and may include posting on the municipality's official internet website.  
45 If a majority of the qualified electors voting on the proposition approves

1 the new plan, it shall become effective as provided by law. If a majority  
2 of the qualified electors voting on the proposition fails to approve the  
3 new plan, the current plan remains in effect until a new plan is approved  
4 by the voters pursuant to this subsection. The governing body shall  
5 either resubmit the proposed new plan, or revise the new plan as provided  
6 by this section, for subsequent submission to the voters at the next  
7 regularly scheduled municipal election or at a special election scheduled  
8 at least one hundred twenty days after the governing body readopted the  
9 new or revised new plan. All subsequent adoptions and submissions of the  
10 new plan or revised plans must comply with the procedures prescribed by  
11 this section until the plan is ratified.

12 N. In applying an open space element or a growth element of a  
13 general plan, a municipality shall not designate private land or state  
14 trust land as open space, recreation, conservation or agriculture unless  
15 the municipality receives the written consent of the landowner or provides  
16 an alternative, economically viable designation in the general plan or  
17 zoning ordinance, allowing at least one residential dwelling per acre. If  
18 the landowner is the prevailing party in any action brought to enforce  
19 this subsection, a court shall award fees and other expenses to the  
20 landowner. A municipality may designate land as open space without  
21 complying with the requirements of this subsection if the land was zoned  
22 as open space and used as a golf course pursuant to a zoning ordinance  
23 adopted pursuant to article 6.1 of this chapter before May 1, 2000 and the  
24 designation does not impose additional conditions, limitations or  
25 restrictions on the golf course, unless the land is state trust land that  
26 was not planned and zoned as open space pursuant to title 37, chapter 2,  
27 article 5.1.

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

APPROVED BY THE GOVERNOR APRIL 22, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2022.