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**Jane Dee Hull
Secretary of State**

CHAPTER 48
HOUSE BILL 2127

AN ACT

AMENDING SECTIONS 11-803, 11-806.01 AND 11-829, ARIZONA REVISED STATUTES;
RELATING TO COUNTY PLANNING AND ZONING.

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

2 Section 1. Section 11-803, Arizona Revised Statutes, is amended to
3 read:

4 11-803. County planning and zoning commission; membership;
5 terms; advisory officers

6 A. In the counties having three supervisorial districts, the county
7 planning and zoning commission shall consist of nine members who shall be
8 qualified electors of the county. Three members shall be appointed from each
9 supervisorial district by the supervisor from that district, and not more
10 than one of the three shall be a resident of an incorporated municipality.
11 Members of the commission shall serve without compensation except for
12 reasonable travel expenses.

13 B. In the counties having five supervisorial districts, the county
14 planning and zoning commission shall consist of ten members who shall be
15 qualified electors of the county. Two members shall be appointed from each
16 supervisorial district by the supervisor from that district and, IF THE
17 DISTRICT CONTAINS AT LEAST ~~not more than one of the two shall be a resident~~
18 ~~of an incorporated municipality.~~ SIXTY PER CENT INCORPORATED AREA, TWO
19 MEMBERS MAY BE RESIDENTS OF THE INCORPORATED AREA. IF THE DISTRICT IS LESS
20 THAN SIXTY PER CENT INCORPORATED, ONE MEMBER SHALL BE A RESIDENT FROM THE
21 INCORPORATED AREA AND ONE MEMBER SHALL BE A RESIDENT OF THE UNINCORPORATED
22 AREA. Members of the commission shall serve without compensation except for
23 reasonable travel expenses.

1 C. The terms of the members of the commissions shall be for four years
2 except for those initially appointed. Of those members initially appointed
3 pursuant to subsection A OF THIS SECTION, five members shall be appointed to
4 a two year term and four members shall be appointed to a four year term. Of
5 those members initially appointed pursuant to subsection B OF THIS SECTION,
6 five members shall be appointed to a two year term and five members shall be
7 appointed to a four year term. Thereafter, each term shall be four years.
8 If a vacancy occurs otherwise than by expiration of term, it shall be filled
9 by appointment for the unexpired portion of the term. Members of the
10 commission may be removed by the board for cause.

11 D. Upon a conversion from three to five supervisorial districts
12 pursuant to section 11-212, the board of supervisors, upon expiration of the
13 terms of members of the commission serving on the date of such conversion,
14 shall make such appointments to fill such vacancies to conform to the
15 provisions of subsection B OF THIS SECTION as soon as is practical.

16 E. The county assessor, county engineer, county health officer and
17 county attorney shall serve in an advisory capacity to the commission and to
18 the boards of adjustment.

19 Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to
20 read:

21 11-806.01. Subdivision regulation; platting rules; violation;
22 classification; easement vesting

23 A. The county board of supervisors shall regulate the subdivision of
24 all lands within its corporate limits, except subdivisions which are
25 regulated by municipalities.

26 B. No plat of a subdivision of land within the area of jurisdiction
27 of such county shall be accepted for recording or recorded until it has been
28 approved by the board. The approval of the board shall be endorsed in
29 writing on the plat and shall also include specific identification and
30 approval of the assurances except those for hiking and equestrian trails
31 required by this section. Where a county planning and zoning commission
32 exists, the plat ~~shall first have been~~ MAY BE referred to such commission for
33 its consideration and the board ~~shall have received~~ MAY RECEIVE the
34 recommendation of the commission. If the subdivision is comprised of
35 subdivided land, as defined in section 32-2101, and is within a groundwater
36 active management area, as defined in section 45-402, the plat shall not be
37 approved unless it is accompanied by a certificate of assured water supply
38 issued by the director of water resources, or unless the subdivider has
39 obtained a written commitment of water service for the subdivision from a
40 city, town or private water company designated as having an assured water
41 supply by the director of water resources pursuant to section 45-576 or is
42 exempt from such requirement pursuant to section 45-576. The board shall
43 note on the face of the plat that a certificate of assured water supply has
44 been submitted with the plat or that the subdivider has obtained a commitment

1 of water service for the proposed subdivision for a city, town or private
2 water company designated as having an assured water supply, pursuant to
3 section 45-576.

