PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1505

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 9-832, Arizona Revised Statutes, is amended to read:

9-832. Regulatory bill of rights

To ensure fair and open regulation by municipalities, a person:

1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against a municipality in a court proceeding regarding a municipality decision as provided in section 12-348.

2. Is entitled to receive information and notice regarding inspections as provided in section 9-833.

3. Is entitled to have a municipality not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized as provided in section 9-834, subsection A.

4. May have a municipality approve or deny the person's license application within a predetermined period of time as provided in section 9-835.

5. Is entitled to receive written or electronic notice from a municipality on denial of a license application:

(a) That justifies the denial with references to the statute, ordinance, code or authorized substantive policy statements on which the denial is based as provided in section 9-835.

(b) That explains the applicant's right to appeal the denial as provided in section 9-835.

6. Is entitled to receive information regarding the license application process at the time the person obtains an application for a license as provided in section 9-836.

7. May inspect all ordinances, codes and substantive policy statements of a municipality, including a directory of documents, at the office of the municipality or on the municipality's website as provided in section 9-837.

8. Unless specifically authorized, may expect municipalities to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the maximum extent practicable as provided in section 9-834.

9. May file a complaint with the municipality concerning an ordinance, code or substantive policy statement that fails to comply with this section.

10. MAY REVIEW THE FULL TEXT OR SUMMARY OF ALL RULE MAKING ACTIVITY, THE SUMMARY OF SUBSTANTIVE POLICY STATEMENTS AND THE FULL TEXT OF EXECUTIVE ORDERS IN THE REGISTER AS PROVIDED IN ARTICLE 5 OF THIS CHAPTER.

11. MAY PARTICIPATE IN THE RULE MAKING PROCESS AS PROVIDED IN ARTICLE 6 OF THIS CHAPTER, INCLUDING PROVIDING WRITTEN OR ORAL COMMENTS ON PROPOSED RULES TO A MUNICIPALITY AS PROVIDED IN SECTION 9-864 AND HAVING THE MUNICIPALITY ADEQUATELY ADDRESS THOSE COMMENTS AS PROVIDED IN SECTION 9-865.

12. MAY ALLEGE THAT AN EXISTING MUNICIPAL PRACTICE OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE AND HAVE THAT MUNICIPAL PRACTICE OR SUBSTANTIVE POLICY STATEMENT DECLARED VOID BECAUSE THE PRACTICE OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE AS PROVIDED IN SECTIONS 9-872 AND 9-873.

Sec. 2. Section 9-838, Arizona Revised Statutes, is amended to read:

9-838. Complaints; governing body review

The governing body may receive complaints concerning ordinances, codes, substantive policy statements or municipality practices alleged to violate this ~~article~~ CHAPTER. The governing body may review any ordinance, code, substantive policy statement or municipal practice alleged to violate this ~~article~~ CHAPTER and may hold hearings regarding the allegations. The governing body may recommend actions to alleviate the aspects of the ordinances, codes, substantive policy statements or municipality practices alleged to violate this ~~article~~ CHAPTER.

B. THE GOVERNING BODY MAY REQUIRE THE COMPLAINT TO BE MADE IN WRITING AND INCLUDE THE FOLLOWING INFORMATION:

1. THE NAME AND ADDRESS OF THE PERSON MAKING THE COMPLAINT.

2. THE ORDINANCE, RULE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR MUNICIPAL PRACTICE ALLEGED TO VIOLATE THIS CHAPTER.

3. ANY FACTS RELEVANT TO AND THE LEGAL BASIS FOR THE COMPLAINT.

Sec. 3. Section 9-839, Arizona Revised Statutes, is amended to read:

9-839. Clarification of interpretation

A. A REGULATED person may request a municipality to clarify its interpretation or application of a statute, ordinance, code, RULE or authorized substantive policy statement affecting the REGULATED PERSON'S procurement of a license by providing the municipality with a written request that states:

1. The name and address of the REGULATED person requesting the clarification.

2. The statute, ordinance, code, RULE or authorized substantive policy statement or part of the statute, ordinance, code, RULE or authorized substantive policy statement that requires clarification.

3. Any facts relevant to the requested ~~ruling~~ CLARIFICATION.

4. The REGULATED person's proposed interpretation of the applicable statute, ordinance, code, RULE or authorized substantive policy statement or part of the statute, ordinance, code, RULE or authorized substantive policy statement that requires clarification.

5. Whether, to the best knowledge of the REGULATED person, the issues or related issues are being considered by the municipality in connection with an existing license or license application.

B. On receipt of a request that complies with subsection A, the municipality may meet with the REGULATED 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 municipality shall provide the requestor

with an opportunity to meet and discuss the municipality's written explanation.

C. The municipality 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~~ OF interpretation was issued, including changes caused by legislation, administrative rules formally adopted by the governing body or a court decision.

Sec. 4. Title 9, chapter 7, article 4, Arizona Revised Statutes, is amended by adding section 9-842, to read:

9-842. Substantive policy statement; directory

A. A MUNICIPALITY SHALL FILE SUBSTANTIVE POLICY STATEMENTS PURSUANT TO SECTION 9-853.

B. A MUNICIPALITY SHALL ENSURE THAT THE FIRST PAGE OF EACH SUBSTANTIVE POLICY STATEMENT INCLUDES THE FOLLOWING NOTICE:

THIS SUBSTANTIVE POLICY STATEMENT IS ADVISORY ONLY. A SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE MUNICIPALITY AND DOES NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR INCLUDE CONFIDENTIAL INFORMATION, ORDINANCES OR RULES MADE IN ACCORDANCE WITH THE MUNICIPAL ADMINISTRATIVE PROCEDURE ACT. IF YOU BELIEVE THAT THIS SUBSTANTIVE POLICY STATEMENT DOES IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES YOU MAY PETITION THE MUNICIPALITY UNDER SECTION 9-872, ARIZONA REVISED STATUTES, FOR A REVIEW OF THE STATEMENT.

C. THE MUNICIPALITY SHALL PUBLISH AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL CURRENTLY APPLICABLE RULES AND SUBSTANTIVE POLICY STATEMENTS. THE MUNICIPALITY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL OF ITS SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, RULES AND SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE IN THE RULES OR SUBSTANTIVE POLICY STATEMENTS SHALL BE OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE MUNICIPAL MANAGER OR MUNICIPAL WEBSITE.

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

ARTICLE 5. PUBLICATION OF MUNICIPAL ORDINANCES

9-851. Publication and distribution of code and register

THE MUNICIPALITY IS RESPONSIBLE FOR THE PUBLICATION AND DISTRIBUTION OF THE CODE AND THE REGISTER.

9-852. Code; publication of rules; distribution

A. THE CODE SHALL CONTAIN THE FULL TEXT OF EACH FINAL RULE FILED WITH THE MUNICIPALITY AND EACH RULE ADOPTED PURSUANT TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS CHAPTER.

B. THE MUNICIPALITY SHALL PUBLISH, IN LOOSE-LEAF FORM OR ON THE MUNICIPALITY 'S WEBSITE, AT LEAST ONCE EVERY QUARTER ALL FINAL RULES AND RULES ADOPTED PURSUANT TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS CHAPTER. PUBLICATION OF A RULE BY THE MUNICIPALITY AS PROVIDED IN THIS SECTION CONSTITUTES PRIMA FACIE EVIDENCE OF THE ADOPTION AND FILING OF THE RULE PURSUANT TO THIS CHAPTER OR THE ADOPTION OF THE RULE PURSUANT TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS CHAPTER.

