

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2827

AN ACT

AMENDING SECTION 11-251.05, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-251.16 AND 11-251.17; AMENDING SECTIONS 11-1602, 11-1605 AND 11-1608, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-1608.01, 11-1611 AND 11-1612; AMENDING TITLE 48, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 48-3609.02 AND 48-3609.03; AMENDING SECTIONS 48-3642 AND 48-3648, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 21, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 48-3648.01 AND 48-3651; RELATING TO ADMINISTRATIVE PROCEDURES FOR COUNTIES AND FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-251.05, Arizona Revised Statutes, is amended to
3 read:
4 11-251.05. Ordinances
5 A. The board of supervisors may:
6 1. In the conduct of county business, adopt, amend and repeal all
7 ordinances necessary or proper to carry out the duties, responsibilities and
8 functions of the county ~~which~~ THAT are not otherwise specifically limited by
9 section 11-251 or any other law or in conflict with any rule or law of this
10 state.
11 2. Prescribe punishment by fine or imprisonment, or both, for the
12 violation of an ordinance adopted pursuant to paragraph 1 of this subsection.
13 A fine or imprisonment shall not exceed the maximum limitations for a class 1
14 misdemeanor.
15 B. **IN A COUNTY WITH A POPULATION OF LESS THAN THREE HUNDRED THOUSAND**
16 **PERSONS**, ordinance authority under subsection A of this section shall be in
17 addition to and preemptive of ordinance, rule making or regulatory authority
18 of any other county board or county commission.
19 C. **IN A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE**
20 **PERSONS, THE ADOPTION OF ORDINANCES IS SOLELY WITHIN THE AUTHORITY OF THE**
21 **BOARD UNLESS OTHERWISE EXPLICITLY PROVIDED BY STATUTE. THE BOARD MAY NOT**
22 **DELEGATE THIS AUTHORITY TO ANY COUNTY BOARD, COMMISSION OR ADMINISTRATIVE**
23 **UNIT.**
24 D. A county may not impose taxes except as otherwise provided by law
25 and as specified in section 11-251.
26 ~~E.~~ E. Prior to adoption, amendment or repeal of an ordinance under
27 this section, the board of supervisors **IN A COUNTY WITH A POPULATION OF THREE**
28 **HUNDRED THOUSAND OR MORE PERSONS SHALL SUBSTANTIALLY COMPLY WITH THE**
29 **PROCEDURES IN SECTION 11-251.16. THE BOARD OF SUPERVISORS IN A COUNTY WITH A**
30 **POPULATION OF LESS THAN THREE HUNDRED THOUSAND PERSONS** shall hold a public
31 hearing ~~thereon~~ at least fifteen days' notice of which shall be given ~~by one~~
32 ~~publication in a newspaper of general circulation in the county seat. After~~
33 ~~adopted or amended, the ordinance shall be published at least once in a~~
34 ~~newspaper of general circulation in the county seat~~ **PURSUANT TO SECTION**
35 **11-251.17.**
36 ~~D.~~ F. An ordinance adopted under this section may apply to the
37 unincorporated and incorporated areas in the county if the ordinance is not
38 in conflict with an existing city or town ordinance or state law or otherwise
39 regulated by the state. If the ordinance is intended to apply to any
40 incorporated area of the county, prior to the ordinance becoming effective
41 within the boundaries of a city or town, the city or town council shall
42 consider the ordinance and, if the council finds that the subject matter of
43 the ordinance is not either a matter of local concern or governed by an
44 existing city or town ordinance, the council shall approve by resolution the
45 application or enforcement of such ordinance within the boundaries of the

1 city or town. Upon thirty days' notice to the county, a city or town council
2 may rescind such approval by resolution if the subject matter of the
3 ordinance is governed or to be governed by a city or town ordinance. An
4 ordinance may apply to the unincorporated areas of the county, to part or
5 parts of such areas or to a combination of incorporated and unincorporated
6 areas of the county, as the board deems appropriate and subject to the
7 approval of a city or town as specified in this subsection.

