



Cochise County
Community Development
Planning, Zoning and Building Safety Division
Public Programs...Personal Service
www.cochise.az.gov

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Christine McLachlan, AICP, Planner II
FOR: Daniel Coxworth, AICP, Development Services Director
SUBJECT: Docket R-20-03 (Zoning Amendment, Mailed Notification Radius)
DATE: May 1, 2020 for the May 13, 2020 meeting

I. BACKGROUND AND PROPOSED CHANGES

Docket R-20-03 is a proposed amendment to the Cochise County Zoning Regulations Article 17, Administration and Article 22, Amendments. Both articles provide procedural requirements for mailed notification of residents directly affected by various planning applications of the Planning and Zoning Commission and the Board of Supervisors. In addition, this docket proposes deletion of references in Section 2207 to filing a protest. These provisions were revised by the State in the year 2011 and now only apply to Counties in Arizona with five or more supervisors.

State law requires that mailed notice be sent via first class mail to each property owner whose property is directly affected by a proposed comprehensive plan amendment, rezoning or special use. Arizona law defines the term "directly affected" to those within a "zoning area," which is defined as 300-feet from the subject parcel. State law also mandates other forms of notification including publication of a legal notice in a local newspaper, physical posting on the site, and a citizen review report. Cochise County's requirements for mailed notification vary by application type, growth area, and proposed use. The following table summarizes these requirements:

Current Mailed Notification Requirements

	Special Use, Rezoning, and Citizen Review	Minor Land Use Change (Comp Plan Req.)	Special Event - Events of Public Interest	Variance	Wind Turbines Greater than 45'
Area A	300'	1,000'	300'	300'	300'
Area B	1,000'	1,000'	300'	300'	1,000'
Area C	1,000'	1,000'	300'	300'	1,000'
Area D	Minimum 1-mile, Maximum 3-miles also a minimum of 50 parcels shall be notified	1,500'	1,500'	300'	Minimum 1-mile, Maximum 3-miles also a minimum of 50 parcels shall be notified
Intensive Use	Minimum 1-mile, Maximum 3-miles also a minimum of 50 parcels shall be notified	Not applicable	Not applicable	Not Applicable	Not Applicable
Also/ However	Rezoning to less intensive Districts do not require a Citizen Review.	If the Comp. Plan amendment also includes a proposal to amend Zoning District boundaries, then the notification requirements in Article 22 are applied instead.	Notice must also be sent to each County and municipality which is contiguous to the area of the proposed temporary use(s).		Any protested permit application shall require Special Use Authorization

(Intensive uses specifically encompass the following: airport, airstrip, firearms range, manufacturing or storage of hazardous materials as a principal use, feedlot, or electric generation plant.)

While informing residents is critically important, the current requirements are somewhat complex, time-intensive, expensive, and inflexible. In addition, they exceed the requirements of every other County in Arizona. The intent of this docket is to both simplify and add flexibility to these requirements. This can be accomplished by:

1. Limiting the mailed notification requirements to *no less than* 300 feet. (Simplification)
2. *However*, the Planning Director (“County Zoning Inspector”) may expand the notification area to greater than 300 feet, at the time of application acceptance, if there are compatibility concerns associated with the request. (Flexibility)

These changes are anticipated to have the following impacts:

1. *Greater reliance on the other forms of notification.* Community feedback helps planners do their job. Increasingly, the general public relies on information found online. There is a community expectation for the County’s website to provide information and regular updates. The Planning Division has recently upgraded the County’s posting signs and has begun dedicating webpage to information for each planning docket. Live chat capability has also been added to the website. In addition, the County has the ability to internally track which, and how often, each webpage is viewed.
2. *Greater deference provided to property owners in the immediate area.* A smaller notification radius focuses the County’s attention on property owners within a City block, who will be very familiar with the site and will likely be most impacted by increases in traffic, noise or light pollution.
3. *Flexibility.* The current list of intensive uses does not include many potentially controversial uses such as crematories, solid waste landfills, zoos, jails, impoundment storage yards, slaughterhouses, cemeteries, or regional sewerage treatment plants. By not providing a prescribed list of uses that are subject to a larger mailed notification, the Planning Director can use their professional discretion to expand the required notification radius associated with those, or similar, requests on a case-by-case basis.

