

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1598

AN ACT

AMENDING SECTIONS 9-461, 9-461.05 AND 9-461.06, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.14; AMENDING TITLE 9, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 11-801, 11-804 AND 11-805, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7, BY ADDING SECTION 11-809; AMENDING TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11; AMENDING SECTION 12-348, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 21, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO CITY, COUNTY AND FLOOD CONTROL DISTRICT REGULATIONS.

(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, Arizona Revised Statutes, is amended to
3 read:

4 9-461. Definitions

5 In this article, unless the context otherwise requires:

6 1. "AGGREGATE" MEANS CINDER, CRUSHED ROCK OR STONE, DECOMPOSED
7 GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

8 ~~1-~~ 2. "General plan" means a municipal statement of land development
9 policies, ~~which~~ THAT may include maps, charts, graphs and text ~~which~~ THAT set
10 forth objectives, principles and standards for local growth and redevelopment
11 enacted under the provisions of this article or any prior statute.

12 ~~2-~~ 3. "Municipal" or "municipality" means an incorporated city or
13 town.

14 ~~3-~~ 4. "Planning agency" means the official body designated by local
15 ordinance to carry out the purposes of this article and may be a planning
16 department, a planning commission, a hearing officer, the legislative body
17 itself, or any combination thereof.

18 ~~4-~~ 5. "Right-of-way" means any public right-of-way and includes any
19 area required for public use pursuant to any general or specific plan.

20 ~~5-~~ 6. "Specific plan" means a detailed element of the general plan
21 enacted under the provisions of this article or a prior statute.

22 ~~6-~~ 7. "Street" means streets, highways, freeways, expressways,
23 avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts,
24 subways, tunnels, bridges, public access easements and rights-of-way.

25 ~~7-~~ 8. "Subdivision regulations" means a municipal ordinance
26 regulating the design and improvement of subdivisions enacted under the
27 provisions of article 6.2 of this chapter, or any prior statute, regulating
28 the design and improvement of subdivisions.

29 ~~8-~~ 9. "Zoning ordinance" means a municipal ordinance regulating the
30 use of land, ~~OR~~ structures, or both, under the provisions of this article.

31 Sec. 2. Section 9-461.05, Arizona Revised Statutes, is amended to
32 read:

33 9-461.05. General plans; authority; scope

34 A. Each planning agency shall prepare and the governing body of each
35 municipality shall adopt a comprehensive, long-range general plan for the
36 development of the municipality. The planning agency shall coordinate the
37 production of its general plan with the creation of the state land department
38 conceptual land use plans under title 37, chapter 2, article 5.1 and shall
39 cooperate with the state land department regarding integrating the conceptual
40 state land use plans into the municipality's general land use plan. The
41 general plan shall include provisions that identify changes or modifications
42 to the plan that constitute amendments and major amendments. The plan shall
43 be adopted and readopted in the manner prescribed by section 9-461.06.

1 B. The general plan shall be so prepared that all or individual
2 elements of it may be adopted by the governing body and that it may be made
3 applicable to all or part of the territory of the municipality.

4 C. The general plan shall consist of a statement of community goals
5 and development policies. It shall include maps, any necessary diagrams and
6 text setting forth objectives, principles, standards and plan proposals. The
7 plan shall include the following elements:

8 1. A land use element that:

9 (a) Designates the proposed general distribution and location and
10 extent of such uses of the land for housing, business, industry, agriculture,
11 recreation, education, public buildings and grounds, open space and other
12 categories of public and private uses of land as may be appropriate to the
13 municipality.

14 (b) Includes a statement of the standards of population density and
15 building intensity recommended for the various land use categories covered by
16 the plan.

17 (c) Identifies specific programs and policies that the municipality
18 may use to promote infill or compact form development activity and locations
19 where those development patterns should be encouraged.

20 (d) Includes consideration of air quality and access to incident solar
21 energy for all general categories of land use.

22 (e) Includes policies that address maintaining a broad variety of land
23 uses, including the range of uses existing in the municipality when the plan
24 is adopted, readopted or amended.

25 (f) For cities and towns with territory in the vicinity of a military
26 airport or ancillary military facility as defined in section 28-8461,
27 includes consideration of military airport or ancillary military facility
28 operations. On or before December 31, 2005, if a city or town includes land
29 in a high noise or accident potential zone as defined in section 28-8461, the
30 city or town shall identify the boundaries of the high noise or accident
31 potential zone in its general plan for purposes of planning land uses in the
32 high noise or accident potential zone that are compatible with the operation
33 of the military airport or ancillary military facility pursuant to section
34 28-8481, subsection J.

35 (g) INCLUDES SOURCES OF CURRENTLY IDENTIFIED AGGREGATES FROM MAPS THAT
36 ARE AVAILABLE FROM STATE AGENCIES, POLICIES TO PRESERVE CURRENTLY IDENTIFIED
37 AGGREGATES SUFFICIENT FOR FUTURE DEVELOPMENT AND POLICIES TO AVOID
38 INCOMPATIBLE LAND USES, EXCEPT THAT THIS SUBDIVISION SHALL NOT BE CONSTRUED
39 TO AFFECT ANY PERMITTED UNDERGROUND STORAGE FACILITY OR LIMIT ANY PERSON'S
40 RIGHT TO OBTAIN A PERMIT FOR AN UNDERGROUND STORAGE FACILITY PURSUANT TO
41 TITLE 45, CHAPTER 3.1.

42 2. A circulation element consisting of the general location and extent
43 of existing and proposed freeways, arterial and collector streets, bicycle
44 routes and any other modes of transportation as may be appropriate, all
45 correlated with the land use element of the plan.

1 D. For cities and towns having a population of more than two thousand
2 five hundred persons but less than ten thousand persons and whose population
3 growth rate exceeded an average of two per cent per year for the ten year
4 period before the most recent United States decennial census and for cities
5 and towns having a population of ten thousand or more persons according to
6 the most recent United States decennial census, the general plan shall
7 include, and for other cities and towns the general plan may include:

8 1. An open space element that includes:

9 (a) A comprehensive inventory of open space areas, recreational
10 resources and designations of access points to open space areas and
11 resources.

12 (b) An analysis of forecasted needs, policies for managing and
13 protecting open space areas and resources and implementation strategies to
14 acquire additional open space areas and further establish recreational
15 resources.

16 (c) Policies and implementation strategies designed to promote a
17 regional system of integrated open space and recreational resources and a
18 consideration of any existing regional open space plans.

19 2. A growth area element, specifically identifying those areas, if
20 any, that are particularly suitable for planned multimodal transportation and
21 infrastructure expansion and improvements designed to support a planned
22 concentration of a variety of uses, such as residential, office, commercial,
23 tourism and industrial uses. This element shall include policies and
24 implementation strategies that are designed to:

25 (a) Make automobile, transit and other multimodal circulation more
26 efficient, make infrastructure expansion more economical and provide for a
27 rational pattern of land development.

28 (b) Conserve significant natural resources and open space areas in the
29 growth area and coordinate their location to similar areas outside the growth
30 area's boundaries.

31 (c) Promote the public and private construction of timely and
32 financially sound infrastructure expansion through the use of infrastructure
33 funding and financing planning that is coordinated with development activity.

34 3. An environmental planning element that contains analyses, policies
35 and strategies to address anticipated effects, if any, of plan elements on
36 air quality, water quality and natural resources associated with proposed
37 development under the general plan. The policies and strategies to be
38 developed under this element shall be designed to have community-wide
39 applicability and shall not require the production of an additional
40 environmental impact statement or similar analysis beyond the requirements of
41 state and federal law.

42 4. A cost of development element that identifies policies and
43 strategies that the municipality will use to require development to pay its
44 fair share toward the cost of additional public service needs generated by

1 new development, with appropriate exceptions when in the public interest.
2 This element shall include:

3 (a) A component that identifies various mechanisms that are allowed by
4 law and that can be used to fund and finance additional public services
5 necessary to serve the development, including bonding, special taxing
6 districts, development fees, in lieu fees, facility construction, dedications
7 and service privatization.

8 (b) A component that identifies policies to ensure that any mechanisms
9 that are adopted by the municipality under this element result in a
10 beneficial use to the development, bear a reasonable relationship to the
11 burden imposed on the municipality to provide additional necessary public
12 services to the development and otherwise are imposed according to law.

13 5. A water resources element that addresses:

14 (a) The known legally and physically available surface water,
15 groundwater and effluent supplies.

16 (b) The demand for water that will result from future growth projected
17 in the general plan, added to existing uses.

18 (c) An analysis of how the demand for water that will result from
19 future growth projected in the general plan will be served by the water
20 supplies identified in subdivision (a) of this paragraph or a plan to obtain
21 additional necessary water supplies.

22 E. The general plan shall include for cities of fifty thousand persons
23 or more and may include for cities of less than fifty thousand persons the
24 following elements or any part or phase of the following elements:

25 1. A conservation element for the conservation, development and
26 utilization of natural resources, including forests, soils, rivers and other
27 waters, harbors, fisheries, wildlife, minerals and other natural resources.
28 The conservation element may also cover:

29 (a) The reclamation of land.

30 (b) Flood control.

31 (c) Prevention and control of the pollution of streams and other
32 waters.

33 (d) Regulation of the use of land in stream channels and other areas
34 required for the accomplishment of the conservation plan.

35 (e) Prevention, control and correction of the erosion of soils,
36 beaches and shores.

37 (f) Protection of watersheds.

38 2. A recreation element showing a comprehensive system of areas and
39 public sites for recreation, including the following and, if practicable,
40 their locations and proposed development:

41 (a) Natural reservations.

42 (b) Parks.

43 (c) Parkways and scenic drives.

44 (d) Beaches.

45 (e) Playgrounds and playfields.

1 (f) Open space.

2 (g) Bicycle routes.

3 (h) Other recreation areas.

4 3. The circulation element provided for in subsection C, paragraph 2
5 of this section shall also include for cities of fifty thousand persons or
6 more and may include for cities of less than fifty thousand persons
7 recommendations concerning parking facilities, building setback requirements
8 and the delineations of such systems on the land, a system of street naming
9 and house and building numbering and other matters as may be related to the
10 improvement of circulation of traffic. The circulation element may also
11 include:

12 (a) A transportation element showing a comprehensive transportation
13 system, including locations of rights-of-way, terminals, viaducts and grade
14 separations. This element of the plan may also include port, harbor,
15 aviation and related facilities.

16 (b) A transit element showing a proposed system of rail or transit
17 lines or other mode of transportation as may be appropriate.

18 4. A public services and facilities element showing general plans for
19 police, fire, emergency services, sewage, refuse disposal, drainage, local
20 utilities, rights-of-way, easements and facilities for them.

21 5. A public buildings element showing locations of civic and community
22 centers, public schools, libraries, police and fire stations and other public
23 buildings.

24 6. A housing element consisting of standards and programs for the
25 elimination of substandard dwelling conditions, for the improvement of
26 housing quality, variety and affordability and for provision of adequate
27 sites for housing. This element shall contain an identification and analysis
28 of existing and forecasted housing needs. This element shall be designed to
29 make equal provision for the housing needs of all segments of the community
30 regardless of race, color, creed or economic level.

31 7. A conservation, rehabilitation and redevelopment element consisting
32 of plans and programs for:

33 (a) The elimination of slums and blighted areas.

34 (b) Community redevelopment, including housing sites, business and
35 industrial sites and public building sites.

36 (c) Other purposes authorized by law.

37 8. A safety element for the protection of the community from natural
38 and artificial hazards, including features necessary for such protection as
39 evacuation routes, peak load water supply requirements, minimum road widths
40 according to function, clearances around structures and geologic hazard
41 mapping in areas of known geologic hazards.

42 9. A bicycling element consisting of proposed bicycle facilities such
43 as bicycle routes, bicycle parking areas and designated bicycle street
44 crossing areas.

- 1 10. An energy element that includes:
- 2 (a) A component that identifies policies that encourage and provide
- 3 incentives for efficient use of energy.
- 4 (b) An assessment that identifies policies and practices that provide
- 5 for greater uses of renewable energy sources.
- 6 11. A neighborhood preservation and revitalization element, including:
- 7 (a) A component that identifies city programs that promote home
- 8 ownership, that provide assistance for improving the appearance of
- 9 neighborhoods and that promote maintenance of both commercial and residential
- 10 buildings in neighborhoods.
- 11 (b) A component that identifies city programs that provide for the
- 12 safety and security of neighborhoods.
- 13 F. The water resources element of the general plan does not require:
- 14 1. New independent hydrogeologic studies.
- 15 2. The city or town to be a water service provider.
- 16 G. The land use element of a general plan of a city with a population
- 17 of more than one million persons shall include protections from encroaching
- 18 development for any shooting range that is owned by this state and that is
- 19 located within or adjacent to the exterior municipal boundaries on or before
- 20 January 1, 2004. The general plan shall establish land use categories within
- 21 at least one-half mile from the exterior boundaries of the shooting range
- 22 that are consistent with the continued existence of the shooting range and
- 23 that exclude incompatible uses such as residences, schools, hotels, motels,
- 24 hospitals or churches except that land zoned to permit these incompatible
- 25 uses on August 25, 2004 are exempt from this exclusion. For the purposes of
- 26 this subsection, "shooting range" means a permanently located and improved
- 27 area that is designed and operated for the use of rifles, shotguns, pistols,
- 28 silhouettes, skeet, trap, black powder or any other similar sport shooting in
- 29 an outdoor environment. Shooting range does not include:
- 30 1. Any area for the exclusive use of archery or air guns.
- 31 2. An enclosed indoor facility that is designed to offer a totally
- 32 controlled shooting environment and that includes impenetrable walls, floor
- 33 and ceiling, adequate ventilation, lighting systems and acoustical treatment
- 34 for sound attenuation suitable for the range's approved use.
- 35 3. A national guard facility located in a city or town with a
- 36 population of more than one million persons.
- 37 4. A facility that was not owned by this state before January 1, 2002.
- 38 H. The policies and strategies to be developed under these elements
- 39 shall be designed to have community-wide applicability and this section does
- 40 not authorize the imposition of dedications, exactions, fees or other
- 41 requirements that are not otherwise authorized by law.

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

3 9-461.06. Adoption and amendment of general plan: expiration
4 and readoption

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

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

12 C. The governing body shall:

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

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

18 (b) The opportunity for written comments.

19 (c) Public hearings after effective notice.

20 (d) Open discussions, communications programs and information
21 services.

22 (e) Consideration of public comments.

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

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

37 1. The planning agency of the county in which the municipality is
38 located.

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

41 3. The regional planning agency within which the municipality is
42 located.

43 4. The department of commerce or any other state agency that is
44 subsequently designated as the general planning agency for this state.

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

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

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

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

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

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

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

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

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

39 H. The adoption or readoption of the general plan or any amendment to
40 such plan shall be by resolution of the governing body of the municipality,
41 after notice as provided for in subsection E of this section. The adoption
42 or readoption of or a major amendment to the general plan shall be approved
43 by affirmative vote of at least two-thirds of the members of the governing
44 body of the municipality. All major amendments to the general plan proposed
45 for adoption by the governing body of a municipality shall be presented at a

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

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

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

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

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

25 M. The governing body of a city or town having a population of more
26 than two thousand five hundred persons but less than ten thousand persons and
27 whose population growth rate exceeded an average of two per cent per year for
28 the ten year period before the most recent United States decennial census,
29 and any city or town having a population of ten thousand or more persons,
30 shall submit each new general plan adopted pursuant to subsection K of this
31 section to the voters for ratification at the next regularly scheduled
32 municipal election or at a special election scheduled at least one hundred
33 twenty days after the governing body adopted the plan pursuant to section
34 16-204. The governing body shall include a general description of the plan
35 and its elements in the municipal election pamphlet and shall provide public
36 copies of the plan in at least two locations that are easily accessible to
37 the public and may include posting on the municipality's official internet
38 ~~web-site~~ WEBSITE. If a majority of the qualified electors voting on the
39 proposition approves the new plan, it shall become effective as provided by
40 law. If a majority of the qualified electors voting on the proposition fails
41 to approve the new plan, the current plan remains in effect until a new plan
42 is approved by the voters pursuant to this subsection. The governing body
43 shall either resubmit the proposed new plan, or revise the new plan as
44 provided by this section, for subsequent submission to the voters at the next
45 regularly scheduled municipal election or at a special election scheduled at

1 least one hundred twenty days after the governing body readopted the new or
2 revised new plan. All subsequent adoptions and submissions of the new plan
3 or revised plans must comply with the procedures prescribed by this section
4 until the plan is ratified.

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

20 O. A PERSON, AFTER HAVING PARTICIPATED IN THE PUBLIC HEARING PURSUANT
21 TO SUBSECTION H OF THIS SECTION, MAY FILE A PETITION FOR SPECIAL ACTION IN
22 SUPERIOR COURT TO REVIEW THE GOVERNING BODY'S DECISION THAT DOES NOT COMPLY
23 WITH THE MANDATORY REQUIREMENT PRESCRIBED IN SECTION 9-461.05, SUBSECTION C,
24 PARAGRAPH 1, SUBDIVISION (g) WITHIN THIRTY DAYS AFTER THE GOVERNING BODY HAS
25 RENDERED ITS DECISION. THE COURT MAY AFFIRM, REVERSE OR REMAND TO THE
26 GOVERNING BODY, IN WHOLE OR IN PART, THE DECISION REVIEWED FOR FURTHER ACTION
27 THAT IS NECESSARY TO COMPLY WITH THE MANDATORY REQUIREMENTS PRESCRIBED IN
28 SECTION 9-461.05, SUBSECTION C, PARAGRAPH 1, SUBDIVISION (g).