C. THE MUNICIPALITY MAY CONTRACT FOR THE PRINTING OF THE CODE ON TERMS MOST ADVANTAGEOUS TO THE MUNICIPALITY.

D. THE CODE SHALL BE AVAILABLE BY SUBSCRIPTION AND FOR SINGLE COPY PURCHASE. THE CHARGE FOR EACH CODE OR PERIODIC SUBSCRIPTION SHALL BE A REASONABLE CHARGE, NOT TO EXCEED ALL COSTS OF PRODUCTION AND DISTRIBUTION OF THE CODE.

9-853. Register

A. THE MUNICIPALITY SHALL PUBLISH THE REGISTER OR UPDATE THE REGISTER THAT IS AVAILABLE ON THE MUNICIPALITY 'S WEBSITE AT LEAST ONCE EACH MONTH, INCLUDING THE INFORMATION THAT IS PROVIDED UNDER SUBSECTION B OF THIS SECTION AND THAT IS FILED WITH THE MUNICIPALITY DURING THE PRECEDING THIRTY DAYS. THE MUNICIPALITY SHALL PUBLISH AN INDEX TO THE REGISTER AT LEAST TWICE EACH YEAR AND MAKE THE INDEX AVAILABLE ON THE MUNICIPALITY 'S WEBSITE.

B. THE REGISTER SHALL CONTAIN:

1 1. A SCHEDULE OF THE TIME, DATE AND PLACE OF ALL HEARINGS ON PROPOSED
2 REPEALS, MAKINGS OR AMENDMENTS OF RULES.
3 2. THE NOTICE AND SUMMARY OF EACH DOCKET OPENING.
4 3. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH PROPOSED RULE.
5 4. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH FINAL RULE.
6 5. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH EMERGENCY RULE.
7 6. SUPPLEMENTAL NOTICES OF A PROPOSED RULE OR EXPEDITED RULE.
8 7. A SUMMARY OF GOVERNING BODY ACTION ON EACH RULE.
9 8. THE IDENTIFICATION AND A SUMMARY OF SUBSTANTIVE POLICY STATEMENTS
10 AND NOTICE AND A SUMMARY OF ANY GUIDANCE DOCUMENT PUBLICATION OR REVISION
11 SUBMITTED BY MUNICIPALITY.
12 9. NOTICES OF ORAL PROCEEDINGS, PUBLIC WORKSHOPS OR OTHER MEETINGS ON
13 A AN OPEN RULE MAKING DOCKET.
14 C. FOR THE PURPOSES OF THIS SECTION, FULL TEXT PUBLICATION IN THE
15 REGISTER INCLUDES ALL NEW, AMENDED OR ADDED LANGUAGE AND SUCH EXISTING
16 LANGUAGE AS THE PROPOSING MUNICIPALITY DEEMS NECESSARY FOR A PROPER
17 UNDERSTANDING OF THE PROPOSED RULE. RULES THAT ARE UNDERGOING EXTENSIVE
18 REVISION MAY BE REPRINTED IN WHOLE.
19 Sec. 6. Title 9, chapter 7, Arizona Revised Statutes, is amended by
20 adding article 6, to read:
21 ARTICLE 6. RULE MAKING
22 9-861. Definitions
23 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
24 1. "EMERGENCY RULE" MEANS A RULE THAT IS MADE PURSUANT TO SECTION 9-
25 867.
26 2. "FEE" MEANS A CHARGE PRESCRIBED BY A MUNICIPALITY FOR AN INSPECTION
27 OR FOR OBTAINING A LICENSE.
28 3. "FINAL RULE" MEANS ANY RULE FILED WITH THE MUNICIPAL CLERK AND MADE
29 PURSUANT TO AN EXEMPTION FROM THIS CHAPTER PURSUANT TO SECTION 9-877, MADE
30 PURSUANT TO SECTION 9-867 OR APPROVED BY THE GOVERNING BODY PURSUANT TO

SECTION 9-865. FOR PURPOSES OF JUDICIAL REVIEW, A FINAL RULE INCLUDES PROPOSED EXPEDITED RULES HAVING INTERIM EFFECT PURSUANT TO SECTION 9-868.

4. "GENERAL PERMIT" MEANS A REGULATORY PERMIT, LICENSE OR MUNICIPAL AUTHORIZATION THAT IS FOR FACILITIES, ACTIVITIES OR PRACTICES IN A CLASS THAT ARE SUBSTANTIALLY SIMILAR IN NATURE AND THAT IS ISSUED OR GRANTED BY A MUNICIPALITY TO A QUALIFIED APPLICANT TO CONDUCT IDENTIFIED OPERATIONS OR ACTIVITIES IF THE APPLICANT MEETS THE APPLICABLE REQUIREMENTS OF THE GENERAL PERMIT, THAT REQUIRES LESS INFORMATION THAN AN INDIVIDUAL OR TRADITIONAL PERMIT, LICENSE OR AUTHORIZATION AND THAT DOES NOT REQUIRE A PUBLIC HEARING.

5. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY MUNICIPAL PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY LAW, BUT DOES NOT INCLUDE A LICENSE REQUIRED SOLELY FOR REVENUE PURPOSES.

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

7. "PARTY" MEANS EACH PERSON NAMED OR ADMITTED AS A PARTY OR PROPERLY SEEKING AND ENTITLED AS OF RIGHT TO BE ADMITTED AS A PARTY.

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

9. "PREAMBLE" MEANS:

(a) FOR ANY RULE MAKING SUBJECT TO THIS CHAPTER, A STATEMENT ACCOMPANYING THE RULE THAT INCLUDES:

(i) REFERENCE TO THE SPECIFIC STATUTORY AUTHORITY FOR THE RULE.

(ii) THE NAME AND ADDRESS OF MUNICIPAL PERSONNEL WITH WHOM PERSONS MAY COMMUNICATE REGARDING THE RULE.

(iii) AN EXPLANATION OF THE RULE, INCLUDING THE MUNICIPALITY 'S REASONS FOR INITIATING THE RULE MAKING.

(iv) A REFERENCE TO ANY STUDY RELEVANT TO THE RULE THAT THE MUNICIPALITY REVIEWED AND EITHER PROPOSES TO RELY ON IN ITS EVALUATION OF OR

JUSTIFICATION FOR THE RULE OR PROPOSES NOT TO RELY ON IN ITS EVALUATION OF OR JUSTIFICATION FOR THE RULE, WHERE THE PUBLIC MAY OBTAIN OR REVIEW EACH STUDY, ALL DATA UNDERLYING EACH STUDY AND ANY ANALYSIS OF EACH STUDY AND OTHER SUPPORTING MATERIAL.

(v) A SHOWING OF GOOD CAUSE WHY THE RULE IS NECESSARY TO PROMOTE A MUNICIPAL INTEREST.

(vi) SUCH OTHER MATTERS AS ARE PRESCRIBED BY STATUTE AND THAT ARE APPLICABLE TO THE SPECIFIC MUNICIPALITY OR TO ANY SPECIFIC RULE OR CLASS OF RULES.