8 ~~E.~~ G. Nothing contained in this section shall be construed to
9 prohibit a county from exercising such powers and authority as are granted
10 under other provisions of state law.

11 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
12 amended by adding sections 11-251.16 and 11-251.17, to read:

13 11-251.16. Adoption, amendment or repeal of ordinances;
14 procedures; definition

15 A. THE BOARD OF SUPERVISORS IN A COUNTY WITH A POPULATION OF THREE
16 HUNDRED THOUSAND OR MORE PERSONS SHALL ADOPT PROCEDURES FOR THE ADOPTION,
17 AMENDMENT OR REPEAL OF AN ORDINANCE, EXCEPT WHERE COMPARABLE PROCEDURES ARE
18 OTHERWISE PROVIDED BY LAW.

19 B. AT LEAST FORTY-FIVE DAYS BEFORE THE ADOPTION, AMENDMENT OR REPEAL
20 OF AN ORDINANCE BY THE BOARD, THE CLERK OF THE BOARD SHALL PROVIDE A NOTICE
21 AND MAKE AVAILABLE THE ENTIRE TEXT OF ANY PROPOSED ORDINANCE AT THE OFFICE OF
22 THE CLERK AND ON THE COUNTY WEBSITE. THE NOTICE SHALL CONTAIN AN EXPLANATION
23 OF THE PROPOSED ORDINANCE, INCLUDING THE COUNTY'S REASONS FOR INITIATING THE
24 PROPOSED ORDINANCE, THE STATUTORY AUTHORITY FOR THE PROPOSED ORDINANCE, A
25 REFERENCE TO ANY STUDY KNOWN AT THAT TIME TO BE USED IN CONSIDERATION OF THE
26 PROPOSED ORDINANCE AND WHERE IT MAY BE OBTAINED AND WHERE ANY ELECTRONIC OR
27 WRITTEN STATEMENTS OR QUESTIONS CONCERNING THE PROPOSED ORDINANCE SHOULD BE
28 ADDRESSED. THE NOTICE SHALL ALSO CONTAIN THE DATE, TIME AND PLACE OF ANY
29 PUBLIC HEARING TO BE CONDUCTED BY THE BOARD OF SUPERVISORS OR ANY COUNTY
30 BOARD, COMMISSION OR ADMINISTRATIVE UNIT DESIGNATED BY THE BOARD.

31 C. NOT LESS THAN THIRTY DAYS AFTER THE POSTING OF THE NOTICE, THE
32 BOARD OF SUPERVISORS OR THE COUNTY BOARD, COMMISSION OR ADMINISTRATIVE UNIT
33 DESIGNATED BY THE BOARD SHALL CONDUCT A PUBLIC HEARING AND RECEIVE WRITTEN,
34 ELECTRONIC AND ORAL STATEMENTS CONCERNING THE PROPOSED ADOPTION, AMENDMENT OR
35 REPEAL OF AN ORDINANCE.

36 D. IF A COUNTY BOARD, COMMISSION OR ADMINISTRATIVE UNIT DESIGNATED BY
37 THE BOARD OF SUPERVISORS CONDUCTS A PUBLIC HEARING OTHER THAN AS REQUIRED BY
38 STATUTE, A PERSON SUBMITTING WRITTEN OR ELECTRONIC COMMENTS MAY REQUEST AND
39 RECEIVE A RESPONSE TO THE COMMENTS. THE BOARD OF SUPERVISORS SHALL RECEIVE A
40 RECORD OF ALL WRITTEN, ELECTRONIC AND ORAL COMMENTS AND ANY RESPONSES BEFORE
41 ADOPTING, AMENDING OR REPEALING AN ORDINANCE.

42 E. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW THE BOARD OF
43 SUPERVISORS DETERMINES THAT A PROPOSED ADOPTION, AMENDMENT OR REPEAL OF AN
44 ORDINANCE REQUIRES SUBSTANTIAL CHANGES, THE BOARD SHALL ISSUE A SUPPLEMENTAL

1 NOTICE CONTAINING THE CHANGES IN THE PROPOSED ORDINANCE AND PROVIDE FOR
2 ADDITIONAL PUBLIC COMMENT BEFORE ADOPTION, AMENDMENT OR REPEAL.