29 Sec. 4. Title 9, chapter 4, article 6, Arizona Revised Statutes, is
30 amended by adding section 9-461.14, to read:

31 9-461.14. Public works project planning; utility input;
32 definitions

33 A. A CITY OR TOWN IN THE DESIGN PHASE OF A PUBLIC WORKS PROJECT SHALL
34 PROVIDE NOTICE AND OPPORTUNITY FOR COMMENT TO ALL UTILITIES THE CITY OR TOWN
35 BELIEVES MAY BE IMPACTED BY THE PUBLIC WORKS PROJECT FOR THE PURPOSES OF:

36 1. ELIMINATING OR MINIMIZING THE NEED FOR RELOCATION OF AERIAL,
37 SURFACE AND UNDERGROUND FACILITIES OF THE IMPACTED UTILITIES AND, IF
38 RELOCATION IS UNAVOIDABLE, MINIMIZING THE RELOCATION COSTS TO THE EXTENT
39 PRACTICABLE RELATIVE TO THE COST OF THE PUBLIC WORKS PROJECT.

40 2. MINIMIZING SUBSEQUENT RECONSTRUCTION OR MODIFICATION OF UTILITY
41 FACILITIES AFTER COMPLETION OF THE PUBLIC WORKS PROJECT.

42 B. FOR THE PURPOSES OF THIS SECTION:

43 1. "PUBLIC WORKS PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
44 12-1141.

45 2. "UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION 48-5107.

1 Sec. 5. Title 9, chapter 7, Arizona Revised Statutes, is amended by
2 adding article 4, to read:

3 ARTICLE 4. MUNICIPAL REGULATIONS

4 9-831. Definitions

5 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 1. "FOOD AND SWIMMING POOL INSPECTION" MEANS AN INSPECTION OF A
7 REGULATED PERSON CONDUCTED TO ENSURE THE SAFETY OF FOOD SERVICES, SWIMMING
8 POOLS AND OTHER BATHING PLACES.

9 2. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY MUNICIPAL PERMIT,
10 CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION
11 REQUIRED BY LAW.

12 3. "LICENSING" INCLUDES THE MUNICIPAL PROCESS RESPECTING THE GRANT,
13 DENIAL, RENEWAL, REVOCATION, SUSPENSION, ANNULMENT, WITHDRAWAL OR AMENDMENT
14 OF A LICENSE.

15 4. "MUNICIPAL" OR "MUNICIPALITY" MEANS AN INCORPORATED CITY OR TOWN.

16 5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
17 ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION
18 OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

19 6. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS
20 ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A MUNICIPALITY'S CURRENT
21 APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES,
22 INCLUDING, WHERE APPROPRIATE, THE MUNICIPALITY'S CURRENT PRACTICE, PROCEDURE
23 OR METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY
24 STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE
25 INTERNAL PROCEDURES OF THE MUNICIPALITY AND DO NOT IMPOSE ADDITIONAL
26 REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION.

27 7. "WORKING DAY" MEANS A TWENTY-FOUR HOUR PERIOD EXCLUDING WEEKENDS
28 AND LEGAL HOLIDAYS.

29 9-832. Regulatory bill of rights

30 TO ENSURE FAIR AND OPEN REGULATION BY MUNICIPALITIES, A PERSON:

31 1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE
32 PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A MUNICIPALITY IN A
33 COURT PROCEEDING REGARDING A MUNICIPALITY DECISION AS PROVIDED IN SECTION
34 12-348.

35 2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS
36 AS PROVIDED IN SECTION 9-833.

37 3. IS ENTITLED TO HAVE A MUNICIPALITY NOT BASE A LICENSING DECISION IN
38 WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT
39 SPECIFICALLY AUTHORIZED AS PROVIDED IN SECTION 9-834, SUBSECTION A.

40 4. MAY HAVE A MUNICIPALITY APPROVE OR DENY THE PERSON'S LICENSE
41 APPLICATION WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN SECTION
42 9-835

43 5. IS ENTITLED TO RECEIVE WRITTEN OR ELECTRONIC NOTICE FROM A
44 MUNICIPALITY ON DENIAL OF A LICENSE APPLICATION:

1 (a) THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE STATUTE,
2 ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENTS ON WHICH THE
3 DENIAL IS BASED AS PROVIDED IN SECTION 9-835.

4 (b) THAT EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS
5 PROVIDED IN SECTION 9-835.

6 6. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE
7 APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A
8 LICENSE AS PROVIDED IN SECTION 9-836.

9 7. MAY INSPECT ALL ORDINANCES, CODES AND SUBSTANTIVE POLICY STATEMENTS
10 OF A MUNICIPALITY, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICE OF THE
11 MUNICIPALITY OR ON THE MUNICIPALITY'S WEBSITE AS PROVIDED IN SECTION 9-837.

12 8. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT MUNICIPALITIES TO AVOID
13 DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID
14 DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN SECTION
15 9-834.

16 9. MAY FILE A COMPLAINT WITH THE MUNICIPALITY CONCERNING AN ORDINANCE,
17 CODE OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY WITH THIS SECTION.

18 9-833. Inspections; applicability

19 A. A MUNICIPAL INSPECTOR OR REGULATOR WHO ENTERS ANY PREMISES OF A
20 REGULATED PERSON FOR THE PURPOSE OF CONDUCTING AN INSPECTION SHALL:

21 1. PRESENT PHOTO IDENTIFICATION ON ENTRY OF THE PREMISES.

22 2. ON INITIATION OF THE INSPECTION, STATE THE PURPOSE OF THE
23 INSPECTION AND THE LEGAL AUTHORITY FOR CONDUCTING THE INSPECTION.

24 3. DISCLOSE ANY APPLICABLE INSPECTION FEES.

25 4. EXCEPT FOR A FOOD AND SWIMMING POOL INSPECTION, AFFORD AN
26 OPPORTUNITY TO HAVE AN AUTHORIZED ON-SITE REPRESENTATIVE OF THE REGULATED
27 PERSON ACCOMPANY THE MUNICIPAL INSPECTOR OR REGULATOR ON THE PREMISES, EXCEPT
28 DURING CONFIDENTIAL INTERVIEWS.

29 5. PROVIDE NOTICE OF THE RIGHT TO HAVE:

30 (a) COPIES OF ANY ORIGINAL DOCUMENTS TAKEN FROM THE PREMISES BY THE
31 MUNICIPALITY DURING THE INSPECTION IF THE MUNICIPALITY IS PERMITTED BY LAW TO
32 TAKE ORIGINAL DOCUMENTS.

33 (b) A SPLIT OR DUPLICATE OF ANY SAMPLES TAKEN DURING THE INSPECTION IF
34 THE SPLIT OR DUPLICATE OF ANY SAMPLES, WHERE APPROPRIATE, WOULD NOT PROHIBIT
35 AN ANALYSIS FROM BEING CONDUCTED OR RENDER AN ANALYSIS INCONCLUSIVE.

36 (c) COPIES OF ANY ANALYSIS PERFORMED ON SAMPLES TAKEN DURING THE
37 INSPECTION.

38 6. INFORM EACH PERSON WHOSE CONVERSATION WITH THE MUNICIPAL INSPECTOR
39 OR REGULATOR DURING THE INSPECTION IS TAPE RECORDED THAT THE CONVERSATION IS
40 BEING TAPE RECORDED.

41 7. INFORM EACH PERSON INTERVIEWED DURING THE INSPECTION THAT
42 STATEMENTS MADE BY THE PERSON MAY BE INCLUDED IN THE INSPECTION REPORT.

43 B. ON INITIATION OF, OR TWO WORKING DAYS BEFORE, AN INSPECTION OF ANY
44 PREMISES OF A REGULATED PERSON, EXCEPT FOR A FOOD AND SWIMMING POOL
45 INSPECTION THAT HAS UP TO ONE WORKING DAY AFTER AN INSPECTION, A MUNICIPAL

1 INSPECTOR OR REGULATOR SHALL PROVIDE THE FOLLOWING IN WRITING OR
2 ELECTRONICALLY:

3 1. THE RIGHTS DESCRIBED IN SUBSECTION A OF THIS SECTION.

4 2. THE NAME AND TELEPHONE NUMBER OF A MUNICIPAL CONTACT PERSON
5 AVAILABLE TO ANSWER QUESTIONS REGARDING THE INSPECTION.

6 3. THE DUE PROCESS RIGHTS RELATING TO AN APPEAL OF A FINAL DECISION OF
7 A MUNICIPALITY BASED ON THE RESULTS OF THE INSPECTION, INCLUDING THE NAME AND
8 TELEPHONE NUMBER OF A PERSON TO CONTACT WITHIN THE MUNICIPALITY AND ANY
9 APPROPRIATE MUNICIPALITY, COUNTY OR STATE GOVERNMENT OMBUDSMAN.

10 C. A MUNICIPAL INSPECTOR OR REGULATOR SHALL OBTAIN THE SIGNATURE OF
11 THE REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ON THE
12 WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION INDICATING THAT THE
13 REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON HAS READ
14 THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION AND IS NOTIFIED OF THE
15 REGULATED PERSON'S OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON'S
16 INSPECTION AND DUE PROCESS RIGHTS. THE MUNICIPALITY SHALL MAINTAIN A COPY OF
17 THIS SIGNATURE WITH THE INSPECTION REPORT. UNLESS THE REGULATED PERSON AT
18 THE TIME OF THE INSPECTION IS INFORMED HOW THE REPORT CAN BE LOCATED
19 ELECTRONICALLY, THE MUNICIPALITY SHALL LEAVE A COPY WITH THE REGULATED PERSON
20 OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON. IF A REGULATED PERSON OR
21 ON-SITE REPRESENTATIVE OF THE REGULATED PERSON IS NOT AT THE SITE OR REFUSES
22 TO SIGN THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE MUNICIPAL
23 INSPECTOR OR REGULATOR SHALL NOTE THAT FACT ON THE WRITING PRESCRIBED IN
24 SUBSECTION B OF THIS SECTION.

25 D. A MUNICIPALITY THAT CONDUCTS AN INSPECTION SHALL GIVE A COPY OF, OR
26 PROVIDE ELECTRONIC ACCESS TO, THE INSPECTION REPORT TO THE REGULATED PERSON
27 OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON EITHER:

28 1. AT THE TIME OF THE INSPECTION.

29 2. NOTWITHSTANDING ANY OTHER STATE LAW, WITHIN THIRTY WORKING DAYS
30 AFTER THE INSPECTION.

31 3. AS OTHERWISE REQUIRED BY FEDERAL LAW.

32 E. THE INSPECTION REPORT SHALL CONTAIN DEFICIENCIES IDENTIFIED DURING
33 AN INSPECTION. UNLESS OTHERWISE PROVIDED BY LAW, THE MUNICIPALITY MAY
34 PROVIDE THE REGULATED PERSON AN OPPORTUNITY TO CORRECT THE DEFICIENCIES
35 UNLESS THE MUNICIPALITY DETERMINES THAT THE DEFICIENCIES ARE:

36 1. COMMITTED INTENTIONALLY.

37 2. NOT CORRECTABLE WITHIN A REASONABLE PERIOD OF TIME AS DETERMINED BY
38 THE MUNICIPALITY.

39 3. EVIDENCE OF A PATTERN OF NONCOMPLIANCE.

40 4. A RISK TO ANY PERSON, THE PUBLIC HEALTH, SAFETY OR WELFARE OR THE
41 ENVIRONMENT.

42 F. IF THE MUNICIPALITY ALLOWS THE REGULATED PERSON AN OPPORTUNITY TO
43 CORRECT THE DEFICIENCIES PURSUANT TO SUBSECTION E OF THIS SECTION, THE
44 REGULATED PERSON SHALL NOTIFY THE MUNICIPALITY WHEN THE DEFICIENCIES HAVE
45 BEEN CORRECTED. WITHIN THIRTY WORKING DAYS OF RECEIPT OF NOTIFICATION FROM

1 THE REGULATED PERSON THAT THE DEFICIENCIES HAVE BEEN CORRECTED, THE
2 MUNICIPALITY SHALL DETERMINE IF THE REGULATED PERSON IS IN SUBSTANTIAL
3 COMPLIANCE AND NOTIFY THE REGULATED PERSON WHETHER OR NOT THE REGULATED
4 PERSON IS IN SUBSTANTIAL COMPLIANCE, UNLESS THE DETERMINATION IS NOT POSSIBLE
5 DUE TO CONDITIONS OF NORMAL OPERATIONS AT THE PREMISES. IF THE REGULATED
6 PERSON FAILS TO CORRECT THE DEFICIENCIES OR THE MUNICIPALITY DETERMINES THE
7 DEFICIENCIES HAVE NOT BEEN CORRECTED WITHIN A REASONABLE PERIOD OF TIME, THE
8 MUNICIPALITY MAY TAKE ANY ENFORCEMENT ACTION AUTHORIZED BY LAW FOR THE
9 DEFICIENCIES.

10 G. A MUNICIPALITY'S DECISION PURSUANT TO SUBSECTION E OR F OF THIS
11 SECTION IS NOT AN APPEALABLE MUNICIPAL ACTION.

12 H. AT LEAST ONCE EVERY MONTH AFTER THE COMMENCEMENT OF THE INSPECTION,
13 A MUNICIPALITY SHALL PROVIDE THE REGULATED PERSON WITH AN UPDATE, IN WRITING
14 OR ELECTRONICALLY, ON THE STATUS OF ANY MUNICIPAL ACTION RESULTING FROM AN
15 INSPECTION OF THE REGULATED PERSON. A MUNICIPALITY IS NOT REQUIRED TO PROVIDE
16 AN UPDATE AFTER THE REGULATED PERSON IS NOTIFIED THAT NO MUNICIPAL ACTION
17 WILL RESULT FROM THE MUNICIPALITY'S INSPECTION OR AFTER THE COMPLETION OF
18 MUNICIPAL ACTION RESULTING FROM THE MUNICIPALITY'S INSPECTION.

19 I. THIS SECTION DOES NOT AUTHORIZE AN INSPECTION OR ANY OTHER ACT THAT
20 IS NOT OTHERWISE AUTHORIZED BY LAW.

21 J. THIS SECTION APPLIES ONLY TO INSPECTIONS NECESSARY FOR THE ISSUANCE
22 OF A LICENSE OR TO DETERMINE COMPLIANCE WITH LICENSURE REQUIREMENTS. THIS
23 SECTION DOES NOT APPLY:

24 1. TO CRIMINAL INVESTIGATIONS AND UNDERCOVER INVESTIGATIONS THAT ARE
25 GENERALLY OR SPECIFICALLY AUTHORIZED BY LAW.

26 2. IF THE MUNICIPAL INSPECTOR OR REGULATOR HAS REASONABLE SUSPICION TO
27 BELIEVE THAT THE REGULATED PERSON MAY BE OR HAS BEEN ENGAGED IN CRIMINAL
28 ACTIVITY.

29 3. INSPECTIONS BY A COUNTY BOARD OF HEALTH OR A LOCAL HEALTH
30 DEPARTMENT PURSUANT TO SECTION 36-603.

31 K. IF A MUNICIPAL INSPECTOR OR REGULATOR GATHERS EVIDENCE IN VIOLATION
32 OF THIS SECTION, THE VIOLATION SHALL NOT BE A BASIS TO EXCLUDE THE EVIDENCE
33 IN A CIVIL OR ADMINISTRATIVE PROCEEDING, IF THE PENALTY SOUGHT IS THE DENIAL,
34 SUSPENSION OR REVOCATION OF THE REGULATED PERSON'S LICENSE OR A CIVIL PENALTY
35 OF MORE THAN ONE THOUSAND DOLLARS.

36 L. FAILURE OF A MUNICIPAL EMPLOYEE TO COMPLY WITH THIS SECTION:

37 1. CONSTITUTES CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO
38 ADOPTED MUNICIPAL PERSONNEL POLICY.

39 2. SHALL BE CONSIDERED BY THE JUDGE AND ADMINISTRATIVE LAW JUDGE AS
40 GROUNDS FOR REDUCTION OF ANY FINE OR CIVIL PENALTY.

41 M. A MUNICIPALITY MAY ADOPT RULES OR ORDINANCES TO IMPLEMENT THIS
42 SECTION.

43 N. THIS SECTION:

44 1. SHALL NOT BE USED TO EXCLUDE EVIDENCE IN A CRIMINAL PROCEEDING.

1 2. DOES NOT APPLY TO A MUNICIPAL INSPECTION THAT IS REQUESTED BY THE
2 REGULATED PERSON.

3 9-834. Prohibited acts by municipalities

4 A. A MUNICIPALITY SHALL NOT BASE A LICENSING DECISION IN WHOLE OR IN
5 PART ON A LICENSING REQUIREMENT OR CONDITION THAT IS NOT SPECIFICALLY
6 AUTHORIZED BY STATUTE, RULE, ORDINANCE OR CODE. A GENERAL GRANT OF AUTHORITY
7 DOES NOT CONSTITUTE A BASIS FOR IMPOSING A LICENSING REQUIREMENT OR CONDITION
8 UNLESS THE AUTHORITY SPECIFICALLY AUTHORIZES THE REQUIREMENT OR CONDITION.

9 B. UNLESS SPECIFICALLY AUTHORIZED, A MUNICIPALITY SHALL AVOID
10 DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND SHALL
11 AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE.

12 C. THIS SECTION DOES NOT PROHIBIT MUNICIPAL FLEXIBILITY TO ISSUE
13 LICENSES OR ADOPT ORDINANCES OR CODES.

14 9-835. Licensing time frames; compliance; consequence for
15 failure to comply with time frame; exception

16 A. FOR ANY NEW ORDINANCE OR CODE REQUIRING A LICENSE, A MUNICIPALITY
17 SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE MUNICIPALITY WILL
18 EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME
19 FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE
20 COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME.