(b) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (A) OF THIS PARAGRAPH, FOR A PROPOSED RULE, THE PREAMBLE ALSO SHALL INCLUDE A LIST OF ALL PREVIOUS NOTICES APPEARING IN THE REGISTER ADDRESSING THE PROPOSED RULE, A STATEMENT OF THE TIME, PLACE AND NATURE OF THE PROCEEDINGS FOR THE MAKING, AMENDMENT OR REPEAL OF THE RULE AND WHERE, WHEN AND HOW PERSONS MAY REQUEST AN ORAL PROCEEDING ON THE PROPOSED RULE IF THE NOTICE DOES NOT PROVIDE FOR ONE.

(c) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (A) OF THIS PARAGRAPH, FOR A PROPOSED EXPEDITED RULE, THE PREAMBLE ALSO SHALL INCLUDE A STATEMENT OF THE TIME, PLACE AND NATURE OF THE PROCEEDINGS FOR THE MAKING, AMENDMENT OR REPEAL OF THE RULE AND AN EXPLANATION OF WHY EXPEDITED PROCEEDINGS ARE JUSTIFIED.

(d) FOR A FINAL RULE, EXCEPT AN EMERGENCY RULE, THE PREAMBLE ALSO SHALL INCLUDE, IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (A) OF THIS PARAGRAPH, THE FOLLOWING INFORMATION:

(i) A LIST OF ALL PREVIOUS NOTICES APPEARING IN THE REGISTER ADDRESSING THE FINAL RULE.

(ii) A DESCRIPTION OF THE CHANGES BETWEEN THE PROPOSED RULES, INCLUDING SUPPLEMENTAL NOTICES AND FINAL RULES.

(iii) A SUMMARY OF THE COMMENTS MADE REGARDING THE RULE AND THE MUNICIPAL RESPONSE TO THE COMMENTS.

(iv) A SUMMARY OF THE GOVERNING BODY'S ACTION ON THE RULE.

(v) A STATEMENT OF THE RULE'S EFFECTIVE DATE.

(e) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (A) OF THIS PARAGRAPH, FOR AN EMERGENCY RULE, THE PREAMBLE ALSO SHALL INCLUDE AN EXPLANATION OF THE SITUATION JUSTIFYING THE RULE BEING MADE AS AN EMERGENCY RULE, THE DATE OF THE MUNICIPAL ATTORNEY'S APPROVAL OF THE RULE AND A STATEMENT OF THE EMERGENCY RULE'S EFFECTIVE DATE.

10. "PROVISION OF LAW" MEANS THE WHOLE OR A PART OF THE UNITED STATES OR ARIZONA CONSTITUTION, OR OF ANY FEDERAL OR STATE STATUTE, RULE OF COURT OR ORDINANCE OF A MUNICIPALITY.

11. "RULE" MEANS A MUNICIPAL STATEMENT OF GENERAL APPLICABILITY THAT IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR POLICY, OR DESCRIBES THE PROCEDURE OR PRACTICE REQUIREMENTS OF A MUNICIPALITY. RULE INCLUDES PRESCRIBING FEES OR THE AMENDMENT OR REPEAL OF A PRIOR RULE BUT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE MUNICIPALITY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES, CONFIDENTIAL INFORMATION, ORDINANCES ADOPTED BY THE GOVERNING BODY OR A MUNICIPALITY'S SUBSTANTIVE POLICY STATEMENTS.

12. "RULE MAKING" MEANS THE PROCESS FOR FORMULATION AND FINALIZATION OF A RULE.

13. "SMALL BUSINESS" MEANS A BUSINESS, INCLUDING ITS AFFILIATES, THAT IS INDEPENDENTLY OWNED AND OPERATED, THAT IS NOT DOMINANT IN ITS FIELD AND THAT EMPLOYS FEWER THAN ONE HUNDRED FULL-TIME EMPLOYEES OR THAT HAD GROSS ANNUAL RECEIPTS OF LESS THAN FOUR MILLION DOLLARS IN ITS LAST FISCAL YEAR. FOR PURPOSES OF A SPECIFIC RULE, A MUNICIPALITY MAY DEFINE SMALL BUSINESS TO INCLUDE MORE PERSONS IF THE MUNICIPALITY FINDS THAT SUCH A DEFINITION IS NECESSARY TO ADAPT THE RULE TO THE NEEDS AND PROBLEMS OF SMALL BUSINESSES AND ORGANIZATIONS.

14. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A MUNICIPALITY'S CURRENT APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES, INCLUDING, WHERE APPROPRIATE, THE MUNICIPALITY 'S CURRENT PRACTICE, PROCEDURE

OR METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE MUNICIPALITY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION, INTERPRETATIONS REQUESTED BY A REGULATED PERSON PURSUANT TO SECTION 9-839, RULES PURSUANT TO THIS ARTICLE AND ORDINANCES ADOPTED BY THE GOVERNING BODY.

9-862. Public rule making docket; notice

A. EACH MUNICIPALITY SHALL ESTABLISH AND MAINTAIN A CURRENT, PUBLIC RULE MAKING DOCKET FOR EACH PENDING RULE MAKING PROCEEDING. A RULE MAKING PROCEEDING IS PENDING FROM THE TIME THE MUNICIPALITY BEGINS TO CONSIDER PROPOSING THE RULE UNDER SECTION 9-863 UNTIL ANY ONE OF THE FOLLOWING OCCURS:

1. THE TIME THE RULE MAKING PROCEEDING IS TERMINATED BY THE MUNICIPALITY INDICATING IN THE RULE MAKING DOCKET THAT THE MUNICIPALITY IS NO LONGER ACTIVELY CONSIDERING PROPOSING THE RULE.

2. ONE YEAR AFTER THE NOTICE OF RULE MAKING DOCKET OPENING IS PUBLISHED IN THE REGISTER IF THE MUNICIPALITY HAS NOT FILED A NOTICE OF THE PROPOSED RULE MAKING WITH THE MUNICIPAL CLERK PURSUANT TO SECTION 9-863.

3. THE RULE BECOMES EFFECTIVE.

4. ONE YEAR AFTER THE NOTICE OF THE PROPOSED RULE MAKING IS PUBLISHED IN THE REGISTER IF THE MUNICIPALITY HAS NOT SUBMITTED THE RULE TO THE GOVERNING BODY FOR REVIEW AND APPROVAL.

5. PUBLICATION OF A NOTICE OF TERMINATION.

B. FOR EACH RULE MAKING PROCEEDING, THE DOCKET SHALL INDICATE ALL OF THE FOLLOWING:

1. THE SUBJECT MATTER OF THE PROPOSED RULE.

2. A CITATION TO ALL PUBLISHED NOTICES RELATING TO THE PROCEEDING.

3. THE NAME, ADDRESS AND ELECTRONIC MAIL ADDRESS OF MUNICIPAL PERSONNEL WITH WHOM PERSONS MAY COMMUNICATE REGARDING THE RULE.

4. WHERE WRITTEN SUBMISSIONS ON THE PROPOSED RULE MAY BE INSPECTED.

5. THE TIME DURING WHICH WRITTEN AND ELECTRONIC SUBMISSIONS MAY BE MADE AND THE TIME AND PLACE WHERE ORAL COMMENTS MAY BE MADE.

