

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1505

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 9-832. Regulatory bill of rights

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

6 1. Is eligible for reimbursement of fees and other expenses if the  
7 person prevails by adjudication on the merits against a municipality in a  
8 court proceeding regarding a municipality decision as provided in section  
9 12-348.

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

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

15 4. May have a municipality approve or deny the person's license  
16 application within a predetermined period of time as provided in section  
17 9-835.

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

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

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

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

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

4           8. Unless specifically authorized, may expect municipalities to avoid  
5 duplication of other laws that do not enhance regulatory clarity and to avoid  
6 dual permitting to the maximum extent practicable as provided in section  
7 9-834.

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

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

13           11. MAY PARTICIPATE IN THE RULE MAKING PROCESS AS PROVIDED IN ARTICLE  
14 6 OF THIS CHAPTER, INCLUDING PROVIDING WRITTEN OR ORAL COMMENTS ON PROPOSED  
15 RULES TO A MUNICIPALITY AS PROVIDED IN SECTION 9-864 AND HAVING THE  
16 MUNICIPALITY ADEQUATELY ADDRESS THOSE COMMENTS AS PROVIDED IN SECTION 9-865.

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

22           Sec. 2. Section 9-838, Arizona Revised Statutes, is amended to read:  
23 9-838. Complaints; governing body review

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

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

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

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

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

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

8           9-839. Clarification of interpretation

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

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

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

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

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

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

27           B. On receipt of a request that complies with subsection A, the  
28 municipality may meet with the REGULATED person to discuss the written  
29 request and shall respond within thirty days of the receipt of the written  
30 request with a written explanation of its interpretation or application as  
31 raised in the written request. The municipality shall provide the requestor

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

3 C. The municipality may modify a written explanation provided under  
4 subsection B on written notice to the person if required by a change in the  
5 law that was applicable at the time the clarification ~~or~~ OF interpretation  
6 was issued, including changes caused by legislation, administrative rules  
7 formally adopted by the governing body or a court decision.

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

10 9-842. Substantive policy statement; directory

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

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

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

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

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

3           ARTICLE 5. PUBLICATION OF MUNICIPAL ORDINANCES

4           9-851. Publication and distribution of code and register

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

7           9-852. Code; publication of rules; distribution

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

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

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

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

24           9-853. Register

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

31           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

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

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

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

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

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

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

22 9. "PREAMBLE" MEANS:

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

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

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

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

30 (iv) A REFERENCE TO ANY STUDY RELEVANT TO THE RULE THAT THE  
31 MUNICIPALITY REVIEWED AND EITHER PROPOSES TO RELY ON IN ITS EVALUATION OF OR  
32

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

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

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

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

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

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

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

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

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

31 (iv) A SUMMARY OF THE GOVERNING BODY'S ACTION ON THE RULE.  
32

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

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

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

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

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

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

28 14. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS  
29 ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A MUNICIPALITY'S CURRENT  
30 APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES,  
31 INCLUDING, WHERE APPROPRIATE, THE MUNICIPALITY 'S CURRENT PRACTICE, PROCEDURE  
32

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

7 9-862. Public rule making docket; notice

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

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

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

18 3. THE RULE BECOMES EFFECTIVE.

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

22 5. PUBLICATION OF A NOTICE OF TERMINATION.

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

25 1. THE SUBJECT MATTER OF THE PROPOSED RULE.

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

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

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

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

32



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

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

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

16           9-865. Time and manner of rule making

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

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

21           1. SUBMIT THE RULE TO THE GOVERNING BODY.

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

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

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

31           1. THE PREAMBLE.

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

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

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

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

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

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

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

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

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

26           9-867. Emergency rule making, amendment or repeal

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

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

- 7 1. PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE.
- 8 2. COMPLY WITH DEADLINES IN AMENDMENTS TO A MUNICIPALITY'S GOVERNING  
9 LAW OR FEDERAL PROGRAMS.
- 10 3. AVOID VIOLATION OF FEDERAL LAW OR REGULATION OR OTHER STATE LAW.
- 11 4. AVOID AN IMMINENT BUDGET REDUCTION.
- 12 5. AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST OR THE INTEREST OF  
13 THE PARTIES CONCERNED.

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

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

- 22 1. THE MUNICIPALITY DETERMINES THAT THE EMERGENCY SITUATION STILL  
23 EXISTS.
- 24 2. THE MUNICIPALITY FOLLOWS THE PROCEDURES PRESCRIBED IN THIS SECTION.
- 25 3. THE RULE IS APPROVED BY THE MUNICIPAL ATTORNEY PURSUANT TO THIS  
26 SECTION.
- 27 4. THE MUNICIPALITY HAS ISSUED THE RULE AS A PROPOSED RULE OR HAS  
28 ISSUED AN ALTERNATIVE PROPOSED RULE PURSUANT TO SECTION 9-863.
- 29 5. THE MUNICIPALITY SEEKS APPROVAL OF THE RENEWAL FROM THE MUNICIPAL  
30 ATTORNEY BEFORE THE EXPIRATION OF THE PRECEDING ONE HUNDRED EIGHTY DAY  
31 PERIOD.

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

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

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

12           9-868. Expedited rule making

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

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

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

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

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

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

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

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

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

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

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

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

30           F. A MUNICIPALITY MAY NOT SUBMIT AN EXPEDITED RULE TO THE GOVERNING  
31 BODY THAT IS SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE  
32

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

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

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

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

24 2. THE RULE IS CLEAR, CONCISE AND UNDERSTANDABLE.

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

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

29 5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION 9-  
30 875.

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

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

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

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

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

12          9-869. Incorporation by reference

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

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

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

27          D. THE RULES SHALL STATE WHERE COPIES OF THE INCORPORATED MATTER ARE  
28 AVAILABLE FROM THE MUNICIPALITY ISSUING THE RULE AND FROM THE AGENCY OF THE  
29 UNITED STATES OR THIS STATE OR THE ORGANIZATION OR ASSOCIATION ORIGINALLY  
30 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.

1           9-875. General permits; issuance of traditional permit

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

7                 1. A GENERAL PERMIT IS PROHIBITED BY FEDERAL LAW.

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

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

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

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

18           9-876. Standard procedural rules

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

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

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

29           9-877. Exemptions

30           THIS ARTICLE DOES NOT APPLY TO ANY:

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

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

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

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

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

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

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

18           8. RULE OR OTHER MATTER RELATING TO MUNICIPAL CONTRACTS.

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

21           10. EMERGENCY MEDICAL SERVICES PROTOCOLS.

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

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

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

28           14. RULES THAT UNDERGO A COMPARABLE EXISTING RULEMAKING PROCESS THAT  
29 PROVIDES FOR NOTICE OF THE PROPOSED RULE, AN OPPORTUNITY FOR PUBLIC COMMENT  
30 ON THE PROPOSED RULE, AND MUNICIPAL RESPONSE TO PUBLIC COMMENTS PRIOR TO  
31 FINALIZING THE RULE. HOWEVER, THESE EXEMPT RULES ARE SUBJECT TO SECTIONS 9-  
32 870, 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 BURGESS

2/13/12  
8:42 AM  
S: BB/ly