21 B. ON OR BEFORE DECEMBER 31, 2012, A MUNICIPALITY THAT ISSUES LICENSES
22 REQUIRED UNDER EXISTING ORDINANCES OR CODES SHALL HAVE IN PLACE AN OVERALL
23 TIME FRAME DURING WHICH THE MUNICIPALITY WILL EITHER GRANT OR DENY EACH TYPE
24 OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE
25 SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND
26 THE SUBSTANTIVE REVIEW TIME FRAME. MUNICIPALITIES SHALL PRIORITIZE THE
27 ESTABLISHMENT OF TIME FRAMES FOR THOSE LICENSES THAT HAVE THE GREATEST IMPACT
28 ON THE PUBLIC.

29 C. IN ESTABLISHING TIME FRAMES, MUNICIPALITIES SHALL CONSIDER ALL OF
30 THE FOLLOWING:

- 31 1. THE COMPLEXITY OF THE LICENSING SUBJECT MATTER.
32 2. THE RESOURCES OF THE MUNICIPALITY.
33 3. THE ECONOMIC IMPACT OF DELAY ON THE REGULATED COMMUNITY.
34 4. THE IMPACT OF THE LICENSING DECISION ON PUBLIC HEALTH AND SAFETY.
35 5. THE POSSIBLE USE OF VOLUNTEERS WITH EXPERTISE IN THE SUBJECT MATTER
36 AREA.

37 6. THE POSSIBLE INCREASED USE OF GENERAL LICENSES FOR SIMILAR TYPES OF
38 LICENSED BUSINESSES OR FACILITIES.

39 7. THE POSSIBLE INCREASED COOPERATION BETWEEN THE MUNICIPALITY AND THE
40 REGULATED COMMUNITY.

41 8. INCREASED MUNICIPAL FLEXIBILITY IN STRUCTURING THE LICENSING
42 PROCESS AND PERSONNEL INCLUDING:

43 (a) ADULT BUSINESSES AND OTHER LICENSES THAT ARE RELATED TO THE FIRST
44 AMENDMENT.

45 (b) MASTER PLANNED COMMUNITIES.

1 (c) SUSPENSION OF THE SUBSTANTIVE AND OVERALL TIME FRAMES FOR PURPOSES
2 INCLUDING PUBLIC HEARINGS OR STATE OR FEDERAL LICENSES.

3 D. A MUNICIPALITY SHALL ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
4 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES TO AN APPLICANT FOR A LICENSE
5 WITHIN THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME. IF THE PERMIT
6 SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE MUNICIPALITY,
7 EACH DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE
8 COMPLETENESS OR DEFICIENCIES.

9 E. IF A MUNICIPALITY DETERMINES THAT AN APPLICATION FOR A LICENSE IS
10 NOT ADMINISTRATIVELY COMPLETE, THE MUNICIPALITY SHALL INCLUDE A COMPREHENSIVE
11 LIST OF THE SPECIFIC DEFICIENCIES IN THE WRITTEN OR ELECTRONIC NOTICE
12 PROVIDED PURSUANT TO SUBSECTION D. IF THE MUNICIPALITY ISSUES A WRITTEN OR
13 ELECTRONIC NOTICE OF DEFICIENCIES WITHIN THE ADMINISTRATIVE COMPLETENESS TIME
14 FRAME, THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE OVERALL TIME
15 FRAME ARE SUSPENDED FROM THE DATE THE NOTICE IS ISSUED UNTIL THE DATE THAT
16 THE MUNICIPALITY RECEIVES THE MISSING INFORMATION FROM THE APPLICANT. THE
17 MUNICIPALITY MAY ISSUE AN ADDITIONAL WRITTEN OR ELECTRONIC NOTICE OF
18 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES BASED ON THE APPLICANT'S
19 SUBMISSION OF MISSING INFORMATION. IF THE PERMIT SOUGHT REQUIRES APPROVAL OF
20 MORE THAN ONE DEPARTMENT OF THE MUNICIPALITY, EACH DEPARTMENT MAY ISSUE AN
21 ADDITIONAL WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE COMPLETENESS OR
22 DEFICIENCIES BASED ON THE APPLICANT'S SUBMISSION OF MISSING INFORMATION.

23 F. IF A MUNICIPALITY DOES NOT ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
24 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES WITHIN THE ADMINISTRATIVE
25 COMPLETENESS REVIEW TIME FRAME, THE APPLICATION IS DEEMED ADMINISTRATIVELY
26 COMPLETE. IF A MUNICIPALITY ISSUES A TIMELY WRITTEN OR ELECTRONIC NOTICE OF
27 DEFICIENCIES, AN APPLICATION SHALL NOT BE COMPLETE UNTIL ALL REQUESTED
28 INFORMATION HAS BEEN RECEIVED BY THE MUNICIPALITY.

29 G. DURING THE SUBSTANTIVE REVIEW TIME FRAME, A MUNICIPALITY MAY MAKE
30 ONE COMPREHENSIVE WRITTEN OR ELECTRONIC REQUEST FOR ADDITIONAL INFORMATION.
31 IF THE PERMIT SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE
32 MUNICIPALITY, EACH DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC REQUEST FOR
33 ADDITIONAL INFORMATION. THE MUNICIPALITY AND APPLICANT MAY MUTUALLY AGREE IN
34 WRITING OR ELECTRONICALLY TO ALLOW THE MUNICIPALITY TO SUBMIT SUPPLEMENTAL
35 REQUESTS FOR ADDITIONAL INFORMATION. IF A MUNICIPALITY ISSUES A
36 COMPREHENSIVE WRITTEN OR ELECTRONIC REQUEST OR A SUPPLEMENTAL REQUEST BY
37 MUTUAL WRITTEN OR ELECTRONIC AGREEMENT FOR ADDITIONAL INFORMATION, THE
38 SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME ARE SUSPENDED FROM
39 THE DATE THE REQUEST IS ISSUED UNTIL THE DATE THAT THE MUNICIPALITY RECEIVES
40 THE ADDITIONAL INFORMATION FROM THE APPLICANT.

41 H. BY MUTUAL WRITTEN OR ELECTRONIC AGREEMENT, A MUNICIPALITY AND AN
42 APPLICANT FOR A LICENSE MAY EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE
43 OVERALL TIME FRAME. AN EXTENSION OF THE SUBSTANTIVE REVIEW TIME FRAME AND
44 THE OVERALL TIME FRAME MAY NOT EXCEED TWENTY-FIVE PER CENT OF THE OVERALL
45 TIME FRAME.

1 I. UNLESS A MUNICIPALITY AND AN APPLICANT FOR A LICENSE MUTUALLY AGREE
2 TO EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME
3 PURSUANT TO SUBSECTION H, A MUNICIPALITY SHALL ISSUE A WRITTEN OR ELECTRONIC
4 NOTICE GRANTING OR DENYING A LICENSE TO AN APPLICANT. IF A MUNICIPALITY
5 DENIES AN APPLICATION FOR A LICENSE, THE MUNICIPALITY SHALL INCLUDE IN THE
6 WRITTEN OR ELECTRONIC NOTICE AT LEAST THE FOLLOWING INFORMATION:

7 1. JUSTIFICATION FOR THE DENIAL WITH REFERENCES TO THE STATUTES,
8 ORDINANCES, CODES OR SUBSTANTIVE POLICY STATEMENTS ON WHICH THE DENIAL IS
9 BASED.

10 2. AN EXPLANATION OF THE APPLICANT'S RIGHT TO APPEAL THE DENIAL. THE
11 EXPLANATION SHALL INCLUDE THE NUMBER OF WORKING DAYS IN WHICH THE APPLICANT
12 MUST FILE A PROTEST CHALLENGING THE DENIAL AND THE NAME AND TELEPHONE NUMBER
13 OF A MUNICIPAL CONTACT PERSON WHO CAN ANSWER QUESTIONS REGARDING THE APPEALS
14 PROCESS.

15 J. IF A MUNICIPALITY DOES NOT ISSUE THE APPLICANT THE WRITTEN OR
16 ELECTRONIC NOTICE GRANTING OR DENYING A LICENSE WITHIN THE OVERALL TIME FRAME
17 OR WITHIN THE MUTUALLY AGREED UPON TIME FRAME EXTENSION, THE MUNICIPALITY
18 SHALL REFUND TO THE APPLICANT ALL FEES CHARGED FOR REVIEWING AND ACTING ON
19 THE APPLICATION FOR THE LICENSE AND SHALL EXCUSE PAYMENT OF ANY FEES THAT
20 HAVE NOT YET BEEN PAID. THE MUNICIPALITY SHALL NOT REQUIRE AN APPLICANT TO
21 SUBMIT AN APPLICATION FOR A REFUND PURSUANT TO THIS SUBSECTION. THE REFUND
22 SHALL BE MADE WITHIN THIRTY WORKING DAYS AFTER THE EXPIRATION OF THE OVERALL
23 TIME FRAME OR THE TIME FRAME EXTENSION. THE MUNICIPALITY SHALL CONTINUE TO
24 PROCESS THE APPLICATION. NOTWITHSTANDING ANY OTHER STATUTE, THE MUNICIPALITY
25 SHALL MAKE THE REFUND FROM THE FUND IN WHICH THE APPLICATION FEES WERE
26 ORIGINALLY DEPOSITED.

27 K. THIS SECTION DOES NOT APPLY TO LICENSES ISSUED WITHIN SEVEN WORKING
28 DAYS AFTER RECEIPT OF THE INITIAL APPLICATION OR PERMIT THAT EXPIRE WITHIN
29 TWENTY-ONE WORKING DAYS AFTER ISSUANCE.

30 9-836. License application process

31 A MUNICIPALITY THAT ISSUES LICENSES SHALL PROVIDE THE FOLLOWING
32 INFORMATION TO AN APPLICANT AT THE TIME THE APPLICANT OBTAINS AN APPLICATION
33 FOR A LICENSE:

34 1. A LIST OF ALL OF THE STEPS THE APPLICANT IS REQUIRED TO TAKE IN
35 ORDER TO OBTAIN THE LICENSE.

36 2. THE APPLICABLE LICENSING TIME FRAMES.

37 3. THE NAME AND TELEPHONE NUMBER OF A MUNICIPAL CONTACT PERSON WHO CAN
38 ANSWER QUESTIONS OR PROVIDE ASSISTANCE THROUGHOUT THE APPLICATION PROCESS.

39 4. THE WEBSITE ADDRESS AND ANY OTHER INFORMATION, IF APPLICABLE, TO
40 ALLOW THE REGULATED PERSON TO USE ELECTRONIC COMMUNICATION WITH THE
41 MUNICIPALITY.

42 5. NOTICE THAT AN APPLICANT MAY RECEIVE A CLARIFICATION FROM THE
43 MUNICIPALITY OF ITS INTERPRETATION OR APPLICATION OF A STATUTE, ORDINANCE,
44 CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT AS PROVIDED IN SECTION 9-839.

1 9-837. Directory of documents

2 THE MUNICIPALITY SHALL PUBLISH, OR PROMINENTLY PLACE ON THE MUNICIPAL
3 WEBSITE, AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL
4 CURRENTLY APPLICABLE ORDINANCES, CODES AND SUBSTANTIVE POLICY STATEMENTS.
5 THE MUNICIPALITY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL SUBSTANTIVE
6 POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES, CODES,
7 SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE IN
8 THE DOCUMENTS SHALL BE OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE
9 MUNICIPALITY OR THE MUNICIPAL WEBSITE.

10 9-838. Complaints; governing body review

11 THE GOVERNING BODY MAY RECEIVE COMPLAINTS CONCERNING ORDINANCES, CODES,
12 SUBSTANTIVE POLICY STATEMENTS OR MUNICIPALITY PRACTICES ALLEGED TO VIOLATE
13 THIS ARTICLE. THE GOVERNING BODY MAY REVIEW ANY ORDINANCE, CODE, SUBSTANTIVE
14 POLICY STATEMENT OR MUNICIPAL PRACTICE ALLEGED TO VIOLATE THIS ARTICLE AND
15 MAY HOLD HEARINGS REGARDING THE ALLEGATIONS. THE GOVERNING BODY MAY
16 RECOMMEND ACTIONS TO ALLEVIATE THE ASPECTS OF THE ORDINANCES, CODES,
17 SUBSTANTIVE POLICY STATEMENTS OR MUNICIPALITY PRACTICES ALLEGED TO VIOLATE
18 THIS ARTICLE.

19 9-839. Clarification of interpretation

20 A. A PERSON MAY REQUEST A MUNICIPALITY TO CLARIFY ITS INTERPRETATION
21 OR APPLICATION OF A STATUTE, ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY
22 STATEMENT AFFECTING THE PROCUREMENT OF A LICENSE BY PROVIDING THE
23 MUNICIPALITY WITH A WRITTEN REQUEST THAT STATES:

24 1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.
25 2. THE STATUTE, ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY
26 STATEMENT OR PART OF THE STATUTE, ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE
27 POLICY STATEMENT THAT REQUIRES CLARIFICATION.

28 3. ANY FACTS RELEVANT TO THE REQUESTED RULING.

29 4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE,
30 ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT OR PART OF THE
31 STATUTE, ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT THAT
32 REQUIRES CLARIFICATION.

33 5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED
34 ISSUES ARE BEING CONSIDERED BY THE MUNICIPALITY IN CONNECTION WITH AN
35 EXISTING LICENSE OR LICENSE APPLICATION.

36 B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A, THE
37 MUNICIPALITY MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST AND
38 SHALL RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST WITH A
39 WRITTEN EXPLANATION OF ITS INTERPRETATION OR APPLICATION AS RAISED IN THE
40 WRITTEN REQUEST. THE MUNICIPALITY SHALL PROVIDE THE REQUESTOR WITH AN
41 OPPORTUNITY TO MEET AND DISCUSS THE MUNICIPALITY'S WRITTEN EXPLANATION.

42 C. THE MUNICIPALITY MAY MODIFY A WRITTEN EXPLANATION PROVIDED UNDER
43 SUBSECTION B ON WRITTEN NOTICE TO THE PERSON IF REQUIRED BY A CHANGE IN THE
44 LAW THAT WAS APPLICABLE AT THE TIME THE CLARIFICATION OR INTERPRETATION WAS

1 ISSUED, INCLUDING CHANGES CAUSED BY LEGISLATION, ADMINISTRATIVE RULES
2 FORMALLY ADOPTED BY THE GOVERNING BODY OR A COURT DECISION.

3 9-840. Exemptions

4 THIS ARTICLE DOES NOT APPLY TO:

5 1. AN ORDINANCE, CODE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
6 RELATES ONLY TO THE INTERNAL MANAGEMENT OF A MUNICIPALITY AND THAT DOES NOT
7 DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE RIGHTS OR
8 DUTIES OF ANY SEGMENT OF THE PUBLIC.

9 2. AN ORDINANCE, CODE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
10 RELATES ONLY TO THE PHYSICAL SERVICING, MAINTENANCE OR CARE OF A MUNICIPAL
11 OWNED OR OPERATED FACILITIES OR PROPERTY.

12 3. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
13 RELATES TO INMATES OR COMMITTED YOUTH, A CORRECTIONAL OR DETENTION FACILITY
14 UNDER THE JURISDICTION OF THE MUNICIPALITY OR A PATIENT ADMITTED TO AN
15 INSTITUTION OR TREATMENT CENTER PURSUANT TO COURT ORDER.

16 4. AN ORDINANCE, CODE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
17 RELATES TO A MUNICIPAL CONTRACT.

18 Sec. 6. Section 11-801, Arizona Revised Statutes, as added by Laws
19 2010, chapter 244, section 7, is amended to read:

20 11-801. Definitions

21 In this chapter, unless the context otherwise requires:

22 1. "AGGREGATE" MEANS CINDER, CRUSHED ROCK OR STONE, DECOMPOSED
23 GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

24 ~~1-~~ 2. "Area of jurisdiction" means that part of the county outside
25 the corporate limits of any municipality.

26 ~~2-~~ 3. "Board" means the board of supervisors.

27 ~~3-~~ 4. "Commission" means the county planning and zoning commission.

28 ~~4-~~ 5. "Indian reservation" means all lands that are held in trust by
29 the United States for the exclusive use and occupancy of Indian tribes by
30 treaty, law or executive order and that are currently recognized as Indian
31 reservations by the United States department of the interior.

32 ~~5-~~ 6. "Inspector" means the county zoning inspector.

33 ~~6-~~ 7. "Newspaper of general circulation in the county seat" means a
34 daily or weekly newspaper if any is published in the county seat.

35 ~~7-~~ 8. "Rezoning" means a change in the zoning ordinance changing the
36 zoning district boundaries within an area previously zoned.

37 ~~8-~~ 9. "Zoning district" means any portion of a county in which the
38 same set of zoning regulations applies.

39 ~~9-~~ 10. "Zoning ordinance" means an ordinance that is adopted by the
40 board of supervisors and that contains zoning regulations together with a map
41 setting forth the precise boundaries of zoning districts within which the
42 various zoning regulations are effective.

43 ~~10-~~ 11. "Zoning regulations" means provisions that govern the use of
44 land or buildings, or both, the height and location of buildings, the size of
45 yards, courts and open spaces, the establishment of setback lines and such

1 other matters as may otherwise be authorized under this chapter and that the
2 board deems suitable and proper.

3 ~~11-~~ 12. "Zoning regulations amendment" means a change in the zoning
4 ordinance that modifies, adds to, transfers or repeals one or more zoning
5 regulations or that adds one or more zoning regulations.