1 6. THE CURRENT STATUS OF THE PROPOSED RULE.
2 7. THE DATE THE RULE WAS SENT TO THE GOVERNING BODY.
3 8. THE DATE OF THE RULE'S FILING AND PUBLICATION.
4 9. THE DATE THE RULE WAS APPROVED BY THE GOVERNING BODY.
5 10. WHEN THE RULE WILL BECOME EFFECTIVE.
6 C. THE MUNICIPALITY SHALL PROVIDE PUBLIC NOTICE OF THE ESTABLISHMENT
7 OF A RULE MAKING DOCKET BY CAUSING A NOTICE OF DOCKET OPENING TO BE PUBLISHED
8 IN THE REGISTER, INCLUDING THE INFORMATION SET FORTH IN SUBSECTION B,
9 PARAGRAPHS 1, 2, 3 AND 5 OF THIS SECTION.
10 9-863. Notice of proposed rule making, amendment or repeal; contents
11 of notice
12 A. BEFORE RULE MAKING, AMENDMENT OR REPEAL, THE MUNICIPALITY SHALL
13 FILE A NOTICE OF THE PROPOSED ACTION WITH THE MUNICIPALITY. THE NOTICE SHALL
14 INCLUDE:
15 1. THE PREAMBLE.
16 2. THE EXACT WORDING OF THE RULE.
17 B. THE MUNICIPALITY SHALL INCLUDE IN THE NEXT EDITION OF THE REGISTER
18 THE INFORMATION IN THE NOTICE UNDER SUBSECTION A OF THIS SECTION.
19 C. BEFORE COMMENCING ANY PROCEEDINGS FOR RULE MAKING, AMENDMENT OR
20 REPEAL, A MUNICIPALITY SHALL ALLOW AT LEAST THIRTY DAYS TO ELAPSE AFTER THE
21 PUBLICATION DATE OF THE REGISTER IN WHICH THE NOTICE OF THE PROPOSED RULE
22 MAKING, AMENDMENT OR REPEAL IS CONTAINED.
23 D. IF, AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, A
24 MUNICIPALITY DETERMINES THAT A PROPOSED RULE REQUIRES SUBSTANTIAL CHANGE
25 PURSUANT TO SECTION 9-866, THE MUNICIPALITY SHALL ISSUE A SUPPLEMENTAL NOTICE
26 CONTAINING THE CHANGES IN THE PROPOSED RULE. THE MUNICIPALITY SHALL PROVIDE
27 FOR ADDITIONAL PUBLIC COMMENT PURSUANT TO SECTION 9-864.
28 9-864. Public participation; written statements; oral proceedings
29 A. FOR AT LEAST THIRTY DAYS AFTER PUBLICATION OF THE NOTICE OF THE
30 PROPOSED RULE MAKING, A MUNICIPALITY SHALL AFFORD PERSONS THE OPPORTUNITY TO
31 SUBMIT IN WRITING OR ELECTRONICALLY STATEMENTS, ARGUMENTS, DATA AND VIEWS ON
32 THE PROPOSED RULE, WITH OR WITHOUT THE OPPORTUNITY TO PRESENT THEM ORALLY.

B. A MUNICIPALITY SHALL SCHEDULE AN ORAL PROCEEDING ON A PROPOSED RULE IF, WITHIN THIRTY DAYS AFTER THE PUBLISHED NOTICE OF PROPOSED RULE MAKING, A WRITTEN OR ELECTRONICALLY REQUEST FOR AN ORAL PROCEEDING IS SUBMITTED TO THE MUNICIPALITY PERSONNEL LISTED PURSUANT TO SECTION 9-862, SUBSECTION B.

C. AN ORAL PROCEEDING ON A PROPOSED RULE MAY NOT BE HELD EARLIER THAN THIRTY DAYS AFTER NOTICE OF ITS LOCATION AND TIME IS PUBLISHED IN THE REGISTER. THE MUNICIPALITY SHALL DETERMINE A LOCATION AND TIME FOR THE ORAL PROCEEDING THAT AFFORDS A REASONABLE OPPORTUNITY TO PERSONS TO PARTICIPATE. THE ORAL PROCEEDING SHALL BE CONDUCTED IN A MANNER THAT ALLOWS FOR ADEQUATE DISCUSSION OF THE SUBSTANCE AND THE FORM OF THE PROPOSED RULE, AND PERSONS MAY ASK QUESTIONS REGARDING THE PROPOSED RULE AND PRESENT ORAL ARGUMENT, DATA AND VIEWS ON THE PROPOSED RULE.

D. EACH MUNICIPALITY MAY ADOPT RULES FOR THE CONDUCT OF ORAL RULE MAKING PROCEEDINGS. THOSE RULES MAY INCLUDE PROVISIONS CALCULATED TO PREVENT UNDUE REPETITION IN THE ORAL PROCEEDINGS

9-865. Time and manner of rule making

A. A MUNICIPALITY MAY NOT SUBMIT A RULE TO THE GOVERNING BODY UNTIL THE RULE MAKING RECORD IS CLOSED.

B. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE OF THE RECORD ON THE PROPOSED RULE MAKING, A MUNICIPALITY SHALL TAKE ONE OF THE FOLLOWING ACTIONS:

1. SUBMIT THE RULE TO THE GOVERNING BODY.

2. TERMINATE THE PROCEEDING BY PUBLICATION OF A NOTICE TO THAT EFFECT IN THE REGISTER.

C. BEFORE SUBMITTING A RULE TO THE GOVERNING BODY, A MUNICIPALITY SHALL CONSIDER AND ADEQUATELY ADDRESS THE WRITTEN OR ELECTRONIC SUBMISSIONS, THE ORAL SUBMISSIONS OR ANY MEMORANDUM SUMMARIZING ORAL SUBMISSIONS.

D. UNLESS EXEMPTED BY SECTION 9-877 OR UNLESS THE RULE IS AN EMERGENCY RULE MADE PURSUANT TO SECTION 9-867, IF THE MUNICIPALITY CHOOSES TO MAKE THE RULE, THE MUNICIPALITY SHALL SUBMIT A RULE PACKAGE TO THE GOVERNING BODY. THE RULE PACKAGE SHALL INCLUDE:

1. THE PREAMBLE.

2. THE EXACT WORDS OF THE RULE, INCLUDING EXISTING LANGUAGE AND ANY DELETIONS.

E. IF THE RULE IS EXEMPT PURSUANT TO SECTION 9-877, THE MUNICIPALITY SHALL FILE IT AS A FINAL RULE WITH THE MUNICIPAL CLERK.

F. A MUNICIPALITY SHALL NOT FILE A FINAL RULE WITH THE MUNICIPAL CLERK WITHOUT PRIOR APPROVAL FROM THE GOVERNING BODY, UNLESS THE FINAL RULE IS EXEMPTED PURSUANT TO SECTION 9-877 OR THE RULE IS AN EMERGENCY RULE MADE PURSUANT TO SECTION 9-86.

9-866. Variance between rule and published notice of proposed rule

A. A MUNICIPALITY MAY NOT SUBMIT A RULE TO THE GOVERNING BODY THAT IS SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE NOTICE OF PROPOSED RULE MAKING OR A SUPPLEMENTAL NOTICE FILED WITH THE MUNICIPALITY PURSUANT TO SECTION 9-863. A MUNICIPALITY MAY TERMINATE A RULE MAKING PROCEEDING AND COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A SUBSTANTIALLY DIFFERENT RULE.