4. *Anticipate the impact of specific location.* Location matters. What is controversial in one location, whether it's a retail store or well drilling business, does not necessarily correspond to growth boundaries. The Planning Director can again use their professional judgment to determine whether a request will be controversial based on the proposed location within the County.

More specifically, the proposed changes are as follows:

Section 1716.03.D.2 Procedures for Issuance of a Special Use Authorization

Section 1716.03 states the required procedures for the issuance of a special use authorization. Subsection D states the notification requirements, which includes mailed notification.

Proposed Change:

2. Send notice by first class mail to each owner of real property no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. Where there are potential compatibility concerns, the County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance. as follows:

Growth Area	Distance
Area A	300 feet
Area B	1,000 feet
Area C	1,000 feet
Area D/Intensive Use*	Minimum 1 mile, maximum 3 miles A minimum of 50 parcels shall be notified, up to a maximum 3-mile distance
*Airport, airstrip, firearms range, manufacturing, or storage of hazardous materials as a principal use, feedlot, or electric generation plant.	

Section 1720.03.F.7 Particular Temporary Uses Permitted

F. Events of Public Interest

1. Permitted in all districts.
2. Including, but not limited to, outdoor art and crafts shows and exhibits; farmers markets; outdoor concerts; outdoor revivals; rallies; and outdoor charity events.
3. Maximum length of a temporary use permit on a specific parcel that is not occupied by a community park, community center, or school shall be seven-consecutive days, plus an additional four-calendar days for set-up and dismantling, within any three-month period.
4. No structure, equipment, or display shall be located within 300-feet of an existing residence on an adjacent property, unless written permission is granted by the adjacent property owner.
5. Longer events of public interest up to six-consecutive weeks within a six-month period may be allowed, subject to approval by the Board of Supervisors. Upon receipt of a completed application, the County Zoning Inspector shall submit it to the Board of Supervisors for consideration and action. Prior to taking action on approving or denying the temporary use permit, the Board shall:

- 6. Hold one public hearing thereon after at least 15-calendar days notice by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed temporary use(s).
- 7. Send notice by first class mail to each owner of real property, as shown on the most recent available records of the last property tax assessment, located within no less than 300-feet of the proposed area of the proposed temporary use(s), ~~if within Growth Categories A, B, or C, or within 1500 feet, if within a Category D area,~~ and to each County and municipality which is contiguous to the area of the proposed temporary use(s). The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

2203.02 Citizen Review Process

- 2. At a minimum, the Applicant shall notify and, if requested, meet with homeowners’ or community associations nearest the subject parcel and all adjacent and potentially impacted property owners. These property owners shall be defined to include:
 - a. All of those who own property located within the area subject to the application.
 - b. Notice to real property owners, as shown on the most recent available records of the last property tax assessment, as follows: Notice by first class mail to each owner of real property no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

Growth Area	Distance
Area A	300 feet
Area B	1,000 feet
Area C	1,000 feet
Area D/ Intensive Use*	Minimum 1 mile, maximum 3 miles A minimum of 50 parcels shall be notified, up to a maximum 3-mile distance
*Airport, airstrip, firearms range, manufacturing, or storage of hazardous materials as a principal use, feedlot, or electric generation plant.	

Section 2206.02 Planning Commission Action

2206.02 The Planning Commission shall also send notice by first class mail to each real property owner, , as shown on the most recent available records of the last property tax assessment, as follows: no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

Growth Area	Distance
Area A	300 feet
Area B	1,000 feet
Area C	1,000 feet
Area D/ Intensive Use*	Minimum 1 mile, maximum 3 miles A minimum of 50 parcels shall be notified, up to a maximum 3 mile distance
*Airport, airstrip, firearms range, manufacturing, or storage of hazardous materials as a principal use, feedlot, or electric generation plant.	