6 Sec. 7. Section 11-804, Arizona Revised Statutes, as added by Laws
7 2010, chapter 244, section 7, is amended to read:

8 11-804. Comprehensive plan; contents

9 A. The commission shall formulate and the board of supervisors shall
10 adopt or readopt a long-term comprehensive plan for the development of the
11 area of jurisdiction in the manner prescribed by this article. The
12 comprehensive plan, with the accompanying maps, plats, charts and descriptive
13 matter, shall show the commission's recommendations for the development of
14 the area of jurisdiction. The comprehensive plan shall be made with the
15 general purpose of guiding and accomplishing a coordinated, adjusted and
16 harmonious development of the area of jurisdiction pursuant to the present
17 and future needs of the county. The comprehensive plan shall be developed so
18 as to conserve the natural resources of the county, to ensure efficient
19 expenditure of public monies and to promote the health, safety, convenience
20 and general welfare of the public. The comprehensive plan may include
21 studies and recommendations relative to the location, character and extent of
22 highways, railroads, bus and other transportation routes, bicycle facilities,
23 bridges, public buildings, public services, schools, parks, open space,
24 housing quality, variety and affordability, parkways, hiking and riding
25 trails, airports, forests, wildlife areas, dams, projects affecting
26 conservation of natural resources, air quality, water quality and floodplain
27 zoning. In the preparation of the comprehensive plan, the commission shall
28 make surveys and studies of the present conditions and prospective future
29 growth of the area of the jurisdiction. The comprehensive plan shall be a
30 public record, but its purpose and effect shall be primarily as an aid to the
31 county planning and zoning commission and to the board of supervisors in the
32 performance of their duties. The comprehensive plan shall include provisions
33 that identify changes or modifications that constitute amendments and major
34 amendments to the plan.

35 B. In addition to the other matters that are required or authorized
36 under this section and this article, for counties with a population of more
37 than one hundred twenty-five thousand persons, the comprehensive plan shall
38 include, and for other counties the comprehensive plan may include:

39 1. Planning for land use that designates the proposed general
40 distribution and location and extent of uses of the land for housing,
41 business, industry, agriculture, recreation, education, public buildings and
42 grounds, open space and other categories of public and private uses of land
43 appropriate to the county. The land use plan shall include:

1 (a) A statement of the standards of population density and building
2 intensity recommended for the various land use categories covered by the
3 plan.

4 (b) Specific programs and policies that the county may use to promote
5 compact form development activity and locations where those development
6 patterns should be encouraged.

7 (c) Consideration of air quality and access to incident solar energy
8 for all general categories of land use.

9 (d) Policies that address maintaining a broad variety of land uses,
10 including the range of uses existing in the county at the time the plan is
11 adopted, readopted or amended.

12 (e) CURRENTLY IDENTIFIED SOURCES OF AGGREGATES FROM MAPS THAT ARE
13 AVAILABLE FROM STATE AGENCIES, POLICIES TO PRESERVE CURRENTLY IDENTIFIED
14 AGGREGATES SUFFICIENT FOR FUTURE DEVELOPMENT AND POLICIES TO AVOID
15 INCOMPATIBLE LAND USES, EXCEPT THAT THIS SUBDIVISION SHALL NOT BE CONSTRUED
16 TO AFFECT ANY PERMITTED UNDERGROUND STORAGE FACILITY OR LIMIT ANY PERSON'S
17 RIGHT TO OBTAIN A PERMIT FOR AN UNDERGROUND STORAGE FACILITY PURSUANT TO
18 TITLE 45, CHAPTER 3.1.

19 2. Planning for circulation consisting of the general location and
20 extent of existing and proposed freeways, arterial and collector streets,
21 bicycle routes and any other modes of transportation as may be appropriate,
22 all correlated with the land use plan under paragraph 1 of this subsection.

23 3. Planning for water resources that addresses:

24 (a) The known legally and physically available surface water,
25 groundwater and effluent supplies.

26 (b) The demand for water that will result from future growth projected
27 in the comprehensive plan, added to existing uses.

28 (c) An analysis of how the demand for water that will result from
29 future growth projected in the comprehensive plan will be served by the water
30 supplies identified in subdivision (a) of this paragraph or a plan to obtain
31 additional necessary water supplies.

32 4. Planning for energy use that:

33 (a) Encourages and provides incentives for efficient use of energy.

34 (b) Identifies policies and practices for greater use of renewable
35 energy.

36 C. In addition to the other matters that are required or authorized
37 under this section and this article, for counties with a population of more
38 than two hundred thousand persons, the comprehensive plan shall include, and
39 for other counties the comprehensive plan may include:

40 1. Planning for open space acquisition and preservation. The open
41 space plan shall include:

42 (a) A comprehensive inventory of open space areas, recreational
43 resources and designations of access points to open space areas and
44 resources.

1 (b) An analysis of forecasted needs, policies for managing and
2 protecting open space areas and resources and implementation strategies to
3 acquire additional open space areas and further establish recreational
4 resources.

5 (c) Policies and implementation strategies designed to promote a
6 regional system of integrated open space and recreational resources and a
7 consideration of any existing regional open space plan.

8 2. Planning for growth areas, specifically identifying those areas, if
9 any, that are particularly suitable for planned multimodal transportation and
10 infrastructure expansion and improvements designed to support a planned
11 concentration of a variety of uses, such as residential, office, commercial,
12 tourism and industrial uses. The mixed use planning shall include policies
13 and implementation strategies that are designed to:

14 (a) Make automobile, transit and other multimodal circulation more
15 efficient, make infrastructure expansion more economical and provide for a
16 rational pattern of land development.

17 (b) Conserve significant natural resources and open areas in the
18 growth area and coordinate their location to similar areas outside the growth
19 area's boundaries.

20 (c) Promote the public and private construction of timely and
21 financially sound infrastructure expansion through the use of infrastructure
22 funding and financing planning that is coordinated with development activity.

23 3. An environmental planning element that contains analyses, policies
24 and strategies to address anticipated effects, if any, of plan elements on
25 air quality, water quality and natural resources associated with proposed
26 development under the comprehensive plan. The policies and strategies to be
27 developed under this element shall be designed to have countywide
28 applicability and shall not require the production of an additional
29 environmental impact statement or similar analysis beyond the requirements of
30 state and federal law.

31 4. A cost of development element that identifies policies and
32 strategies that the county will use to require development to pay its fair
33 share toward the cost of additional public facility needs generated by new
34 development, with appropriate exceptions when in the public interest. This
35 element shall include:

36 (a) A component that identifies various mechanisms that are allowed by
37 law and that can be used to fund and finance additional public services
38 necessary to serve the development, including bonding, special taxing
39 districts, development fees, in lieu fees and facility construction,
40 dedications and privatization.

41 (b) A component that identifies policies to ensure that any mechanisms
42 that are adopted by the county under this element result in a beneficial use
43 to the development, bear a reasonable relationship to the burden imposed on
44 the county to provide additional necessary public facilities to the
45 development and otherwise are imposed pursuant to law.

1 D. The water resources element of the comprehensive plan does not
2 require:

- 3 1. New independent hydrogeologic studies.
- 4 2. The county to be a water service provider.

5 E. In applying an open space element or a growth element of a
6 comprehensive plan, a county shall not designate private or state land as
7 open space, recreation, conservation or agriculture unless the county
8 receives the written consent of the landowner or provides an alternative,
9 economically viable designation in the comprehensive plan or zoning
10 ordinance, allowing at least one residential dwelling per acre. If the
11 landowner is the prevailing party in any action brought to enforce this
12 subsection, a court shall award fees and other expenses to the landowner.
13 Each county shall incorporate this subsection into its comprehensive plan and
14 provide a process for a landowner to resolve discrepancies relating to this
15 subsection.

16 F. The policies and strategies to be developed under these elements
17 shall be designed to have regional applicability.

18 G. For counties with territory in the vicinity of a military airport
19 or ancillary military facility as defined in section 28-8461, the commission
20 shall also consider military airport or ancillary military facility
21 operations and, on or before December 31, 2005, shall identify the boundaries
22 of any high noise or accident potential zone as defined in section 28-8461 in
23 its comprehensive plan for purposes of planning land uses in the high noise
24 or accident potential zone that are compatible with the operation of the
25 military airport or ancillary military facility pursuant to section 28-8481,
26 subsection J.

27 Sec. 8. Section 11-805, Arizona Revised Statutes, as added by Laws
28 2010, chapter 244, section 7, is amended to read:

29 11-805. Comprehensive plan adoption; notice; hearing;
30 amendment; expiration; readoption

31 A. The board shall adopt a comprehensive plan and subsequently amend
32 or extend the adopted plan as provided by this article. On adoption or
33 readoption, the plan, or any part of the plan, shall be the official guide
34 for the development of the area of jurisdiction. Any change, amendment,
35 extension or addition of the comprehensive plan may be made only pursuant to
36 this chapter.

37 B. The board of supervisors shall:

38 1. Adopt written procedures to provide effective, early and continuous
39 public participation in the development and major amendment of the
40 comprehensive plan from all geographic, ethnic and economic areas of the
41 county. The procedures shall provide for:

- 42 (a) The broad dissemination of proposals and alternatives.

- 1 (b) The opportunity for written comments.
- 2 (c) Public hearings after effective notice.
- 3 (d) Open discussions, communications programs and information
- 4 services.
- 5 (e) Consideration of public comments.
- 6 2. Consult with, advise and provide an opportunity for official
- 7 comment by public officials and agencies, municipalities, school districts,
- 8 associations of governments, public land management agencies, the military
- 9 airport if the county's area of jurisdiction includes territory in the
- 10 vicinity of a military airport or ancillary military facility as defined in
- 11 section 28-8461, other appropriate government jurisdictions, public utility
- 12 companies, civic, educational, professional and other organizations, property
- 13 owners and citizens generally to secure the maximum coordination of plans and
- 14 to indicate properly located sites for all public purposes on the plan.
- 15 C. The commission shall confer with the state land department and the
- 16 governing bodies and planning commissions of cities and towns in the county
- 17 for the purpose of guiding and accomplishing a coordinated, adjusted and
- 18 harmonious development of the county, of zoning districts, of urban growth
- 19 and of public improvements and utilities that do not begin and terminate
- 20 within the boundaries of any single city or town and that will, pursuant to
- 21 the present and future needs of the county, best promote with efficiency and
- 22 economy the health, safety, morals, order, convenience or general welfare of
- 23 the public.
- 24 D. The commission shall coordinate the production of the comprehensive
- 25 plan with the creation of the conceptual state land use plans under title 37,
- 26 chapter 2, article 5.1. The commission shall cooperate with the state land
- 27 department regarding integrating the conceptual state land use plans into the
- 28 comprehensive plan.
- 29 E. The commission may formulate and draft the comprehensive plan as a
- 30 whole, or AS separate parts of the plan corresponding with functional
- 31 divisions of the subject matter, and, subject to the limitations of this
- 32 chapter, may amend, extend or add to the comprehensive plan.
- 33 F. At least sixty days before the comprehensive plan or an element or
- 34 major amendment of a comprehensive plan is noticed pursuant to subsection G
- 35 of this section, the commission shall transmit the proposal to the board of
- 36 supervisors and submit a copy for review and further comment to:
- 37 1. Each municipality in the county.
- 38 2. Each other county that is contiguous to the county.
- 39 3. The regional planning agency in the county.
- 40 4. The department of commerce or any other state agency that is
- 41 subsequently designated as the general planning agency for this state.
- 42 5. The department of water resources for review and comment on the
- 43 water resources element, if a water resources element is required.

1 6. If the comprehensive plan or an element or amendment of the
2 comprehensive plan is applicable to territory in the vicinity of a military
3 airport or ancillary military facility as defined in section 28-8461, the
4 military airport.

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

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

14 G. After considering any recommendations from the review required
15 under subsection F of this section, the commission shall hold at least one
16 public hearing. Notice of the time and place of a hearing and availability
17 of studies and summaries related to the hearing shall be given at least
18 fifteen and not more than thirty calendar days before the hearing by:

19 1. Publication at least once in a newspaper of general circulation in
20 the county seat.

21 2. Publication at least once in a newspaper of general circulation in
22 the area to be affected, or adjacent to the area to be affected, if the area
23 affected is other than the county seat.

24 3. Such other manner in addition to publication as the county may deem
25 necessary or desirable.

26 H. After the commission recommends the comprehensive plan or any
27 section of the plan, the plan shall be submitted to the board of supervisors
28 for its consideration and official action.

29 I. Before the adoption, amendment or extension of the plan, the board
30 shall hold at least one public hearing on the plan. After the board
31 considers the commission's recommendation and any recommendations from the
32 review required under subsection F of this section, the board shall hold at
33 least one public hearing at which residents of the county shall be heard
34 concerning the matters contained in the plan. At least fifteen days' notice
35 of the hearing shall be given by one publication in a newspaper of general
36 circulation in the county seat. The board shall consider protests and
37 objections to the plan and may change or alter any portion of the
38 comprehensive plan. However, before any change is made, that portion of the
39 plan proposed to be changed shall be re-referred to the commission for its
40 recommendation, which may be accepted or rejected by the board.

41 J. The board of supervisors may adopt the county comprehensive plan as
42 a whole or by successive actions adopt separate parts of the plan. The
43 adoption or readoption of the comprehensive plan or any amendment to the plan
44 shall be by resolution of the board. The adoption or readoption of, or a
45 major amendment to, the county comprehensive plan shall be approved by the

1 affirmative vote of at least two-thirds of the members of the board. All
2 major amendments proposed for adoption to the comprehensive plan by the board
3 shall be presented at a single public hearing during the calendar year the
4 proposal is made. The adoption or readoption of the comprehensive plan, and
5 any major amendment to the comprehensive plan, shall not be enacted as an
6 emergency measure and is subject to referendum as provided by article IV,
7 part 1, section 1, subsection (8), Constitution of Arizona, and title 19,
8 chapter 1, article 4. For the purposes of this section, "major amendment"
9 means a substantial alteration of the county's land use mixture or balance as
10 established in the county's existing comprehensive plan land use element for
11 that area of the county. The county's comprehensive plan shall define the
12 criteria to determine if a proposed amendment to the comprehensive plan
13 effects a substantial alteration of the county's land use mixture or balance
14 as established in the county's existing comprehensive plan land use element
15 for that area of the county.

16 K. If the county's area of jurisdiction includes property in the high
17 noise or accident potential zone of a military airport or ancillary military
18 facility as defined in section 28-8461, the board shall send notice of the
19 approval, adoption or readoption of the comprehensive plan or major amendment
20 to the comprehensive plan to the attorney general by certified mail, return
21 receipt requested, within three business days after the approval, adoption or
22 readoption. If the attorney general determines the approval, adoption or
23 readoption of the comprehensive plan or major amendment to the comprehensive
24 plan is not in compliance with section 28-8481, subsection J, the attorney
25 general shall notify the county by certified mail, return receipt requested,
26 of the determination of noncompliance. The board shall receive the notice
27 from the attorney general within twenty-five days after the notice from the
28 board to the attorney general is mailed pursuant to this subsection. The
29 effective date of any approval, adoption or readoption of, or major amendment
30 to, the comprehensive plan shall be thirty days after the board's receipt of
31 the attorney general's determination of noncompliance. Within thirty days
32 after the receipt of a determination of noncompliance by the attorney general
33 as prescribed by this section, the board shall reconsider any approval,
34 adoption or readoption of, or major amendment to, the comprehensive plan that
35 impacts property in the high noise or accident potential zone of a military
36 airport or ancillary military facility as defined in section 28-8461. If the
37 board reaffirms a prior action subject to an attorney general's determination
38 of noncompliance pursuant to this section, the attorney general may institute
39 a civil action pursuant to section 28-8481, subsection L. If the board
40 timely sends notice pursuant to this subsection and the attorney general
41 fails to timely notify the board of a determination of noncompliance, the
42 comprehensive plan or major amendment to the comprehensive plan is deemed to
43 comply with section 28-8481, subsection J. For the purposes of this
44 subsection "major amendment" has the same meaning prescribed in subsection J
45 of this section.

1 L. If the motion to adopt or readopt the plan or an amendment to the
2 plan fails to pass, the board may reconsider the motion in any manner allowed
3 by the board's rules of procedure, but any subsequent motion for the adoption
4 or readoption of the plan or a major amendment to the plan must be approved
5 by an affirmative vote of at least two-thirds of the members of the board.
6 If the board fails to adopt or readopt the plan, the current plan remains in
7 effect until a new plan is adopted. The board shall either reconsider the
8 proposed plan or consider a revised plan within one year and shall continue
9 to do so until one is adopted. All subsequent considerations of a new or
10 revised plan must comply with the procedures prescribed by this article.

11 M. A county comprehensive plan, with any amendments, is effective for
12 up to ten years from the date the plan was initially adopted or until the
13 plan is readopted or a new plan is adopted pursuant to this subsection and
14 becomes effective. On or before the tenth anniversary of the plan's most
15 recent adoption, the board shall either readopt the existing plan for an
16 additional term of up to ten years or shall adopt a new comprehensive plan as
17 provided by this article.

18 N. A PERSON, AFTER HAVING PARTICIPATED IN THE PUBLIC HEARING PURSUANT
19 TO SUBSECTION I OF THIS SECTION, MAY FILE A PETITION FOR SPECIAL ACTION IN
20 SUPERIOR COURT TO REVIEW THE BOARD OF SUPERVISOR'S DECISION THAT DOES NOT
21 COMPLY WITH THE MANDATORY REQUIREMENT PRESCRIBED IN SECTION 11-804,
22 SUBSECTION B, PARAGRAPH 1, SUBDIVISION (e) WITHIN THIRTY DAYS AFTER THE BOARD
23 HAS RENDERED ITS DECISION. THE COURT MAY AFFIRM, REVERSE OR REMAND TO THE
24 BOARD OF SUPERVISORS, IN WHOLE OR IN PART, THE DECISION REVIEWED FOR FURTHER
25 ACTION THAT IS NECESSARY TO COMPLY WITH THE MANDATORY REQUIREMENTS PRESCRIBED
26 IN SECTION 11-804, SUBSECTION B, PARAGRAPH 1, SUBDIVISION (e).