3 F. THE BOARD MAY ADOPT PROCEDURES FOR THE ADOPTION, AMENDMENT OR
4 REPEAL OF ORDINANCES THAT DO NOT COMPLY WITH THIS SECTION IF THE BOARD MAKES
5 A FINDING THAT AN EMERGENCY EXISTS AND ADOPTION, AMENDMENT OR REPEAL IS
6 NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE, AVOID AN IMMINENT
7 BUDGET REDUCTION OR AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST, IF THE
8 ORDINANCE TERMINATES AFTER THE BOARD DETERMINES THE EMERGENCY SITUATION NO
9 LONGER EXISTS.

10 G. THE BOARD MAY ADOPT PROCEDURES FOR THE ADOPTION, AMENDMENT OR
11 REPEAL OF ORDINANCES THAT DO NOT COMPLY WITH THIS SECTION IF THE ORDINANCE IS
12 REQUIRED BY STATE OR FEDERAL LAW OR REGULATION AND THE SITUATION IS NOT THE
13 RESULT OF DELAY OR INACTION BY THE BOARD.

14 H. THE BOARD MAY ADOPT ANY OTHER PROVISION THE BOARD DETERMINES IS
15 NECESSARY.

16 I. THE REQUIREMENTS OF THIS SECTION SHALL NOT APPLY TO:

17 1. SUBSTANTIVE POLICY STATEMENTS.

18 2. INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL
19 PROCEDURES OF THE COUNTY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR
20 PENALTIES ON REGULATED PARTIES.

21 3. AN INTERPRETATION REQUESTED BY A REGULATED PERSON PROVIDED IT IS
22 SUBJECT TO A PUBLIC APPEALS PROCESS.

23 4. AUTHORIZED FUNCTIONS OF AN ELECTED COUNTY OFFICER AS ESTABLISHED BY
24 CHAPTER 3, ARTICLES 2, 3, 4, 5, 6 AND 7 OF THIS TITLE.

25 5. A COUNTY FUNCTION, POWER OR DUTY TO THE EXTENT THE FUNCTION, POWER
26 OR DUTY IS SUBJECT TO THE REQUIREMENTS OF CHAPTER 6 OF THIS TITLE OR TITLE 36
27 OR 49, CHAPTER 3, ARTICLE 3.

28 6. THE ADOPTION, AMENDMENT OR REPEAL OF AN ORDINANCE IF SPECIFIC
29 PROCEDURES RELATING TO PUBLIC NOTICE, COMMENT AND RESPONSE TO COMMENTS APPLY
30 TO THE ADOPTION, AMENDMENT OR REPEAL OF THE ORDINANCE PURSUANT TO ANY OTHER
31 PROVISION OF STATUTE.

32 7. ANY FORM WHOSE CONTENTS OR SUBSTANTIVE REQUIREMENTS ARE PRESCRIBED
33 BY ORDINANCE OR STATUTE AND INSTRUCTIONS FOR THE EXECUTION OR USE OF THE
34 FORM.

35 J. FOR THE PURPOSES OF THIS SECTION, "ORDINANCE" MEANS A LEGISLATIVE
36 ACT OF GENERAL APPLICABILITY PASSED BY THE BOARD OF SUPERVISORS PURSUANT TO
37 THIS SECTION.

38 11-251.17. Publication of county ordinances; register

39 A. THE CLERK OF THE BOARD SHALL PUBLISH ON THE COUNTY WEBSITE ALL
40 ORDINANCES ADOPTED BY THE COUNTY BOARD OF SUPERVISORS.

41 B. THE CLERK OF THE BOARD SHALL MAINTAIN ON THE COUNTY WEBSITE A
42 REGISTER OF ACTIVITIES RELATED TO THE ADOPTION OF ORDINANCES THAT SHALL
43 INCLUDE:

44 1. A SCHEDULE OF THE TIME, DATE AND PLACE OF ALL HEARINGS ON PROPOSED
45 REPEALS, ADOPTIONS OR AMENDMENTS OF ORDINANCES.