B. IN DETERMINING WHETHER A RULE IS SUBSTANTIALLY DIFFERENT FROM THE PUBLISHED PROPOSED RULE ON WHICH IT IS REQUIRED TO BE BASED, ALL OF THE FOLLOWING MUST BE CONSIDERED:

1. THE EXTENT TO WHICH ALL PERSONS AFFECTED BY THE RULE SHOULD HAVE UNDERSTOOD THAT THE PUBLISHED PROPOSED RULE WOULD AFFECT THEIR INTERESTS.

2. THE EXTENT TO WHICH THE SUBJECT MATTER OF THE RULE OR THE ISSUES DETERMINED BY THAT RULE ARE DIFFERENT FROM THE SUBJECT MATTER OR ISSUES INVOLVED IN THE PUBLISHED PROPOSED RULE.

3. THE EXTENT TO WHICH THE EFFECTS OF THE RULE DIFFER FROM THE EFFECTS OF THE PUBLISHED PROPOSED RULE IF IT HAD BEEN MADE INSTEAD.

9-867. Emergency rule making, amendment or repeal

A. IF A MUNICIPALITY MAKES A FINDING THAT A RULE IS NECESSARY AS AN EMERGENCY MEASURE, THE RULE MAY BE MADE, AMENDED OR REPEALED AS AN EMERGENCY MEASURE, WITHOUT THE NOTICE PRESCRIBED BY SECTIONS 9-862 AND 9-863 AND PRIOR REVIEW BY THE GOVERNING BODY, IF THE RULE IS FIRST APPROVED BY THE MUNICIPAL ATTORNEY AND FILED WITH THE MUNICIPALITY. THE MUNICIPAL ATTORNEY MAY NOT

APPROVE THE MAKING, AMENDMENT OR REPEAL OF A RULE AS AN EMERGENCY MEASURE IF THE EMERGENCY SITUATION IS CREATED DUE TO THE MUNICIPALITY'S DELAY OR INACTION AND THE EMERGENCY SITUATION COULD HAVE BEEN AVERTED BY TIMELY COMPLIANCE WITH THE NOTICE AND PUBLIC PARTICIPATION REQUIREMENTS OF THIS CHAPTER, UNLESS THE MUNICIPALITY SUBMITS SUBSTANTIAL EVIDENCE THAT THE RULE IS NECESSARY AS AN EMERGENCY MEASURE TO DO ANY OF THE FOLLOWING:

1. PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE.

2. COMPLY WITH DEADLINES IN AMENDMENTS TO A MUNICIPALITY'S GOVERNING LAW OR FEDERAL PROGRAMS.

3. AVOID VIOLATION OF FEDERAL LAW OR REGULATION OR OTHER STATE LAW.

4. AVOID AN IMMINENT BUDGET REDUCTION.

5. AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST OR THE INTEREST OF THE PARTIES CONCERNED.

B. AFTER THE RULE IS FILED WITH THE MUNICIPALITY, THE MUNICIPALITY SHALL PUBLISH THE RULE IN THE REGISTER AS PROVIDED IN SECTION 9-853, AND THE MUNICIPALITY, AS SOON AS PRACTICABLE, SHALL NOTIFY PERSONS THAT HAVE REQUESTED NOTICES OF RULES RELATED TO THAT SUBJECT MATTER.

C. A RULE MADE, AMENDED OR REPEALED PURSUANT TO THIS SECTION IS VALID FOR ONE HUNDRED EIGHTY DAYS AFTER THE FILING OF THE RULE WITH THE MUNICIPALITY AND MAY BE RENEWED FOR ONE MORE ONE HUNDRED EIGHTY DAY PERIOD IF ALL OF THE FOLLOWING OCCUR:

1. THE MUNICIPALITY DETERMINES THAT THE EMERGENCY SITUATION STILL EXISTS.

2. THE MUNICIPALITY FOLLOWS THE PROCEDURES PRESCRIBED IN THIS SECTION.

3. THE RULE IS APPROVED BY THE MUNICIPAL ATTORNEY PURSUANT TO THIS SECTION.

4. THE MUNICIPALITY HAS ISSUED THE RULE AS A PROPOSED RULE OR HAS ISSUED AN ALTERNATIVE PROPOSED RULE PURSUANT TO SECTION 9-863.

5. THE MUNICIPALITY SEEKS APPROVAL OF THE RENEWAL FROM THE MUNICIPAL ATTORNEY BEFORE THE EXPIRATION OF THE PRECEDING ONE HUNDRED EIGHTY DAY PERIOD.

6. THE MUNICIPALITY FILES NOTICE OF THE RENEWAL AND ANY REQUIRED MUNICIPAL ATTORNEY APPROVAL WITH THE MUNICIPALITY AND NOTICE IS PUBLISHED IN THE REGISTER.

D. A RULE THAT IS ADOPTED PURSUANT TO THIS CHAPTER AND THAT REPLACES A RULE MADE, AMENDED OR REPEALED PURSUANT TO THIS SECTION SHALL EXPRESSLY REPEAL THE RULE REPLACED IF IT HAS NOT EXPIRED.

E. THIS SECTION DOES NOT PROHIBIT THE ADOPTION OF A NEW EMERGENCY RULE IF, AT THE END OF THE EFFECTIVE PERIOD OF THE ORIGINAL EMERGENCY RULE, THE MUNICIPALITY FINDS THAT THE IMMINENT PERIL TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR THE LOSS OF FEDERAL OR STATE FUNDING FOR A MUNICIPAL PROGRAM STILL EXISTS.

9-868. Expedited rule making

A. A MUNICIPALITY MAY CONDUCT EXPEDITED RULE MAKING PURSUANT TO THIS SECTION IF THE RULE MAKING DOES NOT INCREASE THE COST OF REGULATORY COMPLIANCE OR REDUCE PROCEDURAL RIGHTS OF PERSONS REGULATED AND DOES ONE OR MORE OF THE FOLLOWING:

1. AMENDS OR REPEALS RULES MADE OBSOLETE BY REPEAL OR SUPERSESSION OF THE MUNICIPALITY 'S STATUTORY AUTHORITY.

2. AMENDS OR REPEALS RULES FOR WHICH THE STATUTE ON WHICH THE RULE IS AUTHORIZED HAS BEEN DECLARED UNCONSTITUTIONAL BY A COURT WITH JURISDICTION, THERE IS A FINAL JUDGMENT AND NO STATUTE HAS BEEN ENACTED TO REPLACE THE UNCONSTITUTIONAL STATUTE.

3. MAKES, AMENDS OR REPEALS RULES THAT REPEAT VERBATIM EXISTING STATUTORY AUTHORITY GRANTED TO THE MUNICIPALITY.

4. MAKES, AMENDS OR REPEALS ORDINANCES RELATING ONLY TO INTERNAL GOVERNMENTAL OPERATIONS THAT ARE NOT SUBJECT TO VIOLATION BY A PERSON.

5. CORRECTS TYPOGRAPHICAL ERRORS, MAKES ADDRESS OR NAME CHANGES OR CLARIFIES LANGUAGE OF A RULE WITHOUT CHANGING ITS EFFECT.

6. MAKES OR INCORPORATES BY REFERENCE WITHOUT MATERIAL CHANGE FEDERAL STATUTES OR REGULATIONS, STATUTES OF THIS STATE OR RULES OF OTHER AGENCIES OF THIS STATE PURSUANT TO SECTION 9-869.