27 Sec. 9. Title 11, chapter 6, article 1, Arizona Revised Statutes, as
28 added by Laws 2010, chapter 244, section 7, is amended by adding section
29 11-809, to read:

30 11-809. Public works project planning: utility input:
31 definitions

32 A. A COUNTY IN THE DESIGN PHASE OF A PUBLIC WORKS PROJECT SHALL
33 PROVIDE NOTICE AND OPPORTUNITY FOR COMMENT TO ALL UTILITIES THE COUNTY
34 BELIEVES MAY BE IMPACTED BY THE PUBLIC WORKS PROJECT FOR THE PURPOSES OF:

35 1. ELIMINATING OR MINIMIZING THE NEED FOR RELOCATION OF AERIAL,
36 SURFACE AND UNDERGROUND FACILITIES OF THE IMPACTED UTILITIES AND, IF
37 RELOCATION IS UNAVOIDABLE, MINIMIZING THE RELOCATION COSTS TO THE EXTENT
38 PRACTICABLE RELATIVE TO THE COST OF THE PUBLIC WORKS PROJECT.

39 2. MINIMIZING SUBSEQUENT RECONSTRUCTION OR MODIFICATION OF UTILITY
40 FACILITIES AFTER COMPLETION OF THE PUBLIC WORKS PROJECT.

41 B. FOR THE PURPOSES OF THIS SECTION:

42 1. "PUBLIC WORKS PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
43 12-1141.

44 2. "UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION 48-5107.

1 Sec. 10. Title 11, Arizona Revised Statutes, is amended by adding
2 chapter 11, to read:

3 CHAPTER 11

4 COUNTY REGULATIONS

5 ARTICLE 1. GENERAL PROVISIONS

6 11-1601. Definitions

7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "FOOD AND SWIMMING POOL INSPECTION" MEANS AN INSPECTION OF A
9 REGULATED PERSON CONDUCTED TO ENSURE THE SAFETY OF FOOD SERVICES, SWIMMING
10 POOLS AND OTHER BATHING PLACES.

11 2. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY COUNTY PERMIT,
12 CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION
13 REQUIRED BY LAW.

14 3. "LICENSING" INCLUDES THE COUNTY PROCESS RESPECTING THE GRANT,
15 DENIAL, RENEWAL, REVOCATION, SUSPENSION, ANNULMENT, WITHDRAWAL OR AMENDMENT
16 OF A LICENSE.

17 4. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
18 ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION,
19 OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

20 5. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS
21 ONLY ADVISORY AND THAT INFORMS THE GENERAL PUBLIC OF A COUNTY'S CURRENT
22 APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR
23 REGULATIONS, INCLUDING, WHERE APPROPRIATE, THE COUNTY'S CURRENT PRACTICE,
24 PROCEDURE OR METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A
25 SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS
26 THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE COUNTY AND DO NOT IMPOSE
27 ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL
28 INFORMATION.

29 6. "WORKING DAY" MEANS A TWENTY-FOUR HOUR PERIOD EXCLUDING WEEKENDS
30 AND LEGAL HOLIDAYS.

31 11-1602. Regulatory bill of rights

32 A. TO ENSURE FAIR AND OPEN REGULATION BY COUNTIES, A PERSON:

33 1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE
34 PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A COUNTY IN A COURT
35 PROCEEDING REGARDING A COUNTY DECISION AS PROVIDED IN SECTION 12-348.

36 2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS
37 AS PROVIDED IN SECTION 11-1603.

38 3. IS ENTITLED TO HAVE A COUNTY NOT BASE A LICENSING DECISION IN WHOLE
39 OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT SPECIFICALLY
40 AUTHORIZED AS PROVIDED IN SECTION 11-1604.

41 4. MAY HAVE A COUNTY APPROVE OR DENY THE PERSON'S LICENSE APPLICATION
42 WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN SECTION 11-1605.

43 5. IS ENTITLED TO RECEIVE WRITTEN OR ELECTRONIC NOTICE FROM A COUNTY
44 ON DENIAL OF A LICENSE APPLICATION:

1 (a) THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE STATUTE,
2 ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY
3 STATEMENTS ON WHICH THE DENIAL IS BASED AS PROVIDED IN SECTION 11-1605.

4 (b) THAT EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS
5 PROVIDED IN SECTION 11-1605.

6 6. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE
7 APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A
8 LICENSE AS PROVIDED IN SECTION 11-1606.

9 7. MAY INSPECT ALL ORDINANCES, REGULATIONS AND SUBSTANTIVE POLICY
10 STATEMENTS OF A COUNTY, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICE OF
11 THE COUNTY OR ON THE COUNTY'S WEBSITE AS PROVIDED IN SECTION 11-1607.

12 8. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT COUNTIES TO AVOID
13 DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID
14 DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN SECTION
15 11-1604.

16 9. MAY FILE A COMPLAINT WITH THE BOARD OF SUPERVISORS CONCERNING AN
17 ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY
18 WITH THIS SECTION.

19 11-1603. Inspections; applicability

20 A. A COUNTY INSPECTOR OR REGULATOR WHO ENTERS ANY PREMISES OF A
21 REGULATED PERSON FOR THE PURPOSE OF CONDUCTING AN INSPECTION SHALL:

22 1. PRESENT PHOTO IDENTIFICATION ON ENTRY OF THE PREMISES.

23 2. ON INITIATION OF THE INSPECTION, STATE THE PURPOSE OF THE
24 INSPECTION AND THE LEGAL AUTHORITY FOR CONDUCTING THE INSPECTION.

25 3. DISCLOSE ANY APPLICABLE INSPECTION FEES.

26 4. EXCEPT FOR A FOOD AND SWIMMING POOL INSPECTION, AFFORD AN
27 OPPORTUNITY TO HAVE AN AUTHORIZED ON-SITE REPRESENTATIVE OF THE REGULATED
28 PERSON ACCOMPANY THE COUNTY INSPECTOR OR REGULATOR ON THE PREMISES, EXCEPT
29 DURING CONFIDENTIAL INTERVIEWS.

30 5. PROVIDE NOTICE OF THE RIGHT TO HAVE:

31 (a) COPIES OF ANY ORIGINAL DOCUMENTS TAKEN FROM THE PREMISES BY THE
32 COUNTY DURING THE INSPECTION IF THE COUNTY IS PERMITTED BY LAW TO TAKE
33 ORIGINAL DOCUMENTS.

34 (b) A SPLIT OR DUPLICATE OF ANY SAMPLES TAKEN DURING THE INSPECTION IF
35 THE SPLIT OR DUPLICATE OF ANY SAMPLES, WHERE APPROPRIATE, WOULD NOT PROHIBIT
36 AN ANALYSIS FROM BEING CONDUCTED OR RENDER AN ANALYSIS INCONCLUSIVE.

37 (c) COPIES OF ANY ANALYSIS PERFORMED ON SAMPLES TAKEN DURING THE
38 INSPECTION.

39 6. INFORM EACH PERSON WHOSE CONVERSATION WITH THE COUNTY INSPECTOR OR
40 REGULATOR DURING THE INSPECTION IS TAPE RECORDED THAT THE CONVERSATION IS
41 BEING TAPE RECORDED.

42 7. INFORM EACH PERSON INTERVIEWED DURING THE INSPECTION THAT
43 STATEMENTS MADE BY THE PERSON MAY BE INCLUDED IN THE INSPECTION REPORT.

44 B. ON INITIATION OF, OR TWO WORKING DAYS BEFORE, AN INSPECTION OF ANY
45 PREMISES OF A REGULATED PERSON, EXCEPT FOR A FOOD AND SWIMMING POOL

1 INSPECTION THAT HAS UP TO ONE WORKING DAY AFTER AN INSPECTION, A COUNTY
2 INSPECTOR OR REGULATOR SHALL PROVIDE THE FOLLOWING IN WRITING OR
3 ELECTRONICALLY:

4 1. THE RIGHTS DESCRIBED IN SUBSECTION A OF THIS SECTION.
5 2. THE NAME AND TELEPHONE NUMBER OF A COUNTY CONTACT PERSON AVAILABLE
6 TO ANSWER QUESTIONS REGARDING THE INSPECTION.

7 3. THE DUE PROCESS RIGHTS RELATING TO AN APPEAL OF A FINAL DECISION OF
8 A COUNTY BASED ON THE RESULTS OF THE INSPECTION, INCLUDING THE NAME AND
9 TELEPHONE NUMBER OF A PERSON TO CONTACT WITHIN THE COUNTY AND ANY APPROPRIATE
10 MUNICIPALITY, COUNTY OR STATE GOVERNMENT OMBUDSMAN.

11 C. A COUNTY INSPECTOR OR REGULATOR SHALL OBTAIN THE SIGNATURE OF THE
12 REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ON THE
13 WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION INDICATING THAT THE
14 REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON HAS READ
15 THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION AND IS NOTIFIED OF THE
16 REGULATED PERSON'S OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON'S
17 INSPECTION AND DUE PROCESS RIGHTS. THE COUNTY SHALL MAINTAIN A COPY OF THIS
18 SIGNATURE WITH THE INSPECTION REPORT. UNLESS THE REGULATED PERSON AT THE
19 TIME OF THE INSPECTION IS INFORMED HOW THE REPORT CAN BE LOCATED
20 ELECTRONICALLY, THE COUNTY SHALL LEAVE A COPY WITH THE REGULATED PERSON OR
21 ON-SITE REPRESENTATIVE OF THE REGULATED PERSON. IF A REGULATED PERSON OR ON-
22 SITE REPRESENTATIVE OF THE REGULATED PERSON IS NOT AT THE SITE OR REFUSES TO
23 SIGN THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE COUNTY
24 INSPECTOR OR REGULATOR SHALL NOTE THAT FACT ON THE WRITING PRESCRIBED IN
25 SUBSECTION B OF THIS SECTION.

26 D. A COUNTY THAT CONDUCTS AN INSPECTION SHALL GIVE A COPY OF, OR
27 PROVIDE ELECTRONIC ACCESS TO, THE INSPECTION REPORT TO THE REGULATED PERSON
28 OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON EITHER:

29 1. AT THE TIME OF THE INSPECTION.
30 2. NOTWITHSTANDING ANY OTHER STATE LAW, WITHIN THIRTY WORKING DAYS
31 AFTER THE INSPECTION.
32 3. AS OTHERWISE REQUIRED BY FEDERAL LAW.

33 E. THE INSPECTION REPORT SHALL CONTAIN DEFICIENCIES IDENTIFIED DURING
34 AN INSPECTION. UNLESS OTHERWISE PROVIDED BY LAW, THE COUNTY MAY PROVIDE THE
35 REGULATED PERSON AN OPPORTUNITY TO CORRECT THE DEFICIENCIES UNLESS THE COUNTY
36 DETERMINES THAT THE DEFICIENCIES ARE:

37 1. COMMITTED INTENTIONALLY.
38 2. NOT CORRECTABLE WITHIN A REASONABLE PERIOD OF TIME AS DETERMINED BY
39 THE COUNTY.
40 3. EVIDENCE OF A PATTERN OF NONCOMPLIANCE.
41 4. A RISK TO ANY PERSON, THE PUBLIC HEALTH, SAFETY OR WELFARE OR THE
42 ENVIRONMENT.

43 F. IF THE COUNTY ALLOWS THE REGULATED PERSON AN OPPORTUNITY TO CORRECT
44 THE DEFICIENCIES PURSUANT TO SUBSECTION E OF THIS SECTION, THE REGULATED
45 PERSON SHALL NOTIFY THE COUNTY WHEN THE DEFICIENCIES HAVE BEEN CORRECTED.

1 WITHIN THIRTY WORKING DAYS OF RECEIPT OF NOTIFICATION FROM THE REGULATED
2 PERSON THAT THE DEFICIENCIES HAVE BEEN CORRECTED, THE COUNTY SHALL DETERMINE
3 IF THE REGULATED PERSON IS IN SUBSTANTIAL COMPLIANCE AND NOTIFY THE REGULATED
4 PERSON WHETHER OR NOT THE REGULATED PERSON IS IN SUBSTANTIAL COMPLIANCE,
5 UNLESS THE DETERMINATION IS NOT POSSIBLE DUE TO CONDITIONS OF NORMAL
6 OPERATIONS AT THE PREMISES. IF THE REGULATED PERSON FAILS TO CORRECT THE
7 DEFICIENCIES OR THE COUNTY DETERMINES THE DEFICIENCIES HAVE NOT BEEN
8 CORRECTED WITHIN A REASONABLE PERIOD OF TIME, THE COUNTY MAY TAKE ANY
9 ENFORCEMENT ACTION AUTHORIZED BY LAW FOR THE DEFICIENCIES.

10 G. A COUNTY DECISION PURSUANT TO SUBSECTION E OR F OF THIS SECTION IS
11 NOT AN APPEALABLE COUNTY ACTION.

12 H. AT LEAST ONCE EVERY MONTH AFTER THE COMMENCEMENT OF THE INSPECTION
13 A COUNTY SHALL PROVIDE THE REGULATED PERSON WITH AN UPDATE, IN WRITING OR
14 ELECTRONICALLY, ON THE STATUS OF ANY COUNTY ACTION RESULTING FROM AN
15 INSPECTION OF THE REGULATED PERSON. A COUNTY IS NOT REQUIRED TO PROVIDE AN
16 UPDATE AFTER THE REGULATED PERSON IS NOTIFIED THAT NO COUNTY ACTION WILL
17 RESULT FROM THE COUNTY'S INSPECTION OR AFTER THE COMPLETION OF COUNTY ACTION
18 RESULTING FROM THE COUNTY'S INSPECTION.

19 I. THIS SECTION DOES NOT AUTHORIZE AN INSPECTION OR ANY OTHER ACT THAT
20 IS NOT OTHERWISE AUTHORIZED BY LAW.

21 J. THIS SECTION APPLIES ONLY TO INSPECTIONS NECESSARY FOR THE ISSUANCE
22 OF A LICENSE OR TO DETERMINE COMPLIANCE WITH LICENSURE REQUIREMENTS. THIS
23 SECTION DOES NOT APPLY:

24 1. TO CRIMINAL INVESTIGATIONS AND UNDERCOVER INVESTIGATIONS THAT ARE
25 GENERALLY OR SPECIFICALLY AUTHORIZED BY LAW.

26 2. IF THE COUNTY INSPECTOR OR REGULATOR HAS REASONABLE SUSPICION TO
27 BELIEVE THAT THE REGULATED PERSON MAY BE OR HAS BEEN ENGAGED IN CRIMINAL
28 ACTIVITY.

29 3. INSPECTIONS BY A COUNTY BOARD OF HEALTH OR A LOCAL HEALTH
30 DEPARTMENT PURSUANT TO SECTION 36-603.

31 K. IF A COUNTY INSPECTOR OR REGULATOR GATHERS EVIDENCE IN VIOLATION OF
32 THIS SECTION, THE VIOLATION SHALL NOT BE A BASIS TO EXCLUDE THE EVIDENCE IN A
33 CIVIL OR ADMINISTRATIVE PROCEEDING, IF THE PENALTY SOUGHT IS THE DENIAL,
34 SUSPENSION OR REVOCATION OF THE REGULATED PERSON'S LICENSE OR A CIVIL PENALTY
35 OF MORE THAN ONE THOUSAND DOLLARS.

36 L. FAILURE OF A COUNTY EMPLOYEE TO COMPLY WITH THIS SECTION:

37 1. CONSTITUTES CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO
38 CHAPTER 2, ARTICLE 10 OF THIS TITLE.

39 2. SHALL BE CONSIDERED BY THE JUDGE AND ADMINISTRATIVE LAW JUDGE AS
40 GROUNDS FOR REDUCTION OF ANY FINE OR CIVIL PENALTY.

41 M. A COUNTY MAY ADOPT RULES OR ORDINANCES TO IMPLEMENT THIS SECTION.

42 N. THIS SECTION:

43 1. SHALL NOT BE USED TO EXCLUDE EVIDENCE IN A CRIMINAL PROCEEDING.

44 2. DOES NOT APPLY TO A COUNTY INSPECTION THAT IS REQUESTED BY THE
45 REGULATED PERSON.

11-1604. Prohibited acts by county

A. A COUNTY SHALL NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON A LICENSING REQUIREMENT OR CONDITION THAT IS NOT SPECIFICALLY AUTHORIZED BY STATUTE, RULE, ORDINANCE OR DELEGATION AGREEMENT. A GENERAL GRANT OF AUTHORITY DOES NOT CONSTITUTE A BASIS FOR IMPOSING A LICENSING REQUIREMENT OR CONDITION UNLESS THE AUTHORITY SPECIFICALLY AUTHORIZES THE REQUIREMENT OR CONDITION.

B. UNLESS SPECIFICALLY AUTHORIZED, A COUNTY SHALL AVOID DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND SHALL AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE.

C. THIS SECTION DOES NOT PROHIBIT COUNTY FLEXIBILITY TO ISSUE LICENSES OR ADOPT ORDINANCES OR CODES.

11-1605. Licensing time frames; compliance; consequence for failure to comply with time frame; exemption

A. FOR ANY NEW ORDINANCE OR REGULATION REQUIRING A LICENSE, A COUNTY SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE COUNTY WILL EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME.

B. ON OR BEFORE DECEMBER 31, 2012, A COUNTY THAT ISSUES LICENSES REQUIRED UNDER EXISTING ORDINANCES OR CODES SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE COUNTY WILL EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME. COUNTIES SHALL PRIORITIZE THE ESTABLISHMENT OF TIME FRAMES FOR THOSE LICENSES THAT HAVE THE GREATEST IMPACT ON THE PUBLIC.