1 2. ANY NOTICES RELATED TO PROPOSED ORDINANCES, INCLUDING THE FULL TEXT
2 OF ANY PROPOSED ORDINANCE, AN EXPLANATION OF ANY PROPOSED ORDINANCE, AND THE
3 STATUTORY AUTHORITY FOR THE ORDINANCE.

4 3. A SUMMARY OF BOARD ACTION ON EACH ORDINANCE.

5 4. SUPPLEMENTAL NOTICES AND ANY NEW AMENDED OR ADDED LANGUAGE TO A
6 PROPOSED ORDINANCE.

7 Sec. 3. Section 11-1602, Arizona Revised Statutes, is amended to read:
8 11-1602. Regulatory bill of rights

9 A. To ensure fair and open regulation by counties, a person:

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

13 2. Is entitled to receive information and notice regarding inspections
14 as provided in section 11-1603.

15 3. Is entitled to have a county not base a licensing decision in whole
16 or in part on licensing conditions or requirements that are not specifically
17 authorized as provided in section 11-1604.

18 4. May have a county approve or deny the person's license application
19 within a predetermined period of time as provided in section 11-1605.

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

22 (a) That justifies the denial with references to the statute,
23 ordinance, regulation, delegation agreement or authorized substantive policy
24 statements on which the denial is based as provided in section 11-1605.

25 (b) That explains the applicant's right to appeal the denial as
26 provided in section 11-1605.

27 6. Is entitled to receive information regarding the license
28 application process at the time the person obtains an application for a
29 license as provided in section 11-1606.

30 7. May inspect all ordinances, regulations and substantive policy
31 statements of a county, including a directory of documents, at the office of
32 the county or on the county's website as provided in section 11-1607.

33 8. Unless specifically authorized, may expect counties to avoid
34 duplication of other laws that do not enhance regulatory clarity and to avoid
35 dual permitting to the maximum extent practicable as provided in section
36 11-1604.

37 9. May file a complaint with the board of supervisors concerning an
38 ordinance, regulation or substantive policy statement that fails to comply
39 with this section.

40 B. IN A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE
41 PERSONS, A PERSON MAY:

42 1. REVIEW THE FULL TEXT OR SUMMARY OF ALL ORDINANCE ADOPTION ACTIVITY,
43 THE SUMMARY OF SUBSTANTIVE POLICY STATEMENTS AND THE FULL TEXT OF EXECUTIVE
44 ORDERS IN THE REGISTER AS PROVIDED IN ARTICLE 2 OF THIS CHAPTER.

1 2. PARTICIPATE IN THE ORDINANCE ADOPTION PROCESS AS PROVIDED IN
2 SECTION 11-251.16, INCLUDING PROVIDING WRITTEN OR ORAL COMMENTS ON PROPOSED
3 ORDINANCES TO A COUNTY AND HAVING THE COUNTY ADDRESS THOSE COMMENTS AS
4 PROVIDED IN THAT SECTION.

5 3. ALLEGE, PURSUANT TO SECTIONS 11-1608.01 AND 11-1612, THAT AN
6 EXISTING COUNTY PRACTICE OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES AN
7 ORDINANCE AND HAVE THAT COUNTY PRACTICE OR SUBSTANTIVE POLICY STATEMENT
8 DECLARED VOID BECAUSE THE PRACTICE OR SUBSTANTIVE POLICY STATEMENT
9 CONSTITUTES AN ORDINANCE AS PROVIDED IN SECTION 11-251.05.

10 Sec. 4. Section 11-1605, Arizona Revised Statutes, is amended to read:

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

13 A. For any new ordinance or regulation requiring a license, a county
14 shall have in place an overall time frame during which the county will either
15 grant or deny each type of license that it issues. The overall time frame
16 for each type of license shall state separately the administrative
17 completeness review time frame and the substantive review time frame.