4 C. Any person causing a final plat to be recorded without first
5 submitting the plat and obtaining approval of the board shall be guilty of
6 a class 2 misdemeanor. No county recorder shall accept for recording or
7 record any plat which has not been approved as provided by this article.

8 D. The ground of refusal or approval of any plat submitted, including
9 citation of or reference to the rule or regulation violated by the plat,
10 shall be stated upon the record of the board.

11 E. The commission shall recommend to the board and the board shall
12 adopt general rules and regulations of uniform application governing plats
13 and subdivisions of land within its area of jurisdiction. The regulations
14 adopted shall secure and provide for the proper arrangement of streets or
15 other highways in relation to existing or planned streets, highways or
16 bicycle facilities or to the official map for adequate and convenient open
17 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
18 recreation, light and air. The board may adopt general rules and regulations
19 to provide for the proper arrangement of hiking and equestrian trails in
20 relation to existing or planned streets or highways, and if adopted, such
21 hiking and equestrian trails shall conform to the official map for adequate
22 and convenient open spaces for traffic, utilities, drainage, access of fire
23 fighting apparatus, recreation, light and air. The general rules and
24 regulations may provide for modification by the commission in planned area
25 development or specific cases where unusual topographical or other
26 exceptional conditions may require such action. The regulations shall
27 include provisions as to the extent to which streets and other highways shall
28 be graded and improved and to which water, sewer or other utility mains,
29 piping or other facilities shall be installed or provided for on the plat as
30 a condition precedent to the approval of the final plat.

31 F. On recording of a plat, the fee of the streets, alleys, avenues,
32 highways, easements, parks and other parcels of ground reserved to the use
33 of the public vests in trust in the county for the uses and to the extent
34 depicted on the plat including, but not limited to, ingress and egress
35 easements depicted on such plat. On annexation by any city or town such fee
36 automatically vests in the city or town.

37 G. Boards of supervisors of counties shall prepare specifications and
38 make orders, inspections, examinations and certificates as may be necessary
39 to protect and complete the provisions and make them effective. The
40 regulations shall require the posting of performance bonds, assurances or
41 such other security as may be appropriate and necessary to assure the
42 installation of required street, sewer, electric and water utilities,
43 drainage, flood control and improvements meeting established minimum
44 standards of design and construction.

1 H. Before adoption of rules and regulations by the board or any
2 amendment thereof as provided in this article, a public hearing shall be held
3 by the commission. A copy of the rules and regulations shall be certified
4 by the commission to the county board of supervisors which shall hold a
5 public hearing after notice of the time and place has been given by one
6 publication fifteen days prior to the public hearing in a newspaper of
7 general circulation in the county.

8 I. Approval of a plat shall not be deemed to constitute or effect an
9 acceptance by the county for designation of any street, highway, bicycle
10 facility or other way or open space shown upon the plat into the county
11 maintenance system except for hiking and equestrian trails which shall be
12 constructed and maintained by the county. However, at such time as the
13 streets, highways, bicycle facilities or other ways are fully completed in
14 accordance with the approved plat and written specifications made by the
15 county board, the county shall accept such streets, highways, bicycle
16 facilities and other ways into the county maintenance system within one year
17 of completion.

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

19 11-829. Amendment of ordinance or change of zoning district
20 boundaries; definition

21 A. A property owner or authorized agent of a property owner desiring
22 an amendment or change in the zoning ordinance changing the zoning district
23 boundaries within an area previously zoned shall file an application for the
24 amendment or change.