C. IN ESTABLISHING TIME FRAMES, COUNTIES SHALL CONSIDER ALL OF THE FOLLOWING:

1. THE COMPLEXITY OF THE LICENSING SUBJECT MATTER.
2. THE RESOURCES OF THE COUNTY.
3. THE ECONOMIC IMPACT OF DELAY ON THE REGULATED COMMUNITY.
4. THE IMPACT OF THE LICENSING DECISION ON PUBLIC HEALTH AND SAFETY.
5. THE POSSIBLE USE OF VOLUNTEERS WITH EXPERTISE IN THE SUBJECT MATTER AREA.
6. THE POSSIBLE INCREASED USE OF GENERAL LICENSES FOR SIMILAR TYPES OF LICENSED BUSINESSES OR FACILITIES.
7. THE POSSIBLE INCREASED COOPERATION BETWEEN THE COUNTY AND THE REGULATED COMMUNITY.
8. INCREASED COUNTY FLEXIBILITY IN STRUCTURING THE LICENSING PROCESS AND PERSONNEL INCLUDING:
 - (a) ADULT BUSINESSES AND OTHER LICENSES THAT ARE RELATED TO THE FIRST AMENDMENT.
 - (b) MASTER PLANNED COMMUNITIES.

1 (c) SUSPENSION OF THE SUBSTANTIVE AND OVERALL TIME FRAMES FOR PURPOSES
2 INCLUDING PUBLIC HEARINGS OR STATE OR FEDERAL LICENSES.

3 D. A COUNTY SHALL ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
4 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES TO AN APPLICANT FOR A LICENSE
5 WITHIN THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME. IF THE PERMIT
6 SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE COUNTY, EACH
7 DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE
8 COMPLETENESS OR DEFICIENCIES.

9 E. IF A COUNTY DETERMINES THAT AN APPLICATION FOR A LICENSE IS NOT
10 ADMINISTRATIVELY COMPLETE, THE COUNTY SHALL INCLUDE A COMPREHENSIVE LIST OF
11 THE SPECIFIC DEFICIENCIES IN THE WRITTEN OR ELECTRONIC NOTICE PROVIDED
12 PURSUANT TO SUBSECTION D. IF THE COUNTY ISSUES A WRITTEN OR ELECTRONIC
13 NOTICE OF DEFICIENCIES WITHIN THE ADMINISTRATIVE COMPLETENESS TIME FRAME, THE
14 ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE OVERALL TIME FRAME ARE
15 SUSPENDED FROM THE DATE THE NOTICE IS ISSUED UNTIL THE DATE THAT THE COUNTY
16 RECEIVES THE MISSING INFORMATION FROM THE APPLICANT. THE COUNTY MAY ISSUE AN
17 ADDITIONAL WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE COMPLETENESS OR
18 DEFICIENCIES BASED ON THE APPLICANT'S SUBMISSION OF MISSING INFORMATION. IF
19 THE PERMIT SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE
20 COUNTY, EACH DEPARTMENT MAY ISSUE AN ADDITIONAL WRITTEN OR ELECTRONIC NOTICE
21 OF ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES BASED ON THE APPLICANT'S
22 SUBMISSION OF MISSING INFORMATION.

23 F. IF A COUNTY DOES NOT ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
24 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES WITHIN THE ADMINISTRATIVE
25 COMPLETENESS REVIEW TIME FRAME, THE APPLICATION IS DEEMED ADMINISTRATIVELY
26 COMPLETE. IF A COUNTY ISSUES A TIMELY WRITTEN OR ELECTRONIC NOTICE OF
27 DEFICIENCIES, AN APPLICATION SHALL NOT BE COMPLETE UNTIL ALL REQUESTED
28 INFORMATION HAS BEEN RECEIVED BY THE COUNTY.

29 G. DURING THE SUBSTANTIVE REVIEW TIME FRAME, A COUNTY MAY MAKE ONE
30 COMPREHENSIVE WRITTEN OR ELECTRONIC REQUEST FOR ADDITIONAL INFORMATION. IF
31 THE PERMIT SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE
32 COUNTY, EACH DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC REQUEST FOR
33 ADDITIONAL INFORMATION. THE COUNTY AND APPLICANT MAY MUTUALLY AGREE IN
34 WRITING OR ELECTRONICALLY TO ALLOW THE COUNTY TO SUBMIT SUPPLEMENTAL REQUESTS
35 FOR ADDITIONAL INFORMATION. IF A COUNTY ISSUES A COMPREHENSIVE WRITTEN OR
36 ELECTRONIC REQUEST OR A SUPPLEMENTAL REQUEST BY MUTUAL WRITTEN OR ELECTRONIC
37 AGREEMENT FOR ADDITIONAL INFORMATION, THE SUBSTANTIVE REVIEW TIME FRAME AND
38 THE OVERALL TIME FRAME ARE SUSPENDED FROM THE DATE THE REQUEST IS ISSUED
39 UNTIL THE DATE THAT THE COUNTY RECEIVES THE ADDITIONAL INFORMATION FROM THE
40 APPLICANT.

41 H. BY MUTUAL WRITTEN OR ELECTRONIC AGREEMENT, A COUNTY AND AN
42 APPLICANT FOR A LICENSE MAY EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE
43 OVERALL TIME FRAME. AN EXTENSION OF THE SUBSTANTIVE REVIEW TIME FRAME AND
44 THE OVERALL TIME FRAME MAY NOT EXCEED TWENTY-FIVE PER CENT OF THE OVERALL
45 TIME FRAME.

1 I. UNLESS A COUNTY AND AN APPLICANT FOR A LICENSE MUTUALLY AGREE TO
2 EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME PURSUANT
3 TO SUBSECTION H, A COUNTY SHALL ISSUE A WRITTEN OR ELECTRONIC NOTICE GRANTING
4 OR DENYING A LICENSE TO AN APPLICANT. IF A COUNTY DENIES AN APPLICATION FOR
5 A LICENSE, THE COUNTY SHALL INCLUDE IN THE WRITTEN OR ELECTRONIC NOTICE AT
6 LEAST THE FOLLOWING INFORMATION:

7 1. JUSTIFICATION FOR THE DENIAL WITH REFERENCES TO THE STATUTES,
8 ORDINANCES, REGULATIONS, SUBSTANTIVE POLICY STATEMENTS OR DELEGATION
9 AGREEMENTS ON WHICH THE DENIAL IS BASED.

10 2. AN EXPLANATION OF THE APPLICANT'S RIGHT TO APPEAL THE DENIAL. THE
11 EXPLANATION SHALL INCLUDE THE NUMBER OF WORKING DAYS IN WHICH THE APPLICANT
12 MUST FILE A PROTEST CHALLENGING THE DENIAL AND THE NAME AND TELEPHONE NUMBER
13 OF A COUNTY CONTACT PERSON WHO CAN ANSWER QUESTIONS REGARDING THE APPEALS
14 PROCESS.

15 J. IF A COUNTY DOES NOT ISSUE TO THE APPLICANT THE WRITTEN OR
16 ELECTRONIC NOTICE GRANTING OR DENYING A LICENSE WITHIN THE OVERALL TIME FRAME
17 OR WITHIN THE MUTUALLY AGREED UPON TIME FRAME EXTENSION, THE COUNTY SHALL
18 REFUND TO THE APPLICANT ALL FEES CHARGED FOR REVIEWING AND ACTING ON THE
19 APPLICATION FOR THE LICENSE AND SHALL EXCUSE PAYMENT OF ANY FEES THAT HAVE
20 NOT YET BEEN PAID. THE COUNTY SHALL NOT REQUIRE AN APPLICANT TO SUBMIT AN
21 APPLICATION FOR A REFUND PURSUANT TO THIS SUBSECTION. THE REFUND SHALL BE
22 MADE WITHIN THIRTY WORKING DAYS AFTER THE EXPIRATION OF THE OVERALL TIME
23 FRAME OR THE TIME FRAME EXTENSION. THE COUNTY SHALL CONTINUE TO PROCESS THE
24 APPLICATION. NOTWITHSTANDING ANY OTHER STATUTE, THE COUNTY SHALL MAKE THE
25 REFUND FROM THE FUND IN WHICH THE APPLICATION FEES WERE ORIGINALLY DEPOSITED.

26 K. THIS SECTION DOES NOT APPLY TO LICENSES ISSUED WITHIN SEVEN WORKING
27 DAYS AFTER RECEIPT OF THE INITIAL APPLICATION OR PERMIT THAT EXPIRE WITHIN
28 TWENTY-ONE WORKING DAYS AFTER ISSUANCE.

29 11-1606. License application process

30 A COUNTY THAT ISSUES LICENSES SHALL PROVIDE THE FOLLOWING INFORMATION
31 TO AN APPLICANT AT THE TIME THE APPLICANT OBTAINS AN APPLICATION FOR A
32 LICENSE:

33 1. A LIST OF ALL OF THE STEPS THE APPLICANT IS REQUIRED TO TAKE IN
34 ORDER TO OBTAIN THE LICENSE.

35 2. THE APPLICABLE LICENSING TIME FRAMES.

36 3. THE NAME AND TELEPHONE NUMBER OF A COUNTY CONTACT PERSON WHO CAN
37 ANSWER QUESTIONS OR PROVIDE ASSISTANCE THROUGHOUT THE APPLICATION PROCESS.

38 4. THE WEBSITE ADDRESS AND ANY OTHER INFORMATION, IF APPLICABLE, TO
39 ALLOW THE REGULATED PERSON TO USE ELECTRONIC COMMUNICATION WITH THE COUNTY.

40 5. NOTICE THAT AN APPLICANT MAY RECEIVE A CLARIFICATION FROM THE
41 COUNTY OF ITS INTERPRETATION OR APPLICATION OF A STATUTE, ORDINANCE,
42 REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT
43 AS PROVIDED IN SECTION 11-1609.

11-1607. Directory of documents

THE COUNTY SHALL PUBLISH, OR PROMINENTLY PLACE ON THE COUNTY WEBSITE, AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL CURRENTLY APPLICABLE ORDINANCES, REGULATIONS AND SUBSTANTIVE POLICY STATEMENTS. THE COUNTY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES, REGULATIONS, SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE IN THESE DOCUMENTS SHALL BE OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE COUNTY OR THE COUNTY WEBSITE.

11-1608. Complaints; board of supervisor review

THE BOARD OF SUPERVISORS SHALL RECEIVE COMPLAINTS CONCERNING ORDINANCES, REGULATIONS, SUBSTANTIVE POLICY STATEMENTS OR COUNTY PRACTICES ALLEGED TO VIOLATE THIS ARTICLE. THE BOARD OF SUPERVISORS MAY REVIEW ANY ORDINANCE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR COUNTY PRACTICE ALLEGED TO VIOLATE THIS ARTICLE AND MAY HOLD HEARINGS REGARDING THE ALLEGATIONS. THE BOARD OF SUPERVISORS MAY RECOMMEND ACTIONS TO ALLEVIATE THE ASPECTS OF THE ORDINANCES, REGULATIONS, SUBSTANTIVE POLICY STATEMENTS OR COUNTY PRACTICES ALLEGED TO VIOLATE THIS ARTICLE.

11-1609. Clarification of interpretation

A. A PERSON MAY REQUEST A COUNTY TO CLARIFY ITS INTERPRETATION OR APPLICATION OF A STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT AFFECTING THE PROCUREMENT OF A LICENSE BY PROVIDING THE COUNTY WITH A WRITTEN REQUEST THAT STATES:

1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.
2. THE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT OR PART OF THE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT THAT REQUIRES CLARIFICATION.
3. ANY FACTS RELEVANT TO THE REQUESTED RULING.
4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT OR PART OF THE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT THAT REQUIRES CLARIFICATION.
5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED ISSUES ARE BEING CONSIDERED BY THE COUNTY IN CONNECTION WITH AN EXISTING LICENSE OR LICENSE APPLICATION.

B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A, THE COUNTY MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST AND SHALL RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST WITH A WRITTEN EXPLANATION OF ITS INTERPRETATION OR APPLICATION AS RAISED IN THE WRITTEN REQUEST. THE COUNTY SHALL PROVIDE THE REQUESTOR WITH AN OPPORTUNITY TO MEET AND DISCUSS THE COUNTY'S WRITTEN EXPLANATION.

C. THE COUNTY MAY MODIFY A WRITTEN EXPLANATION PROVIDED UNDER SUBSECTION B ON WRITTEN NOTICE TO THE PERSON IF REQUIRED BY A CHANGE IN THE LAW THAT WAS APPLICABLE AT THE TIME THE CLARIFICATION OR INTERPRETATION WAS

1 ISSUED, INCLUDING CHANGES CAUSED BY LEGISLATION, ADMINISTRATIVE RULES
2 FORMALLY ADOPTED BY THE GOVERNING BODY OR A COURT DECISION.

3 11-1610. Exemptions

4 THIS ARTICLE DOES NOT APPLY TO:

5 1. A COUNTY FUNCTION, POWER OR DUTY TO THE EXTENT THAT THEY ARE
6 SUBJECT TO TITLE 49, CHAPTER 3, ARTICLE 3.

7 2. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
8 RELATES TO ONLY THE INTERNAL MANAGEMENT OF A COUNTY AND THAT DOES NOT
9 DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE RIGHTS OR
10 DUTIES OF ANY SEGMENT OF THE PUBLIC.

11 3. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT RELATING
12 TO ONLY THE PHYSICAL SERVICING, MAINTENANCE OR CARE OF COUNTY OWNED OR
13 OPERATED FACILITIES OR PROPERTY.

14 4. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
15 RELATES TO INMATES OR COMMITTED YOUTH, A CORRECTIONAL OR DETENTION FACILITY
16 UNDER THE JURISDICTION OF THE COUNTY OR A PATIENT ADMITTED TO AN INSTITUTION
17 OR TREATMENT CENTER PURSUANT TO COURT ORDER.

18 5. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT RELATING
19 TO A COUNTY CONTRACT.

20 Sec. 11. Section 12-348, Arizona Revised Statutes, is amended to read:

21 12-348. Award of fees and other expenses against the state or a
22 city, town or county; reduction or denial of award;
23 application; basis for amount of award; source of
24 award; definitions

25 A. In addition to any costs ~~which~~ THAT are awarded as prescribed by
26 statute, a court shall award fees and other expenses to any party other than
27 this state or a city, town or county ~~which~~ THAT prevails by an adjudication
28 on the merits in any of the following:

29 1. A civil action brought by the state or a city, town or county
30 against the party.

31 2. A court proceeding to review a state agency decision pursuant to
32 chapter 7, article 6 of this title or any other statute authorizing judicial
33 review of agency, CITY, TOWN OR COUNTY decisions.

34 3. A proceeding pursuant to section 41-1034.

35 4. A special action proceeding brought by the party to challenge an
36 action by ~~the~~ THIS state OR A CITY, TOWN OR COUNTY against the party.

37 5. An appeal by ~~the~~ THIS state to a court of law from a decision of
38 the personnel board under title 41, chapter 4, article 6.

39 6. A civil action brought by the party to challenge the seizure and
40 sale of personal property by ~~the~~ THIS state or a city, town or county.

41 B. In addition to any costs ~~which~~ THAT are awarded as prescribed by
42 statute, a court may award fees and other expenses to any party, other than
43 this state or a city, town or county, ~~which~~ THAT prevails by an adjudication
44 on the merits in an action brought by the party against this state or a city,
45 town or county challenging:

1 1. The assessment or collection of taxes or in an action brought by
2 this state or a city, town or county against the party to enforce the
3 assessment or collection of taxes.

4 2. The adequacy or regularity of notice of delinquent taxes.

5 3. The regularity of sales of property for delinquent taxes.

6 C. The court in its discretion may deny the award provided for in this
7 section or may reduce the award if it finds that any of the following
8 applies:

9 1. During the course of the proceeding the prevailing party unduly and
10 unreasonably protracted the final resolution of the matter.

11 2. The reason that the party other than ~~the~~ THIS state or a city, town
12 or county has prevailed is an intervening change in the applicable law.

13 3. The prevailing party refused an offer of civil settlement ~~which~~
14 THAT was at least as favorable to the party as the relief ultimately granted.

15 D. A party may apply pursuant to the applicable procedural rules for
16 an award of attorney fees and other expenses authorized under this section
17 and shall include as part of the application evidence of the party's
18 eligibility for the award and the amount sought, including an itemized
19 statement from the attorneys and experts stating the actual time expended in
20 representing the party and the rate at which the fees were computed.

21 E. The court shall base any award of fees as provided in this section
22 on prevailing market rates for the kind and quality of the services
23 furnished, except that:

24 1. An expert is not eligible for compensation at a rate in excess of
25 the highest rate of compensation for experts paid by this state or a city,
26 town or county.

27 2. Except for awards made pursuant to subsection B of this section,
28 the award of attorney fees may not exceed the amount ~~which~~ THAT the
29 prevailing party has paid or has agreed to pay the attorney or a maximum
30 amount of seventy-five dollars per hour unless the court determines that an
31 increase in the cost of living or a special factor, such as the limited
32 availability of qualified attorneys for the proceeding involved, justifies a
33 higher fee.

34 3. For awards made pursuant to subsection B of this section, the award
35 of attorney fees may not exceed the amount ~~which~~ THAT the prevailing party
36 has paid or agreed to pay the attorney or a maximum amount of one hundred
37 seventy-five dollars per hour.

38 4. Except for awards made pursuant to subsection B of this section, an
39 award of fees against a city, town or county as provided in this section
40 shall not exceed ten thousand dollars.

41 5. For awards made pursuant to subsection B of this section, an award
42 of fees against ~~the~~ THIS state or a city, town or county shall not exceed
43 thirty thousand dollars for fees incurred at each level of judicial appeal.