18 B. On or before December 31, 2012, a county that issues licenses
19 required under existing ordinances or codes shall have in place an overall
20 time frame during which the county will either grant or deny each type of
21 license that it issues. The overall time frame for each type of license
22 shall state separately the administrative completeness review time frame and
23 the substantive review time frame. Counties shall prioritize the
24 establishment of time frames for those licenses that have the greatest impact
25 on the public.

26 C. In establishing time frames, counties shall consider all of the
27 following:

- 28 1. The complexity of the licensing subject matter.
- 29 2. The resources of the county.
- 30 3. The economic impact of delay on the regulated community.
- 31 4. The impact of the licensing decision on public health and safety.
- 32 5. The possible use of volunteers with expertise in the subject matter
33 area.
- 34 6. The possible increased use of general licenses for similar types of
35 licensed businesses or facilities.
- 36 7. The possible increased cooperation between the county and the
37 regulated community.
- 38 8. Increased county flexibility in structuring the licensing process
39 and personnel including:
 - 40 (a) Adult businesses and other licenses that are related to the first
41 amendment.
 - 42 (b) Master planned communities.
 - 43 (c) Suspension of the substantive and overall time frames for purposes
44 including public hearings or state or federal licenses.

1 9. THAT THE SUBSTANTIVE REVIEW AND OVERALL TIME FRAMES DO NOT INCLUDE
2 THE TIME REQUIRED BY THE APPLICANT TO OBTAIN OTHER NON-COUNTY LICENSES OR TO
3 PARTICIPATE IN MEETINGS AS REQUIRED BY LAW.

4 D. A county shall issue a written or electronic notice of
5 administrative completeness or deficiencies to an applicant for a license
6 within the administrative completeness review time frame. If the permit
7 sought requires approval of more than one department of the county, each
8 department may issue a written or electronic notice of administrative
9 completeness or deficiencies.

10 E. If a county determines that an application for a license is not
11 administratively complete, the county shall include a comprehensive list of
12 the specific deficiencies in the written or electronic notice provided
13 pursuant to subsection D. If the county issues a written or electronic
14 notice of deficiencies within the administrative completeness time frame, the
15 administrative completeness review time frame and the overall time frame are
16 suspended from the date the notice is issued until the date that the county
17 receives the missing information from the applicant. The county may issue an
18 additional written or electronic notice of administrative completeness or
19 deficiencies based on the applicant's submission of missing information. If
20 the permit sought requires approval of more than one department of the
21 county, each department may issue an additional written or electronic notice
22 of administrative completeness or deficiencies based on the applicant's
23 submission of missing information.

24 F. If a county does not issue a written or electronic notice of
25 administrative completeness or deficiencies within the administrative
26 completeness review time frame, the application is deemed administratively
27 complete. If a county issues a timely written or electronic notice of
28 deficiencies, an application shall not be complete until all requested
29 information has been received by the county.

30 G. During the substantive review time frame, a county may make one
31 comprehensive written or electronic request for additional information. If
32 the permit sought requires approval of more than one department of the
33 county, each department may issue a written or electronic request for
34 additional information. The county and applicant may mutually agree in
35 writing or electronically to allow the county to submit supplemental requests
36 for additional information. If a county issues a comprehensive written or
37 electronic request or a supplemental request by mutual written or electronic
38 agreement for additional information, the substantive review time frame and
39 the overall time frame are suspended from the date the request is issued
40 until the date that the county receives the additional information from the
41 applicant.

42 H. By mutual written or electronic agreement, a county and an
43 applicant for a license may extend the substantive review time frame and the
44 overall time frame. An extension of the substantive review time frame and

1 the overall time frame may not exceed twenty-five per cent of the overall
2 time frame.

3 I. Unless a county and an applicant for a license mutually agree to
4 extend the substantive review time frame and the overall time frame pursuant
5 to subsection H, a county shall issue a written or electronic notice granting
6 or denying a license to an applicant. If a county denies an application for
7 a license, the county shall include in the written or electronic notice at
8 least the following information:

9 1. Justification for the denial with references to the statutes,
10 ordinances, regulations, substantive policy statements or delegation
11 agreements on which the denial is based.