7. REDUCES OR CONSOLIDATES STEPS, PROCEDURES OR PROCESSES IN THE RULES.

B. IF THE PROPOSED EXPEDITED RULE MAKING IS SOLELY FOR A PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION, THE MUNICIPALITY SHALL NOTIFY THE GOVERNING BODY OF THE PROPOSED EXPEDITED RULE MAKING. THE NOTICE SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE MUNICIPAL CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED RULE MAKING AND INDICATE HOW THE PROPOSED EXPEDITED RULE MAKING ACHIEVES THE PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION.

C. IF THE PROPOSED EXPEDITED RULE MAKING IS FOR A PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 2, 4, 6 OR 7 OF THIS SECTION, THE MUNICIPALITY SHALL FILE A REQUEST FOR PROPOSED EXPEDITED RULE MAKING WITH THE GOVERNING BODY OF THE REQUEST. THE REQUEST SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE MUNICIPAL CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED RULE MAKING AND AN EXPLANATION OF HOW THE PROPOSED EXPEDITED RULE MAKING MEETS THE CRITERIA IN SUBSECTION A OF THIS SECTION.

D. THE GOVERNING BODY MAY APPROVE THE REQUEST FOR EXPEDITED RULE MAKING IF THE REQUEST COMPLIES WITH SUBSECTION A OF THIS SECTION.

E. ON DELIVERY OF THE NOTICE REQUIRED IN SUBSECTION B OF THIS SECTION OR ON APPROVAL BY THE GOVERNING BODY OF A REQUEST FOR PROPOSED EXPEDITED RULE MAKING THE MUNICIPALITY SHALL FILE A NOTICE OF THE PROPOSED EXPEDITED RULE MAKING WITH THE MUNICIPALITY FOR PUBLICATION IN THE NEXT REGISTER CONTAINING THE PROVISIONS OF THE PROPOSED RULE MAKING FILED WITH THE MUNICIPALITY PURSUANT TO SUBSECTION B OR C OF THIS SECTION AND ALLOW ANY PERSON TO PROVIDE WRITTEN COMMENT TO THE MUNICIPALITY FOR AT LEAST THIRTY DAYS AFTER PUBLICATION IN THE REGISTER, INCLUDING OBJECTIONS TO THE RULE MAKING BECAUSE IT DOES NOT MEET THE CRITERIA PURSUANT TO SUBSECTION A OF THIS SECTION. THE MUNICIPALITY SHALL ADEQUATELY RESPOND IN WRITING TO THE COMMENTS ON THE PROPOSED EXPEDITED RULE MAKING.

F. A MUNICIPALITY MAY NOT SUBMIT AN EXPEDITED RULE TO THE GOVERNING BODY THAT IS SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE

NOTICE OF PROPOSED EXPEDITED RULE MAKING. HOWEVER, A MUNICIPALITY MAY TERMINATE AN EXPEDITED RULE MAKING PROCEEDING PURSUANT TO SUBSECTION K OF THIS SECTION AND COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A SUBSTANTIALLY DIFFERENT RULE. A MUNICIPALITY SHALL USE THE CRITERIA PRESCRIBED IN SECTION 9-866, SUBSECTION B FOR DETERMINING WHETHER AN EXPEDITED RULE IS SUBSTANTIALLY DIFFERENT FROM THE PUBLISHED PROPOSED EXPEDITED RULE.

G. AFTER ADEQUATELY ADDRESSING, IN WRITING, ANY WRITTEN OBJECTIONS, A MUNICIPALITY SHALL FILE A REQUEST FOR APPROVAL WITH THE GOVERNING BODY. THE REQUEST SHALL CONTAIN THE NOTICE FILED WITH THE MUNICIPALITY PURSUANT TO THIS SECTION AND THE MUNICIPALITY'S RESPONSES TO ANY WRITTEN COMMENTS. THE GOVERNING BODY MAY REQUIRE A REPRESENTATIVE OF THE MUNICIPALITY WHOSE PROPOSED EXPEDITED RULE MAKING IS UNDER EXAMINATION TO ATTEND A BOARD MEETING AND ANSWER QUESTIONS. THE GOVERNING BODY MAY COMMUNICATE TO THE MUNICIPALITY ITS COMMENTS ON THE PROPOSED EXPEDITED RULE MAKING WITHIN THE SCOPE OF SUBSECTION A OF THIS SECTION AND REQUIRE THE MUNICIPALITY TO RESPOND TO ITS COMMENTS OR TESTIMONY IN WRITING. A PERSON MAY SUBMIT WRITTEN COMMENTS TO THE GOVERNING BODY THAT ARE WITHIN THE SCOPE OF SUBSECTION A OF THIS SECTION.

H. BEFORE THE MUNICIPALITY FILES A NOTICE OF FINAL EXPEDITED RULE MAKING WITH THE MUNICIPALITY, THE GOVERNING BODY SHALL APPROVE ANY PROPOSED EXPEDITED RULE MAKING. THE GOVERNING BODY SHALL NOT APPROVE THE RULE UNLESS:

1. THE RULE SATISFIES THE CRITERIA FOR EXPEDITED RULE MAKING PURSUANT TO SUBSECTION A OF THIS SECTION.

2. THE RULE IS CLEAR, CONCISE AND UNDERSTANDABLE.

3. THE RULE IS NOT ILLEGAL, INCONSISTENT WITH LEGISLATIVE INTENT OR BEYOND THE MUNICIPALITY 'S STATUTORY AUTHORITY.

4. THE MUNICIPALITY, IN WRITING, ADEQUATELY ADDRESSED THE COMMENTS ON THE PROPOSED RULE AND ANY SUPPLEMENTARY PROPOSAL.

5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION 9-875.

6. THE RULE IS NOT A SUBSTANTIAL CHANGE, CONSIDERED AS A WHOLE, FROM THE PROPOSED RULE AND ANY SUPPLEMENTARY PROPOSAL.

7. THE RULE IMPOSES THE LEAST BURDEN AND COSTS TO PERSONS REGULATED BY THE RULE.

I. ON RECEIPT OF THE GOVERNING BODY'S APPROVAL, THE MUNICIPALITY SHALL FILE A NOTICE OF FINAL EXPEDITED RULE MAKING WITH THE MUNICIPALITY THAT CONTAINS THE INFORMATION REQUIRED IN SUBSECTION B OF THIS SECTION AND THAT THE MUNICIPALITY DID RECEIVE APPROVAL FROM THE GOVERNING BODY PURSUANT TO THIS SECTION.

J. THE EXPEDITED RULE MAKING BECOMES EFFECTIVE THIRTY DAYS FOLLOWING PUBLICATION OF THE NOTICE OF PROPOSED EXPEDITED RULE MAKING.

K. A MUNICIPALITY MAY TERMINATE AN EXPEDITED RULE MAKING PROCEEDING ON APPROVAL OF THE GOVERNING BODY.

9-869. Incorporation by reference

A. A MUNICIPALITY MAY INCORPORATE BY REFERENCE IN ITS RULES, AND WITHOUT PUBLISHING THE INCORPORATED MATTER IN FULL, ALL OR ANY PART OF A CODE, STANDARD, RULE OR REGULATION OF AN AGENCY OF THE UNITED STATES OR OF THIS STATE OR A NATIONALLY RECOGNIZED ORGANIZATION OR ASSOCIATION, IF INCORPORATION OF ITS TEXT IN MUNICIPAL ORDINANCES WOULD BE UNDULY CUMBERSOME, EXPENSIVE OR OTHERWISE INEXPEDIENT.