44 F. The particular state agency over which a party prevails shall pay
45 the fees and expenses awarded as provided in this section from any monies

1 appropriated to the agency for that purpose. If no agency is involved or if
2 an agency fails or refuses to pay fees and other expenses within thirty days
3 after demand by a person who has received an award pursuant to this section,
4 and if no further review or appeals of the award are pending, the person may
5 file a claim for the fees and other expenses with the department of
6 administration, which shall pay the claim within thirty days, in the same
7 manner as an uninsured property loss under title 41, chapter 3.1, article 1.
8 If, at the time the agency failed or refused to pay the award, it had
9 appropriated monies either designated or assignable for the purpose of paying
10 awards, the legislature shall reduce the agency's operating appropriation for
11 the following year by the amount of the award and shall appropriate the
12 amount of the reduction to the department of administration as reimbursement
13 for the loss.

14 G. A city, town or county shall pay fees and expenses awarded as
15 provided in this section within thirty days after demand by a party who has
16 received an award if no further review or appeal of the award is pending.

17 H. This section does not:

18 1. Apply to an action arising from a proceeding before this state or a
19 city, town or county in which the role of this state or a city, town or
20 county was to determine the eligibility or entitlement of an individual to a
21 monetary benefit or its equivalent, to adjudicate a dispute or issue between
22 private parties or to establish or fix a rate.

23 2. Apply to proceedings brought by this state pursuant to title 13
24 or 28.

25 3. Entitle a party to obtain fees and other expenses incurred in
26 making an application for an award pursuant to this section for fees and
27 other expenses.

28 4. Apply to proceedings involving eminent domain, foreclosure,
29 collection of judgment debts or proceedings in which the state or a city,
30 town or county is a nominal party.

31 5. Personally obligate any officer or employee of this state or a
32 city, town or county for the payment of an award entered under this section.

33 6. Apply, except as provided in subsection A, paragraph 5 of this
34 section, to proceedings involving the personnel board under title 41, chapter
35 4, article 6.

36 7. Apply to proceedings brought by a city, town or county pursuant to
37 title 13 or 28.

38 8. Apply to proceedings brought by a city, town or county on
39 collection of taxes or pursuant to traffic ordinances or to criminal
40 proceedings brought by a city, town or county on ordinances which contain a
41 criminal penalty or fine for violations of those ordinances.

42 I. ~~As used in~~ FOR THE PURPOSES OF this section:

43 1. "Fees and other expenses" means the reasonable expenses of expert
44 witnesses, the reasonable cost of any study, analysis, engineering report,
45 test or project which the court finds to be directly related to and necessary

1 for the presentation of the party's case and reasonable and necessary
2 attorney fees, and in the case of an action to review an agency decision
3 pursuant to subsection A, paragraph 2 of this section, all fees and other
4 expenses that are incurred in the contested case proceedings in which the
5 decision was rendered.

6 2. "Party" means an individual, partnership, corporation, association
7 or public or private organization.

8 3. "State" means this state and any agency, officer, department, board
9 or commission of this state.

10 Sec. 12. Title 48, chapter 21, Arizona Revised Statutes, is amended by
11 adding article 2, to read:

12 ARTICLE 2. FLOOD CONTROL DISTRICT REGULATIONS

13 48-3641. Definitions

14 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

15 1. "DISTRICT" MEANS A DISTRICT ORGANIZED PURSUANT TO ARTICLE 1 OF THIS
16 CHAPTER.

17 2. "EMERGENCY" MEANS A SITUATION THAT CREATES AN IMMEDIATE THREAT TO
18 THE HEALTH OR SAFETY OF A PERSON OR PROPERTY CAUSED BY FLOOD, EARTHQUAKE,
19 HURRICANE, TORNADO, EXPLOSION, FIRE OR OTHER CATASTROPHE.

20 3. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY DISTRICT PERMIT,
21 CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION
22 REQUIRED BY LAW.

23 4. "LICENSING" INCLUDES THE DISTRICT PROCESS RESPECTING THE GRANT,
24 DENIAL, RENEWAL, REVOCATION, SUSPENSION, ANNULMENT, WITHDRAWAL OR AMENDMENT
25 OF A LICENSE.

26 5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
27 ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION
28 OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

29 6. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS
30 ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A DISTRICT'S CURRENT APPROACH
31 TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR REGULATIONS,
32 INCLUDING, WHERE APPROPRIATE, THE DISTRICT'S CURRENT PRACTICE, PROCEDURE OR
33 METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY
34 STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE
35 INTERNAL PROCEDURES OF THE DISTRICT AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS
36 OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION.

37 7. "WORKING DAY" MEANS A TWENTY-FOUR HOUR PERIOD EXCLUDING WEEKENDS
38 AND LEGAL HOLIDAYS.

39 48-3642. Regulatory bill of rights

40 TO ENSURE FAIR AND OPEN REGULATION BY DISTRICTS, A PERSON:

41 1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE
42 PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A DISTRICT IN A COURT
43 PROCEEDING REGARDING A DISTRICT DECISION AS PROVIDED IN SECTION 12-348.

44 2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS
45 AS PROVIDED IN SECTION 48-3643.

1 3. IS ENTITLED TO HAVE A DISTRICT NOT BASE A LICENSING DECISION IN
2 WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT
3 SPECIFICALLY AUTHORIZED AS PROVIDED IN SECTION 48-3644.

4 4. MAY HAVE A DISTRICT APPROVE OR DENY THE PERSON'S LICENSE
5 APPLICATION WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN SECTION
6 48-3645.

7 5. IS ENTITLED TO RECEIVE WRITTEN OR ELECTRONIC NOTICE FROM A DISTRICT
8 ON DENIAL OF A LICENSE APPLICATION:

9 (a) THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE STATUTE,
10 ORDINANCE, REGULATION, EXECUTIVE ORDER, DELEGATION AGREEMENT OR AUTHORIZED
11 SUBSTANTIVE POLICY STATEMENT ON WHICH THE DENIAL IS BASED AS PROVIDED IN
12 SECTION 48-3645.

13 (b) THAT EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS
14 PROVIDED IN SECTION 48-3645.

15 6. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE
16 APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A
17 LICENSE AS PROVIDED IN SECTION 48-3646.

18 7. MAY INSPECT ALL ORDINANCES, REGULATIONS AND SUBSTANTIVE POLICY
19 STATEMENTS OF A DISTRICT, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICE
20 OF THE DISTRICT OR A DISTRICT WEBSITE AS PROVIDED IN SECTION 48-3647.

21 8. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT DISTRICTS TO AVOID
22 DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID
23 DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN SECTION
24 48-3644.

25 9. MAY FILE A COMPLAINT WITH THE BOARD OF REVIEW CONCERNING AN
26 ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY
27 WITH THIS SECTION.

28 48-3643. Inspections; applicability

29 A. A DISTRICT INSPECTOR OR REGULATOR WHO ENTERS ANY PREMISES OF A
30 REGULATED PERSON FOR THE PURPOSE OF CONDUCTING AN INSPECTION SHALL:

31 1. PRESENT PHOTO IDENTIFICATION ON ENTRY OF THE PREMISES.

32 2. ON INITIATION OF THE INSPECTION, STATE THE PURPOSE OF THE
33 INSPECTION AND THE LEGAL AUTHORITY FOR CONDUCTING THE INSPECTION.

34 3. DISCLOSE ANY APPLICABLE INSPECTION FEES.

35 4. AFFORD AN OPPORTUNITY TO HAVE AN AUTHORIZED ON-SITE REPRESENTATIVE
36 OF THE REGULATED PERSON ACCOMPANY THE DISTRICT INSPECTOR OR REGULATOR ON THE
37 PREMISES, EXCEPT DURING CONFIDENTIAL INTERVIEWS.

38 5. PROVIDE NOTICE OF THE RIGHT TO HAVE:

39 (a) COPIES OF ANY ORIGINAL DOCUMENTS TAKEN FROM THE PREMISES BY THE
40 DISTRICT DURING THE INSPECTION IF THE DISTRICT IS PERMITTED BY LAW TO TAKE
41 ORIGINAL DOCUMENTS.

42 (b) A SPLIT OR DUPLICATE OF ANY SAMPLES TAKEN DURING THE INSPECTION IF
43 THE SPLIT OR DUPLICATION OF ANY SAMPLES, WHERE APPROPRIATE, WOULD NOT
44 PROHIBIT AN ANALYSIS FROM BEING CONDUCTED OR RENDER AN ANALYSIS INCONCLUSIVE.

1 (c) COPIES OF ANY ANALYSIS PERFORMED ON SAMPLES TAKEN DURING THE
2 INSPECTION.

3 6. INFORM EACH PERSON WHOSE CONVERSATION WITH THE DISTRICT INSPECTOR
4 OR REGULATOR DURING THE INSPECTION IS TAPE RECORDED THAT THE CONVERSATION IS
5 BEING TAPE RECORDED.

6 7. INFORM EACH PERSON INTERVIEWED DURING THE INSPECTION THAT
7 STATEMENTS MADE BY THE PERSON MAY BE INCLUDED IN THE INSPECTION REPORT.

8 B. ON INITIATION OF, OR TWO WORKING DAYS BEFORE, AN INSPECTION OF ANY
9 PREMISES OF A REGULATED PERSON, A DISTRICT INSPECTOR OR REGULATOR SHALL
10 PROVIDE THE FOLLOWING IN WRITING OR ELECTRONICALLY:

11 1. THE RIGHTS DESCRIBED IN SUBSECTION A OF THIS SECTION.

12 2. THE NAME AND TELEPHONE NUMBER OF A DISTRICT CONTACT PERSON
13 AVAILABLE TO ANSWER QUESTIONS REGARDING THE INSPECTION.

14 3. THE DUE PROCESS RIGHTS RELATING TO AN APPEAL OF A FINAL DECISION OF
15 A DISTRICT BASED ON THE RESULTS OF THE INSPECTION, INCLUDING THE NAME AND
16 TELEPHONE NUMBER OF A PERSON TO CONTACT WITHIN THE DISTRICT AND ANY
17 APPROPRIATE MUNICIPALITY, COUNTY, DISTRICT OR STATE GOVERNMENT OMBUDSMAN.

18 C. A DISTRICT INSPECTOR OR REGULATOR SHALL OBTAIN THE SIGNATURE OF THE
19 REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ON THE
20 WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION INDICATING THAT THE
21 REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON HAS READ
22 THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION AND IS NOTIFIED OF THE
23 REGULATED PERSON'S OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON'S
24 INSPECTION AND DUE PROCESS RIGHTS. THE DISTRICT SHALL MAINTAIN A COPY OF
25 THIS SIGNATURE WITH THE INSPECTION REPORT. UNLESS THE REGULATED PERSON, AT
26 THE TIME OF THE INSPECTION, IS INFORMED HOW THE REPORT CAN BE LOCATED
27 ELECTRONICALLY, THE DISTRICT SHALL LEAVE A COPY WITH THE REGULATED PERSON OR
28 ON-SITE REPRESENTATIVE OF THE REGULATED PERSON. IF A REGULATED PERSON OR
29 ON-SITE REPRESENTATIVE OF THE REGULATED PERSON IS NOT AT THE SITE OR REFUSES
30 TO SIGN THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE DISTRICT
31 INSPECTOR OR REGULATOR SHALL NOTE THAT FACT ON THE WRITING PRESCRIBED IN
32 SUBSECTION B OF THIS SECTION.

33 D. A DISTRICT THAT CONDUCTS AN INSPECTION PURSUANT TO THIS SECTION,
34 SHALL GIVE A COPY OF, OR PROVIDE ELECTRONIC ACCESS TO, THE INSPECTION REPORT
35 TO THE REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON
36 EITHER:

37 1. AT THE TIME OF THE INSPECTION.

38 2. NOTWITHSTANDING ANY OTHER STATE LAW, WITHIN THIRTY WORKING DAYS
39 AFTER THE INSPECTION.

40 3. AS OTHERWISE REQUIRED BY FEDERAL LAW.

41 E. THE INSPECTION REPORT SHALL CONTAIN DEFICIENCIES IDENTIFIED DURING
42 AN INSPECTION. UNLESS OTHERWISE PROVIDED BY LAW, THE DISTRICT MAY PROVIDE
43 THE REGULATED PERSON AN OPPORTUNITY TO CORRECT THE DEFICIENCIES UNLESS THE
44 DISTRICT DETERMINES THAT THE DEFICIENCIES ARE:

45 1. COMMITTED INTENTIONALLY.

1 2. NOT CORRECTABLE WITHIN A REASONABLE PERIOD OF TIME AS DETERMINED BY
2 THE DISTRICT.

3 3. EVIDENCE OF A PATTERN OF NONCOMPLIANCE.

4 4. A RISK TO ANY PERSON, THE PUBLIC HEALTH, SAFETY OR WELFARE OR THE
5 ENVIRONMENT.

6 F. IF THE DISTRICT ALLOWS THE REGULATED PERSON AN OPPORTUNITY TO
7 CORRECT THE DEFICIENCIES PURSUANT TO SUBSECTION E OF THIS SECTION, THE
8 REGULATED PERSON SHALL NOTIFY THE DISTRICT WHEN THE DEFICIENCIES HAVE BEEN
9 CORRECTED. WITHIN THIRTY WORKING DAYS OF RECEIPT OF NOTIFICATION FROM THE
10 REGULATED PERSON THAT THE DEFICIENCIES HAVE BEEN CORRECTED, THE DISTRICT
11 SHALL DETERMINE IF THE REGULATED PERSON IS IN SUBSTANTIAL COMPLIANCE AND
12 NOTIFY THE REGULATED PERSON WHETHER OR NOT THE REGULATED PERSON IS IN
13 SUBSTANTIAL COMPLIANCE, UNLESS IT IS NOT POSSIBLE DUE TO CONDITIONS OF NORMAL
14 OPERATIONS AT THE PREMISES. IF THE REGULATED PERSON FAILS TO CORRECT THE
15 DEFICIENCIES OR THE DISTRICT DETERMINES THE DEFICIENCIES HAVE NOT BEEN
16 CORRECTED WITHIN A REASONABLE PERIOD OF TIME, THE DISTRICT MAY TAKE ANY
17 ENFORCEMENT ACTION AUTHORIZED BY LAW FOR THE DEFICIENCIES.

18 G. A DISTRICT DECISION PURSUANT TO SUBSECTION E OR F OF THIS SECTION
19 IS NOT AN APPEALABLE DISTRICT ACTION.

20 H. AT LEAST ONCE EVERY MONTH AFTER THE COMMENCEMENT OF THE INSPECTION
21 A DISTRICT SHALL PROVIDE A REGULATED PERSON WITH AN UPDATE, IN WRITING OR
22 ELECTRONICALLY, ON THE STATUS OF ANY DISTRICT ACTION RESULTING FROM AN
23 INSPECTION OF THE REGULATED PERSON. A DISTRICT IS NOT REQUIRED TO PROVIDE AN
24 UPDATE AFTER THE REGULATED PERSON IS NOTIFIED THAT NO DISTRICT ACTION WILL
25 RESULT FROM THE DISTRICT'S INSPECTION OR AFTER THE COMPLETION OF DISTRICT
26 ACTION RESULTING FROM THE DISTRICT'S INSPECTION.

27 I. THIS SECTION DOES NOT AUTHORIZE AN INSPECTION OR ANY OTHER ACT THAT
28 IS NOT OTHERWISE AUTHORIZED BY LAW.

29 J. THIS SECTION APPLIES ONLY TO INSPECTIONS NECESSARY FOR THE ISSUANCE
30 OF A LICENSE OR TO DETERMINE COMPLIANCE WITH LICENSURE REQUIREMENTS. THIS
31 SECTION DOES NOT APPLY:

32 1. TO CRIMINAL INVESTIGATIONS AND UNDERCOVER INVESTIGATIONS THAT ARE
33 GENERALLY OR SPECIFICALLY AUTHORIZED BY LAW.

34 2. IF THE DISTRICT INSPECTOR OR REGULATOR HAS REASONABLE SUSPICION TO
35 BELIEVE THAT THE REGULATED PERSON MAY BE OR HAS BEEN ENGAGED IN CRIMINAL
36 ACTIVITY.

37 3. IF THE DISTRICT INSPECTOR OR REGULATOR REASONABLY BELIEVES THAT AN
38 EMERGENCY EXISTS.

39 4. TO INSPECTIONS CONDUCTED PURSUANT TO SECTION 48-3609, SUBSECTION K
40 OF PERSONS NOT LICENSED BY THE DISTRICT OR WHICH ARE NOT NECESSARY FOR THE
41 ISSUANCE OF A LICENSE.

42 K. IF A DISTRICT INSPECTOR OR REGULATOR GATHERS EVIDENCE IN VIOLATION
43 OF THIS SECTION, THE VIOLATION SHALL NOT BE A BASIS TO EXCLUDE THE EVIDENCE
44 IN A CIVIL OR ADMINISTRATIVE PROCEEDING, IF THE PENALTY SOUGHT IS THE DENIAL,

1 SUSPENSION OR REVOCATION OF THE REGULATED PERSON'S LICENSE OR A CIVIL PENALTY
2 OF MORE THAN ONE THOUSAND DOLLARS.

3 L. FAILURE OF A DISTRICT EMPLOYEE TO COMPLY WITH THIS SECTION:

4 1. CONSTITUTES CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO
5 ADOPTED DISTRICT PERSONNEL POLICY.

6 2. SHALL BE CONSIDERED BY THE JUDGE AND ADMINISTRATIVE LAW JUDGE AS
7 GROUNDS FOR REDUCTION OF ANY FINE OR CIVIL PENALTY.

8 M. A DISTRICT MAY ADOPT RULES OR ORDINANCES TO IMPLEMENT THIS SECTION.

9 N. THIS SECTION:

10 1. SHALL NOT BE USED TO EXCLUDE EVIDENCE IN A CRIMINAL PROCEEDING.