12 2. An explanation of the applicant's right to appeal the denial. The
13 explanation shall include the number of working days in which the applicant
14 must file a protest challenging the denial and the name and telephone number
15 of a county contact person who can answer questions regarding the appeals
16 process.

17 J. If a county does not issue to the applicant the written or
18 electronic notice granting or denying a license within the overall time frame
19 or within the mutually agreed upon time frame extension, the county shall
20 refund to the applicant all fees charged for reviewing and acting on the
21 application for the license and shall excuse payment of any fees that have
22 not yet been paid. The county shall not require an applicant to submit an
23 application for a refund pursuant to this subsection. The refund shall be
24 made within thirty working days after the expiration of the overall time
25 frame or the time frame extension. The county shall continue to process the
26 application. Notwithstanding any other statute, the county shall make the
27 refund from the fund in which the application fees were originally deposited.

28 K. This section does not apply to EITHER licenses issued within seven
29 working days after receipt of the initial application or A permit that expire
30 EXPIRES within twenty-one working days after issuance.

31 Sec. 5. Section 11-1608, Arizona Revised Statutes, is amended to read:

32 11-1608. Complaints; board of supervisors review

33 The board of supervisors IN A COUNTY WITH A POPULATION OF LESS THAN
34 THREE HUNDRED THOUSAND PERSONS shall receive complaints concerning
35 ordinances, regulations, substantive policy statements or county practices
36 alleged to violate this article. The board of supervisors may review any
37 ordinance, regulation, substantive policy statement or county practice
38 alleged to violate this article and may hold hearings regarding the
39 allegations. The board of supervisors may recommend actions to alleviate the
40 aspects of the ordinances, regulations, substantive policy statements or
41 county practices alleged to violate this article.

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

3 THIS SUBSTANTIVE POLICY STATEMENT IS ADVISORY ONLY. A
4 SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL
5 PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF
6 THE COUNTY AND DOES NOT IMPOSE ADDITIONAL REQUIREMENTS OR
7 PENALTIES ON REGULATED PARTIES OR INCLUDE CONFIDENTIAL
8 INFORMATION OR ORDINANCES MADE PURSUANT TO TITLE 11, CHAPTER 11,
9 ARTICLE 1, ARIZONA REVISED STATUTES. IF YOU BELIEVE THAT THIS
10 SUBSTANTIVE POLICY STATEMENT DOES IMPOSE ADDITIONAL REQUIREMENTS
11 OR PENALTIES ON REGULATED PARTIES YOU MAY PETITION THE COUNTY
12 UNDER SECTION 11-1608.01, ARIZONA REVISED STATUTES, FOR A REVIEW
13 OF THE STATEMENT.

14 C. A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE
15 PERSONS SHALL PUBLISH AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT
16 MATTER OF ALL CURRENTLY APPLICABLE ORDINANCES AND SUBSTANTIVE POLICY
17 STATEMENTS. THE COUNTY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL OF ITS
18 SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES AND
19 SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE IN
20 THE ORDINANCES OR SUBSTANTIVE POLICY STATEMENTS SHALL BE OPEN TO PUBLIC
21 INSPECTION AT THE OFFICE OF THE COUNTY DIRECTOR OR COUNTY WEBSITE.

22 11-1612. Declaratory judgment

23 A. ANY PERSON WHO IS AFFECTED BY A COUNTY POLICY OR PRACTICE THAT THE
24 AFFECTED PERSON ALLEGES TO CONSTITUTE AN ORDINANCE MAY OBTAIN A JUDICIAL
25 DECLARATION OF THE VALIDITY OF THE POLICY OR PRACTICE UNDER SECTION 11-251.05
26 BY FILING AN ACTION FOR DECLARATORY RELIEF PURSUANT TO TITLE 12, CHAPTER 10,
27 ARTICLE 2.