25 B. Upon receipt of the application the board shall submit it to the
26 commission for a report. Prior to reporting to the board, the commission
27 shall hold at least one public hearing thereon after giving at least fifteen
28 days' notice thereof by one publication in a newspaper of general circulation
29 in the county seat and by posting of the area included in the proposed
30 change. In case of a rezoning, the posting shall be in no less than two
31 places with at least one notice for each quarter mile of frontage along
32 perimeter public rights-of-way so that the notices are visible from the
33 nearest public right-of-way. The commission shall also send notice by first
34 class mail to each real property owner as shown on the last assessment of the
35 property within three hundred feet of the proposed amendment or change and
36 each county and municipality which is contiguous to the area of the amendment
37 or change. The notice sent by mail shall include, at a minimum, the date,
38 time and place of the hearing on the proposed amendment or change including
39 a general explanation of the matter to be considered, a general description
40 of the area of the proposed amendment or change, how the real property owners
41 within the zoning area may file approvals or protests of the proposed
42 rezoning, and notification that if twenty per cent of the property owners by
43 area and number within the zoning area file protests, an affirmative vote of

1 three-fourths of all members of the board will be required to approve the
2 rezoning. The following specific notice provisions also apply:

3 1. In proceedings that are not initiated by the commission involving
4 rezoning, notice by first class mail shall be sent to each real property
5 owner, as shown on the last assessment of the property, of the area to be
6 rezoned and all property owners, as shown on the last assessment of the
7 property, within three hundred feet of the property to be rezoned.

8 2. In proceedings involving one or more of the following proposed
9 changes or related series of changes in the standards governing land uses,
10 notice shall be provided in the manner prescribed by paragraph 3:

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

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

15 (c) An increase or reduction in the allowable number of stories of
16 buildings.

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

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

20 3. In proceedings governed by paragraph 2, the county shall provide
21 notice to real property owners pursuant to at least one of the following
22 notification procedures:

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

26 (b) If the county issues utility bills or other mass mailings that
27 periodically include notices or other informational or advertising materials,
28 the county shall include notice of such changes with such utility bills or
29 other mailings.

30 (c) The county shall publish such changes prior to the first hearing
31 on such changes in a newspaper of general circulation in the county. The
32 changes shall be published in a ~~display ad~~ ADVERTISEMENT covering not less
33 than one-eighth of a full page.

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

40 5. Notwithstanding the notice requirements set forth in paragraph 2,
41 the failure of any person or entity to receive notice shall not constitute
42 grounds for any court to invalidate the actions of a county for which the
43 notice was given.

1 C. ~~Upon receipt of the commission's recommendation~~ IF THE PLANNING
2 COMMISSION OR HEARING OFFICER HAS HELD A PUBLIC HEARING, THE BOARD MAY ADOPT
3 THE RECOMMENDATIONS OF THE PLANNING COMMISSION OR HEARING OFFICER THROUGH USE
4 OF A CONSENT CALENDAR WITHOUT HOLDING A SECOND PUBLIC HEARING. IF THERE IS NO
5 OBJECTION, REQUEST FOR PUBLIC HEARING OR OTHER PROTEST. IF THERE IS AN
6 OBJECTION, A REQUEST FOR PUBLIC HEARING OR A PROTEST, the board shall hold
7 a public hearing thereon at least fifteen days' notice of which shall be
8 given by one publication in a newspaper of general circulation in the county
9 seat and by posting the area included in the proposed change. After holding
10 the hearing the board may adopt the amendment, but if twenty per cent of the
11 owners of property by area and number within the zoning area file a protest
12 to the proposed change, the change shall not be made except by a
13 three-fourths vote of all members of the board. If any members of the board
14 are unable to vote on the question because of a conflict of interest, the
15 required number of votes for the passage of the question is three-fourths of
16 the remaining membership of the board, except that the required number of
17 votes in no event shall be less than a majority of the full membership of the
18 board. In calculating the owners by area, only that portion of a lot or
19 parcel of record situated within three hundred feet of the property to be
20 rezoned shall be included. In calculating the owners by number or area,
21 county property and public rights-of-way shall not be included.

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

26 E. Notwithstanding the provisions of title 19, chapter 1, article 4,
27 a decision by the governing body involving rezoning of land which is not
28 owned by the county and which changes the zoning classification of such land
29 or which changes the zoning standards of such land as set forth in subsection
30 B, paragraph 2 may not be enacted as an emergency measure and such a change
31 shall not be effective for at least thirty days after final approval of the
32 change in classification by the board.

33 F. For the purposes of this section "zoning area" means the area
34 within three hundred feet of the proposed amendment or change.

APPROVED BY THE GOVERNOR MARCH 28, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 28, 1996