2207 Board of Supervisors Action

2207.01 Upon receipt of the Planning Commission's recommendation the Board shall hold a public hearing at least 15-calendar days notice of which shall be given by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed change. After holding the hearing, the Board may adopt the amendment, ~~but if 20 percent of the owners of property by area and number within the zoning area file a protest to the proposed change, the change shall not be made except by a three-fourths vote of all members of the Board. If any members of the Board are unable to vote on the question because of a conflict of interest, the required number of votes for the passage of the question is three-fourths of the remaining membership of the Board, except that the required number of votes in no event shall be less than a majority of the full membership of the Board. In calculating the owners by area, only that portion of a lot or parcel of record situated within 300 feet of the property to be rezoned shall be included. In calculating the owners by number or area, County property and public rights of way shall not be included.~~ by a majority vote of the board.

2207.02 The Planning Commission may on its own motion propose an amendment to the Zoning Regulations and may, after holding a public hearing as required by this Article, transmit the proposal to the Board which shall thereupon proceed as set forth in this Article for any amendment.

2207.03 Notwithstanding the provision of Arizona Revised Statutes, a decision by the Board involving Rezoning of land which is not owned by the County and which changes the zoning classification of such land or which changes the zoning standards of such land as set forth in subsection 2206.05 may not be enacted as an emergency measure and such a change shall not be effective for at least 30-calendar days after final approval of the change in classification by the Board. Unless a resident files a written objection with the Board of Supervisors, the Rezoning may be enacted as an emergency measure that becomes effective immediately by a two-thirds majority vote of the Board.

2207.04 ~~For the purposes of this Article, "Zoning Area" means the area within 300 feet of the proposed amendment or change.~~

II. SUMMARY AND RECOMMENDATION

Staff has attached draft regulations for Planning Commission consideration in strike-through and underline format. Staff will also provide a presentation of the draft amendments at the May 13, 2020 meeting. The proposed changes would amend Articles 17 and 22 of the Cochise County Zoning Regulations as indicated in the attachment to this report. Staff is requesting that the Commission forward the attached document to the Board of Supervisors with a recommendation for approval.

Sample Motion: *Mr. Chairman, I move to forward Docket R-20-03 with a recommendation of approval/denial to the Board of Supervisors.*

III. ATTACHMENTS

Exhibit "A," Draft Amendments to the Cochise County Zoning Regulations in strike-through and underline.

EXHIBIT A

1716.03 Procedures for Issuance of a Special Use Authorization

D. Upon receipt of the completed application, the County Zoning Inspector shall submit it to the Planning Commission for consideration and action. Prior to taking action on approving or denying the Special Use Authorization request, the Planning Commission shall:

1. Hold at least one public hearing thereon after at least 15-calendar days notice by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed Special Use Authorization request(s).
2. Send notice by first class mail to each owner of real property no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. Where there are potential compatibility concerns, the County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance, as follows:

Growth Area	Distance
Area A	300-feet
Area B	1,000-feet
Area C	1,000-feet
Area D/Intensive Use*	Minimum 1-mile, maximum 3-miles A minimum of 50 parcels shall be notified, up to a maximum 3-mile distance
*Airport, airstrip, firearms range, manufacturing, or storage of hazardous materials as a principal use, feedlot, or electric generation plant.	

1720.03 Particular Temporary Uses Permitted

Upon obtaining a temporary use permit, the following temporary uses shall be permitted, subject to the following standards and/or other standards imposed by the County Zoning Inspector to mitigate off-site impacts:

F. Events of Public Interest

1. Permitted in all districts.
2. Including, but not limited to, outdoor art and crafts shows and exhibits; farmers markets; outdoor concerts; outdoor revivals; rallies; and outdoor charity events.
3. Maximum length of a temporary use permit on a specific parcel that is not occupied by a community park, community center, or school shall be seven-consecutive days, plus an additional four-calendar days for set-up and dismantling, within any three-month period.
4. No structure, equipment, or display shall be located within 300-feet of an existing residence on an adjacent property, unless written permission is granted by the adjacent property owner.
5. Longer events of public interest up to six-consecutive weeks within a six-month period may be allowed, subject to approval by the Board of Supervisors. Upon receipt of a

completed application, the County Zoning Inspector shall submit it to the Board of Supervisors for consideration and action. Prior to taking action on approving or denying the temporary use permit, the Board shall:

6. Hold one public hearing thereon after at least 15-calendar days notice by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed temporary use(s).
7. Send notice by first class mail to each owner of real property, as shown on the most recent available records of the last property tax assessment, located within 300-feet of the proposed area of the proposed temporary use(s), ~~if within Growth Categories A, B, or C, or within 1500-feet, if within a Category D area,~~ and to each County and municipality which is contiguous to the area of the proposed temporary use(s). The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

2203 Citizen Review Process

1. At a minimum, the Applicant shall notify and, if requested, meet with homeowners' or community associations nearest the subject parcel and all adjacent and potentially impacted property owners. These property owners shall be defined to include:
 - a. All of those who own property located within the area subject to the application.
 - b. ~~Notice to real property owners, as shown on the most recent available records of the last property tax assessment, as follows:~~ Notice by first class mail to each owner of real property no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

Growth Area	Distance
Area A	300-feet
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Area D/ Intensive Use*	Minimum 1-mile, maximum 3 miles A minimum of 50 parcels shall be notified, up to a maximum 3-mile distance
*Airport, airstrip, firearms range, manufacturing, or storage of hazardous materials as a principal use, feedlot, or electric generation plant.	

2206 Planning Commission Action

Upon receipt of the application, the Planning Director shall submit it to the Planning Commission for consideration. Prior to reporting to the Board, the Planning Commission shall:

2206.01 Hold at least one public hearing thereon after at least 15-calendar days notice by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed change. The posting shall be in no less than two places with at least one notice for

each quarter mile of frontage along perimeter public rights-of-way so that the notices were visible from the nearest right-of-way.

2206.02 The Planning Commission shall also send notice by first class mail to each real property owner, ~~as shown on the most recent available records of the last property tax assessment, as follows:~~ no less than 300 feet of the subject parcel, as shown on the most recent available records of the last property tax assessment. The County Zoning Inspector may expand the mailed notification area to greater than 300 feet at time of application acceptance if there are compatibility concerns associated with the request.

Growth Area	Distance
Area A	300-feet
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2207.01 Upon receipt of the Planning Commission's recommendation the Board shall hold a public hearing at least 15-calendar days notice of which shall be given by one publication in a newspaper of general circulation in the County seat and by posting the area included in the proposed change. After holding the hearing, the Board may adopt the amendment, ~~but if 20-percent of the owners of property by area and number within the zoning area file a protest to the proposed change, the change shall not be made except by a three-fourths vote of all members of the Board. If any members of the Board are unable to vote on the question because of a conflict of interest, the required number of votes for the passage of the question is three-fourths of the remaining membership of the Board, except that the required number of votes in no event shall be less than a majority of the full membership of the Board. In calculating the owners by area, only that portion of a lot or parcel of record situated within 300-feet of the property to be rezoned shall be included. In calculating the owners by number or area, County property and public rights-of-way shall not be included.~~ by a majority vote of the board.

2207.02 The Planning Commission may on its own motion propose an amendment to the Zoning Regulations and may, after holding a public hearing as required by this Article, transmit the proposal to the Board which shall thereupon proceed as set forth in this Article for any amendment.

2207.03 Notwithstanding the provision of Arizona Revised Statutes, a decision by the Board involving Rezoning of land which is not owned by the County and which changes the zoning classification of such land or which changes the zoning standards of such land as set forth in subsection 2206.05 may not be enacted as an emergency measure and such a change shall not be effective for at least 30-calendar days after final approval of the change in classification by the Board. Unless a resident files a written objection with the Board of Supervisors, the Rezoning may be enacted as an emergency measure that becomes effective immediately by a two-thirds majority vote of the Board.

2207.04 ~~For the purposes of this Article, "Zoning Area" means the area within 300-feet of the proposed amendment or change.~~