11 2. DOES NOT APPLY TO DISTRICT INSPECTIONS THAT ARE REQUESTED BY THE
12 REGULATED PERSON.

13 48-3644. Prohibited acts by district

14 A. A DISTRICT SHALL NOT BASE A LICENSING DECISION IN WHOLE OR IN PART
15 ON A LICENSING REQUIREMENT OR CONDITION THAT IS NOT SPECIFICALLY AUTHORIZED
16 BY STATUTE, RULE, REGULATION, ORDINANCE, EXECUTIVE ORDER OR DELEGATION
17 AGREEMENT. A GENERAL GRANT OF AUTHORITY DOES NOT CONSTITUTE A BASIS FOR
18 IMPOSING A LICENSING REQUIREMENT OR CONDITION UNLESS THE AUTHORITY
19 SPECIFICALLY AUTHORIZES THE REQUIREMENT OR CONDITION.

20 B. UNLESS SPECIFICALLY AUTHORIZED, A DISTRICT SHALL AVOID DUPLICATION
21 OF OTHER LAWS OR EXECUTIVE ORDERS THAT DO NOT ENHANCE REGULATORY CLARITY AND
22 SHALL AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE.

23 C. THIS SECTION DOES NOT PROHIBIT DISTRICT FLEXIBILITY TO ISSUE
24 LICENSES OR ADOPT ORDINANCES OR REGULATIONS.

25 48-3645. Licensing time frames: compliance: consequence for
26 failure to comply with time frame: exemption

27 A. FOR ANY NEW ORDINANCE OR REGULATION REQUIRING A LICENSE, A DISTRICT
28 SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE DISTRICT WILL
29 EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME
30 FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE
31 COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME.

32 B. ON OR BEFORE DECEMBER 31, 2012, A DISTRICT THAT ISSUES LICENSES
33 REQUIRED UNDER EXISTING ORDINANCES OR CODES SHALL HAVE IN PLACE AN OVERALL
34 TIME FRAME DURING WHICH THE DISTRICT WILL EITHER GRANT OR DENY EACH TYPE OF
35 LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE
36 SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND
37 THE SUBSTANTIVE REVIEW TIME FRAME. DISTRICTS SHALL PRIORITIZE THE
38 ESTABLISHMENT OF TIME FRAMES FOR THOSE LICENSES THAT HAVE THE GREATEST IMPACT
39 ON THE PUBLIC.

40 C. IN ESTABLISHING TIME FRAMES, DISTRICTS SHALL CONSIDER ALL OF THE
41 FOLLOWING:

42 1. THE COMPLEXITY OF THE LICENSING SUBJECT MATTER.

43 2. THE RESOURCES OF THE DISTRICT.

44 3. THE ECONOMIC IMPACT OF DELAY ON THE REGULATED COMMUNITY.

45 4. THE IMPACT OF THE LICENSING DECISION ON PUBLIC HEALTH AND SAFETY.

1 5. THE POSSIBLE USE OF VOLUNTEERS WITH EXPERTISE IN THE SUBJECT MATTER
2 AREA.

3 6. THE POSSIBLE INCREASED USE OF GENERAL LICENSES FOR SIMILAR TYPES OF
4 LICENSED BUSINESSES OR FACILITIES.

5 7. THE POSSIBLE INCREASED COOPERATION BETWEEN THE DISTRICT AND THE
6 REGULATED COMMUNITY.

7 8. INCREASED DISTRICT FLEXIBILITY IN STRUCTURING THE LICENSING PROCESS
8 AND PERSONNEL INCLUDING:

9 (a) MASTER PLANNED COMMUNITIES.

10 (b) SUSPENSION OF THE SUBSTANTIVE AND OVERALL TIME FRAMES FOR PURPOSES
11 INCLUDING PUBLIC HEARINGS OR STATE OR FEDERAL APPROVALS.

12 D. A DISTRICT SHALL ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
13 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES TO AN APPLICANT FOR A LICENSE
14 WITHIN THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME. IF THE PERMIT
15 SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE DISTRICT, EACH
16 DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE
17 COMPLETENESS OR DEFICIENCIES.

18 E. IF A DISTRICT DETERMINES THAT AN APPLICATION FOR A LICENSE IS NOT
19 ADMINISTRATIVELY COMPLETE, THE DISTRICT SHALL INCLUDE A COMPREHENSIVE LIST OF
20 THE SPECIFIC DEFICIENCIES IN THE WRITTEN OR ELECTRONIC NOTICE PROVIDED
21 PURSUANT TO SUBSECTION D. IF THE DISTRICT ISSUES A WRITTEN OR ELECTRONIC
22 NOTICE OF DEFICIENCIES WITHIN THE ADMINISTRATIVE COMPLETENESS TIME FRAME, THE
23 ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE OVERALL TIME FRAME ARE
24 SUSPENDED FROM THE DATE THE NOTICE IS ISSUED UNTIL THE DATE THAT THE DISTRICT
25 RECEIVES THE MISSING INFORMATION FROM THE APPLICANT. THE DISTRICT MAY ISSUE
26 AN ADDITIONAL WRITTEN OR ELECTRONIC NOTICE OF ADMINISTRATIVE COMPLETENESS OR
27 DEFICIENCIES BASED ON THE APPLICANT'S SUBMISSION OF MISSING INFORMATION. IF
28 THE PERMIT SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE
29 DISTRICT, EACH DEPARTMENT MAY ISSUE AN ADDITIONAL WRITTEN OR ELECTRONIC
30 NOTICE OF ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES BASED ON THE
31 APPLICANT'S SUBMISSION OF MISSING INFORMATION.

32 F. IF A DISTRICT DOES NOT ISSUE A WRITTEN OR ELECTRONIC NOTICE OF
33 ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES WITHIN THE ADMINISTRATIVE
34 COMPLETENESS REVIEW TIME FRAME, THE APPLICATION IS DEEMED ADMINISTRATIVELY
35 COMPLETE. IF A DISTRICT ISSUES A TIMELY WRITTEN OR ELECTRONIC NOTICE OF
36 DEFICIENCIES, AN APPLICATION SHALL NOT BE COMPLETE UNTIL ALL REQUESTED
37 INFORMATION HAS BEEN RECEIVED BY THE DISTRICT.

38 G. DURING THE SUBSTANTIVE REVIEW TIME FRAME, A DISTRICT MAY MAKE ONE
39 COMPREHENSIVE WRITTEN OR ELECTRONIC REQUEST FOR ADDITIONAL INFORMATION. IF
40 THE PERMIT SOUGHT REQUIRES APPROVAL OF MORE THAN ONE DEPARTMENT OF THE
41 DISTRICT, EACH DEPARTMENT MAY ISSUE A WRITTEN OR ELECTRONIC REQUEST FOR
42 ADDITIONAL INFORMATION. THE DISTRICT AND APPLICANT MAY MUTUALLY AGREE IN
43 WRITING OR ELECTRONICALLY TO ALLOW THE DISTRICT TO SUBMIT SUPPLEMENTAL
44 REQUESTS FOR ADDITIONAL INFORMATION. IF A DISTRICT ISSUES A COMPREHENSIVE
45 WRITTEN OR ELECTRONIC REQUEST OR A SUPPLEMENTAL REQUEST BY MUTUAL WRITTEN OR

1 ELECTRONIC AGREEMENT FOR ADDITIONAL INFORMATION, THE SUBSTANTIVE REVIEW TIME
2 FRAME AND THE OVERALL TIME FRAME ARE SUSPENDED FROM THE DATE THE REQUEST IS
3 ISSUED UNTIL THE DATE THAT THE DISTRICT RECEIVES THE ADDITIONAL INFORMATION
4 FROM THE APPLICANT.

5 H. BY MUTUAL WRITTEN OR ELECTRONIC AGREEMENT, A DISTRICT AND AN
6 APPLICANT FOR A LICENSE MAY EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE
7 OVERALL TIME FRAME. AN EXTENSION OF THE SUBSTANTIVE REVIEW TIME FRAME AND
8 THE OVERALL TIME FRAME MAY NOT EXCEED TWENTY-FIVE PER CENT OF THE OVERALL
9 TIME FRAME.

10 I. UNLESS A DISTRICT AND AN APPLICANT FOR A LICENSE MUTUALLY AGREE TO
11 EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME PURSUANT
12 TO SUBSECTION H, A DISTRICT SHALL ISSUE A WRITTEN OR ELECTRONIC NOTICE
13 GRANTING OR DENYING A LICENSE TO AN APPLICANT. IF A DISTRICT DENIES AN
14 APPLICATION FOR A LICENSE, THE DISTRICT SHALL INCLUDE IN THE WRITTEN OR
15 ELECTRONIC NOTICE AT LEAST THE FOLLOWING INFORMATION:

16 1. JUSTIFICATION FOR THE DENIAL WITH REFERENCES TO THE STATUTES,
17 ORDINANCES, EXECUTIVE ORDERS, SUBSTANTIVE POLICY STATEMENTS OR DELEGATION
18 AGREEMENTS ON WHICH THE DENIAL IS BASED.

19 2. AN EXPLANATION OF THE APPLICANT'S RIGHT TO APPEAL THE DENIAL. THE
20 EXPLANATION SHALL INCLUDE THE NUMBER OF WORKING DAYS IN WHICH THE APPLICANT
21 MUST FILE A PROTEST CHALLENGING THE DENIAL AND THE NAME AND TELEPHONE NUMBER
22 OF A DISTRICT CONTACT PERSON WHO CAN ANSWER QUESTIONS REGARDING THE APPEALS
23 PROCESS.

24 J. IF A DISTRICT DOES NOT ISSUE TO THE APPLICANT THE WRITTEN OR
25 ELECTRONIC NOTICE GRANTING OR DENYING A LICENSE WITHIN THE OVERALL TIME FRAME
26 OR WITHIN THE MUTUALLY AGREED UPON TIME FRAME EXTENSION, THE DISTRICT SHALL
27 REFUND TO THE APPLICANT ALL FEES CHARGED FOR REVIEWING AND ACTING ON THE
28 APPLICATION FOR THE LICENSE AND SHALL EXCUSE PAYMENT OF ANY FEES THAT HAVE
29 NOT YET BEEN PAID. THE DISTRICT SHALL NOT REQUIRE AN APPLICANT TO SUBMIT AN
30 APPLICATION FOR A REFUND PURSUANT TO THIS SUBSECTION. THE REFUND SHALL BE
31 MADE WITHIN THIRTY WORKING DAYS AFTER THE EXPIRATION OF THE OVERALL TIME
32 FRAME OR THE TIME FRAME EXTENSION. THE DISTRICT SHALL CONTINUE TO PROCESS
33 THE APPLICATION. NOTWITHSTANDING ANY OTHER STATUTE, THE DISTRICT SHALL MAKE
34 THE REFUND FROM THE FUND IN WHICH THE APPLICATION FEES WERE ORIGINALLY
35 DEPOSITED.

36 K. THIS SECTION DOES NOT APPLY TO LICENSES ISSUED WITHIN SEVEN WORKING
37 DAYS AFTER RECEIPT OF THE INITIAL APPLICATION OR A PERMIT THAT EXPIRES WITHIN
38 TWENTY-ONE WORKING DAYS AFTER ISSUANCE.

39 48-3646. License application process

40 A DISTRICT THAT ISSUES LICENSES SHALL PROVIDE THE FOLLOWING INFORMATION
41 TO AN APPLICANT AT THE TIME THE APPLICANT OBTAINS AN APPLICATION FOR A
42 LICENSE:

43 1. A LIST OF ALL OF THE STEPS THE APPLICANT IS REQUIRED TO TAKE IN
44 ORDER TO OBTAIN THE LICENSE.

45 2. THE APPLICABLE LICENSING TIME FRAMES.

1 3. THE NAME AND TELEPHONE NUMBER OF A DISTRICT CONTACT PERSON WHO CAN
2 ANSWER QUESTIONS OR PROVIDE ASSISTANCE THROUGHOUT THE APPLICATION PROCESS.

3 4. THE WEBSITE ADDRESS AND ANY OTHER INFORMATION, IF APPLICABLE, TO
4 ALLOW THE REGULATED PERSON TO UTILIZE ELECTRONIC COMMUNICATION WITH THE
5 DISTRICT.

6 5. NOTICE THAT AN APPLICANT MAY RECEIVE A CLARIFICATION FROM THE
7 DISTRICT OF ITS INTERPRETATION OR APPLICATION OF A STATUTE, ORDINANCE,
8 REGULATION, EXECUTIVE ORDER, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE
9 POLICY STATEMENT AS PROVIDED IN SECTION 48-3649.

10 48-3647. Directory of documents

11 THE DISTRICT SHALL PUBLISH, OR PROMINENTLY PLACE ON THE DISTRICT
12 WEBSITE, AT LEAST ANNUALLY, A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL
13 CURRENTLY APPLICABLE ORDINANCES, REGULATIONS AND SUBSTANTIVE POLICY
14 STATEMENTS. THE DISTRICT SHALL KEEP COPIES OF THIS DIRECTORY AND ALL
15 SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES,
16 REGULATIONS, SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY
17 REFERENCE IN THESE DOCUMENTS SHALL BE OPEN TO PUBLIC INSPECTION AT THE OFFICE
18 OF THE DISTRICT OR THE DISTRICT WEBSITE.

19 48-3648. Complaints; board of review

20 THE BOARD OF REVIEW SHALL RECEIVE COMPLAINTS CONCERNING ORDINANCES,
21 SUBSTANTIVE POLICY STATEMENTS OR DISTRICT PRACTICES ALLEGED TO VIOLATE THIS
22 ARTICLE. THE BOARD OF REVIEW MAY REVIEW ANY ORDINANCE, REGULATION,
23 SUBSTANTIVE POLICY STATEMENT OR DISTRICT PRACTICE ALLEGED TO VIOLATE THIS
24 ARTICLE AND MAY HOLD HEARINGS REGARDING THE ALLEGATIONS. THE BOARD OF REVIEW
25 MAY RECOMMEND ACTIONS TO ALLEVIATE THE ASPECTS OF THE ORDINANCES,
26 REGULATIONS, SUBSTANTIVE POLICY STATEMENTS OR DISTRICT PRACTICES ALLEGED TO
27 VIOLATE THIS ARTICLE.

28 48-3649. Clarification of interpretation

29 A. A PERSON MAY REQUEST A DISTRICT TO CLARIFY ITS INTERPRETATION OR
30 APPLICATION OF A STATUTE, ORDINANCE, REGULATION, EXECUTIVE ORDER, DELEGATION
31 AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT AFFECTING THE
32 PROCUREMENT OF A LICENSE BY PROVIDING THE DISTRICT WITH A WRITTEN REQUEST
33 THAT STATES:

34 1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.

35 2. THE STATUTE, ORDINANCE, REGULATION, EXECUTIVE ORDER, DELEGATION
36 AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT OR PART OF THE STATUTE,
37 ORDINANCE, REGULATION, EXECUTIVE ORDER, DELEGATION AGREEMENT OR AUTHORIZED
38 SUBSTANTIVE POLICY STATEMENT THAT REQUIRES CLARIFICATION.

39 3. ANY FACTS RELEVANT TO THE REQUESTED RULING.

40 4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE,
41 ORDINANCE, REGULATION, EXECUTIVE ORDER, DELEGATION AGREEMENT OR AUTHORIZED
42 SUBSTANTIVE POLICY STATEMENT OR PART OF THE STATUTE, ORDINANCE, REGULATION,
43 EXECUTIVE ORDER, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY
44 STATEMENT.

1 5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED
2 ISSUES ARE BEING CONSIDERED BY THE DISTRICT IN CONNECTION WITH AN EXISTING
3 LICENSE OR LICENSE APPLICATION.

4 B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A, THE
5 DISTRICT MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST AND SHALL
6 RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST WITH A
7 WRITTEN EXPLANATION OF ITS INTERPRETATION OR APPLICATION AS RAISED IN THE
8 WRITTEN REQUEST. THE DISTRICT SHALL PROVIDE THE REQUESTOR WITH AN
9 OPPORTUNITY TO MEET AND DISCUSS THE DISTRICT'S WRITTEN EXPLANATION.

10 C. A DISTRICT MAY MODIFY A WRITTEN EXPLANATION PROVIDED UNDER
11 SUBSECTION B ON WRITTEN NOTICE TO THE PERSON IF REQUIRED BY A CHANGE IN THE
12 LAW THAT WAS APPLICABLE AT THE TIME THE CLARIFICATION OR INTERPRETATION WAS
13 ISSUED, INCLUDING CHANGES CAUSED BY LEGISLATION, ADMINISTRATIVE RULES
14 FORMALLY ADOPTED BY THE GOVERNING BODY OR A COURT DECISION.

15 48-3650. Exemptions

16 THIS ARTICLE DOES NOT APPLY TO:

17 1. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
18 RELATES TO ONLY THE INTERNAL MANAGEMENT OF A DISTRICT AND THAT DOES NOT
19 DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE RIGHTS OR
20 DUTIES OF ANY SEGMENT OF THE PUBLIC.

21 2. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT
22 RELATES TO ONLY THE PHYSICAL SERVICING, MAINTENANCE OR CARE OF DISTRICT OWNED
23 OR OPERATED FACILITIES OR PROPERTY.

24 3. AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT RELATING
25 TO A DISTRICT CONTRACT.

26 Sec. 13. Effective dates

27 A. Sections 11-801, 11-804 and 11-805, Arizona Revised Statutes, as
28 added by Laws 2010, chapter 244, section 7 and as amended by this act, and
29 section 11-809, Arizona Revised Statutes, as added by this act, are effective
30 from and after September 30, 2011.

31 B. Sections 9-833, 11-1603 and 48-3643, Arizona Revised Statutes, as
32 added by this act, are effective from and after June 30, 2012.