B. THE REFERENCE IN THE MUNICIPAL RULES SHALL FULLY IDENTIFY THE INCORPORATED MATTER BY LOCATION, DATE AND OTHERWISE AND SHALL STATE THAT THE RULE DOES NOT INCLUDE ANY LATER AMENDMENTS OR EDITIONS OF THE INCORPORATED MATTER.

C. A MUNICIPALITY MAY INCORPORATE BY REFERENCE SUCH MATTER IN ITS RULES ONLY IF THE AGENCY, ORGANIZATION OR ASSOCIATION ORIGINALLY ISSUING THAT MATTER MAKES COPIES OF IT READILY AVAILABLE TO THE PUBLIC FOR INSPECTION AND REPRODUCTION.

D. THE RULES SHALL STATE WHERE COPIES OF THE INCORPORATED MATTER ARE AVAILABLE FROM THE MUNICIPALITY ISSUING THE RULE AND FROM THE AGENCY OF THE UNITED STATES OR THIS STATE OR THE ORGANIZATION OR ASSOCIATION ORIGINALLY ISSUING THE MATTER.

1 E. A MUNICIPALITY MAY INCORPORATE LATER AMENDMENTS OR EDITIONS OF THE
2 INCORPORATED MATTER ONLY AFTER COMPLIANCE WITH THE RULE MAKING REQUIREMENTS
3 OF THIS CHAPTER.
4 9-870. Invalidity of rules not made according to this chapter
5 A RULE IS INVALID UNLESS IT IS ADOPTED AND APPROVED IN SUBSTANTIAL
6 COMPLIANCE WITH SECTIONS 9-862 THROUGH 9-869, UNLESS OTHERWISE PROVIDED BY
7 LAW.
8 9-871. Filing rules and preamble with municipality; permanent record
9 A. FOLLOWING THE FILING OF A RULE MADE PURSUANT TO AN EXEMPTION TO
10 THIS CHAPTER OR FOLLOWING APPROVAL AND FILING OF A RULE AND PREAMBLE BY THE
11 GOVERNING BODY, THE MUNICIPALITY SHALL AFFIX TO EACH RULE DOCUMENT AND
12 PREAMBLE THE TIME AND DATE OF FILING. A RULE IS NOT FINAL UNTIL THE
13 MUNICIPALITY AFFIXES THE TIME AND DATE OF FILING TO THE RULE DOCUMENT AS
14 PROVIDED IN THIS SECTION.
15 B. THE MUNICIPALITY SHALL KEEP A PERMANENT RECORD OF RULES AND
16 PREAMBLES FILED WITH THE OFFICE.
17 9-872. Petition for a rule or review of a practice or policy
18 A. ANY PERSON, IN A MANNER AND FORM PRESCRIBED BY THE MUNICIPALITY,
19 MAY PETITION A MUNICIPALITY REQUESTING THE MAKING OF A FINAL RULE, A REVIEW
20 OF THE VALIDITY OF A RULE OR A REVIEW OF AN EXISTING MUNICIPAL PRACTICE OR
21 SUBSTANTIVE POLICY STATEMENT THAT THE PETITIONER ALLEGES TO CONSTITUTE AN
22 RULE. THE PETITION SHALL CLEARLY STATE THE RULE, MUNICIPAL PRACTICE OR
23 SUBSTANTIVE POLICY STATEMENT THAT THE PERSON WISHES THE MUNICIPALITY TO MAKE
24 OR REVIEW. WITHIN FORTY-FIVE DAYS AFTER SUBMISSION OF A PETITION, THE
25 MUNICIPALITY SHALL EITHER DENY THE PETITION IN WRITING, STATING ITS REASONS
26 FOR DENIAL, INITIATE RULE MAKING PROCEEDINGS IN ACCORDANCE WITH THIS CHAPTER
27 OR, IF OTHERWISE LAWFUL, ADOPT AN ORDINANCE.
28 B. A PERSON MAY APPEAL TO THE GOVERNING BODY THE MUNICIPALITY'S FINAL
29 DECISION WITHIN THIRTY DAYS AFTER THE MUNICIPALITY GIVES WRITTEN NOTICE
30 PURSUANT TO SUBSECTION A OF THIS SECTION. THE APPEAL SHALL BE LIMITED TO
31 WHETHER THE RULE IS VALID OR WHETHER AN EXISTING MUNICIPAL PRACTICE OR

1 SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE. THE GOVERNING BODY SHALL
2 PLACE THIS APPEAL ON THE AGENDA OF ITS NEXT MEETING IF AT LEAST THREE
3 GOVERNING BODY MEMBERS MAKE SUCH A REQUEST OF THE GOVERNING BODY WITHIN TWO
4 WEEKS AFTER THE FILING OF THE APPEAL.
5 C. A MUNICIPAL PRACTICE OR SUBSTANTIVE POLICY STATEMENT APPEALED TO
6 AND CONSIDERED BY THE GOVERNING BODY PURSUANT TO THIS SECTION REMAINS IN
7 EFFECT WHILE UNDER CONSIDERATION OF THE GOVERNING BODY. IF THE GOVERNING
8 BODY ULTIMATELY DECIDES THE RULE IS INVALID OR THE MUNICIPAL PRACTICE OR
9 STATEMENT CONSTITUTES A RULE, THE RULE, PRACTICE OR STATEMENT SHALL BE
10 CONSIDERED VOID.
11 D. A DECISION BY THE MUNICIPALITY PURSUANT TO THIS SECTION IS NOT
12 SUBJECT TO JUDICIAL REVIEW, EXCEPT THAT, IN ADDITION TO THE PROCEDURE
13 PRESCRIBED IN THIS SECTION OR IN LIEU OF THE PROCEDURE PRESCRIBED IN THIS
14 SECTION, A PERSON MAY SEEK DECLARATORY RELIEF PURSUANT TO SECTION 9-873.
15 9-873. Declaratory judgment
16 A. AFTER THE RULE HAS BEEN CONSIDERED BY THE GOVERNING BODY PURSUANT
17 TO SECTION 9-872, ANY PERSON WHO IS OR MAY BE AFFECTED BY A RULE MAY OBTAIN A
18 JUDICIAL DECLARATION OF THE VALIDITY OF THE RULE BY FILING AN ACTION FOR
19 DECLARATORY RELIEF IN THE SUPERIOR COURT IN MARICOPA COUNTY PURSUANT TO TITLE
20 12, CHAPTER 10, ARTICLE 2.
21 B. AFTER THE EXISTING MUNICIPAL PRACTICE OR SUBSTANTIVE POLICY
22 STATEMENT HAS BEEN CONSIDERED BY THE GOVERNING BODY PURSUANT TO SECTION 9-
23 872, ANY PERSON WHO IS OR MAY BE AFFECTED BY AN EXISTING MUNICIPAL PRACTICE
24 OR SUBSTANTIVE POLICY STATEMENT THAT THE PERSON ALLEGES TO CONSTITUTE A RULE
25 MAY OBTAIN A JUDICIAL DECLARATION ON WHETHER THE PRACTICE OR SUBSTANTIVE
26 POLICY STATEMENT CONSTITUTES A RULE BY FILING AN ACTION FOR DECLARATORY
27 RELIEF IN THE SUPERIOR COURT IN MARICOPA COUNTY PURSUANT TO TITLE 12, CHAPTER
28 10, ARTICLE 2.
29 9-874. Preamble; justifications for rule making
30 ONLY THE REASONS CONTAINED IN THE PREAMBLE MAY BE USED BY ANY PARTY AS
31 JUSTIFICATIONS FOR THE MAKING OF THE RULE IN ANY PROCEEDING IN WHICH ITS
32 VALIDITY IS AT ISSUE.

9-875. General permits; issuance of traditional permit

A. IF A MUNICIPALITY PROPOSES A NEW RULE OR AN AMENDMENT TO AN EXISTING RULE THAT REQUIRES THE ISSUANCE OF A REGULATORY PERMIT, LICENSE OR MUNICIPAL AUTHORIZATION, THE MUNICIPALITY SHALL USE A GENERAL PERMIT IF THE FACILITIES, ACTIVITIES OR PRACTICES IN THE CLASS ARE SUBSTANTIALLY SIMILAR IN NATURE UNLESS ANY OF THE FOLLOWING APPLIES:

1. A GENERAL PERMIT IS PROHIBITED BY FEDERAL LAW.

2. THE ISSUANCE OF AN ALTERNATIVE TYPE OF PERMIT, LICENSE OR AUTHORIZATION IS SPECIFICALLY AUTHORIZED BY STATE STATUTE.

3. THE ISSUANCE OF A GENERAL PERMIT IS NOT TECHNICALLY FEASIBLE OR WOULD NOT MEET THE APPLICABLE STATUTORY REQUIREMENTS.

4. THE ISSUANCE OF A GENERAL PERMIT WOULD RESULT IN ADDITIONAL REGULATORY REQUIREMENTS OR COSTS BEING PLACED ON THE PERMIT APPLICANT.

B. THE MUNICIPALITY RETAINS THE AUTHORITY TO REVOKE AN APPLICANT'S ABILITY TO OPERATE UNDER A GENERAL PERMIT AND TO REQUIRE THE APPLICANT TO OBTAIN A TRADITIONAL PERMIT IF THE APPLICANT IS IN SUBSTANTIAL NONCOMPLIANCE WITH THE APPLICABLE REQUIREMENTS FOR THE GENERAL PERMIT.

9-876. Standard procedural rules

A. THE GOVERNING BODY SHALL ADOPT STANDARD RULE MAKING PROCEDURES FOR USE BY ITS DEPARTMENTS. THE STANDARD RULE MAKING PROCEDURES MUST PROVIDE FOR THE PROCEDURAL FUNCTIONS AND DUTIES OF AS MANY DEPARTMENTS AS IS PRACTICABLE.

B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C OF THIS SECTION, A DEPARTMENT SHALL USE THE STANDARD RULE MAKING PROCEDURES ADOPTED UNDER SUBSECTION A OF THIS SECTION.

C. A DEPARTMENT MAY ADOPT A RULE MAKING PROCEDURE THAT DIFFERS FROM THE STANDARD RULE MAKING PROCEDURES ADOPTED UNDER SUBSECTION A OF THIS SECTION IF IT IS CLEARLY IMPRACTICAL.

9-877. Exemptions

THIS ARTICLE DOES NOT APPLY TO ANY:

1. RULE THAT RELATES TO THE USE OF PUBLIC WORKS, INCLUDING STREETS AND HIGHWAYS, UNDER THE JURISDICTION OF A MUNICIPALITY IF THE EFFECT OF THE ORDER IS INDICATED TO THE PUBLIC BY MEANS OF SIGNS OR SIGNALS.

2. RULE REGULATING MOTOR VEHICLE OPERATION THAT RELATES TO SPEED, PARKING, STANDING, STOPPING OR PASSING.

3. RULE CONCERNING ONLY THE INTERNAL MANAGEMENT OF A MUNICIPALITY THAT DOES NOT DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE RIGHTS OR DUTIES OF ANY SEGMENT OF THE PUBLIC.

4. RULE THAT ONLY ESTABLISHES SPECIFIC PRICES TO BE CHARGED FOR PARTICULAR GOODS OR SERVICES SOLD BY A MUNICIPALITY.

5. RULE CONCERNING ONLY THE PHYSICAL SERVICING, MAINTENANCE OR CARE OF MUNICIPAL OWNED OR OPERATED FACILITIES OR PROPERTY.

6. RULE THAT RELATES TO INMATES OR COMMITTED YOUTH, A CORRECTIONAL OR DETENTION FACILITY UNDER THE JURISDICTION OF THE MUNICIPALITY OR A PATIENT ADMITTED TO AN INSTITUTION OR TREATMENT CENTER PURSUANT TO COURT ORDER.

7. FORM WHOSE CONTENTS OR SUBSTANTIVE REQUIREMENTS ARE PRESCRIBED BY RULE OR STATUTE, AND INSTRUCTIONS FOR THE EXECUTION OR USE OF THE FORM.

8. RULE OR OTHER MATTER RELATING TO MUNICIPAL CONTRACTS.

9. FEES, CHARGES OR MANNER OF RESERVATION ESTABLISHED FOR USE OF MUNICIPAL PARKS AND RAMADAS.

10. EMERGENCY MEDICAL SERVICES PROTOCOLS.

11. RULES ADDRESSING THE NUMBER OF COPIES OF MATERIALS TO BE PROVIDED TO THE MUNICIPALITY.

12. FUNCTION OR OPERATION OF A MUNICIPAL POLICE DEPARTMENT, FIRE DEPARTMENT, AMBULANCE SERVICE, HOSPITAL, PUBLIC SAFETY DEPARTMENT OR TOWN MARSHALL'S OFFICE.

13. FUNCTION, OPERATION OR USE OF A MUNICIPAL AIRPORT.

14. RULES THAT UNDERGO A COMPARABLE EXISTING RULEMAKING PROCESS THAT PROVIDES FOR NOTICE OF THE PROPOSED RULE, AN OPPORTUNITY FOR PUBLIC COMMENT ON THE PROPOSED RULE, AND MUNICIPAL RESPONSE TO PUBLIC COMMENTS PRIOR TO FINALIZING THE RULE. HOWEVER, THESE EXEMPT RULES ARE SUBJECT TO SECTIONS 9-870, 9-872 AND 9-873.

1 B. COINCIDENT WITH THE MAKING OF A RULE PURSUANT TO AN EXEMPTION UNDER
2 THIS SECTION, THE MUNICIPALITY SHALL FILE A COPY OF THE RULE WITH THE
3 MUNICIPAL CLERK FOR PUBLICATION PURSUANT TO SECTION 9-853.
4 C. ALL EXISTING MUNICIPAL RULES OR EXISTING MUNICIPAL PRACTICES OR
5 SUBSTANTIVE POLICY STATEMENTS THAT MAY CONSTITUTE RULES ARE EXEMPT FROM THIS
6 ARTICLE UNTIL AMENDED OR DECEMBER 31, 2013, WHICHEVER IS FIRST.
7 Sec. 7. Effective date
8 This act is effective from and after December 31, 2012."
9 Amend title to conform

JUDY BURGES

2/14/12
11:02 AM
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