28 B. ANY PERSON WHO IS AFFECTED BY A COUNTY ORDINANCE MAY OBTAIN A
29 JUDICIAL DECLARATION OF WHETHER THE ORDINANCE IS VOID BECAUSE THE ORDINANCE
30 FAILS TO SUBSTANTIALLY COMPLY WITH THE PROCEDURES ADOPTED BY THE BOARD
31 PURSUANT TO SECTION 11-251.16 BY FILING AN ACTION FOR DECLARATORY RELIEF
32 PURSUANT TO TITLE 12, CHAPTER 10, ARTICLE 2.

33 C. BEFORE FILING AN ACTION PURSUANT TO THIS SECTION THE PERSON MUST
34 COMPLY WITH THE REQUIREMENTS OF SECTION 11-1608.01.

35 Sec. 8. Title 48, chapter 21, article 1, Arizona Revised Statutes, is
36 amended by adding sections 48-3609.02 and 48-3609.03, to read:

37 48-3609.02. Adoption of floodplain regulations; procedures

38 A. THE BOARD OF DIRECTORS IN A COUNTY WITH A POPULATION OF THREE
39 HUNDRED THOUSAND OR MORE PERSONS SHALL ADOPT PROCEDURES FOR THE ADOPTION,
40 AMENDMENT OR REPEAL OF FLOODPLAIN REGULATIONS IN ADDITION TO THOSE PROVIDED
41 IN SECTION 48-3609, SUBSECTION E.

42 B. AT LEAST FORTY-FIVE DAYS BEFORE THE ADOPTION OF FLOODPLAIN
43 REGULATIONS BY THE BOARD OF DIRECTORS, THE DISTRICT SHALL MAKE AVAILABLE THE
44 ENTIRE TEXT OF ANY PROPOSED FLOODPLAIN REGULATION AT THE OFFICE OF THE
45 DISTRICT AND ON THE DISTRICT WEBSITE. THE NOTICE SHALL CONTAIN AN

1 EXPLANATION OF THE FLOODPLAIN REGULATION, INCLUDING THE DISTRICT'S REASONS
2 FOR INITIATING THE FLOODPLAIN REGULATION, THE STATUTORY AUTHORITY FOR THE
3 FLOODPLAIN REGULATION, A REFERENCE TO ANY STUDY KNOWN AT THAT TIME TO BE USED
4 IN CONSIDERATION OF THE FLOODPLAIN REGULATION AND WHERE IT MAY BE OBTAINED,
5 THE NAME AND ADDRESS OF DISTRICT PERSONNEL WITH WHOM PERSONS MAY COMMUNICATE
6 REGARDING THE FLOODPLAIN REGULATION AND WHERE ANY ELECTRONIC OR WRITTEN
7 STATEMENTS CONCERNING THE FLOODPLAIN REGULATION SHOULD BE ADDRESSED. THE
8 DISTRICT SHALL ALSO POST NOTICE OF THE DATE, TIME AND PLACE OF A PUBLIC
9 HEARING TO BE CONDUCTED BY THE CITIZENS FLOOD CONTROL ADVISORY BOARD OR OTHER
10 ENTITY DESIGNATED BY THE BOARD.

11 B. NOT LESS THAN THIRTY DAYS AFTER THE POSTING OF THE NOTICE, THE
12 ADVISORY BOARD OR OTHER ENTITY DESIGNATED BY THE BOARD SHALL CONDUCT A PUBLIC
13 HEARING AND RECEIVE WRITTEN, ELECTRONIC AND ORAL STATEMENTS CONCERNING THE
14 PROPOSED FLOODPLAIN REGULATION.

15 C. AT LEAST FIFTEEN DAYS BEFORE THE MEETING AT WHICH THE BOARD OF
16 DIRECTORS WILL ADOPT, AMEND OR REPEAL A FLOODPLAIN REGULATION, A NOTICE SHALL
17 BE GIVEN OF THE DATE, TIME AND LOCATION OF THE MEETING BY PUBLICATION ON THE
18 COUNTY WEBSITE. THE NOTICE ALSO SHALL CONTAIN A RESPONSE TO THE PUBLIC
19 COMMENTS.

20 D. THE BOARD OF DIRECTORS SHALL RECEIVE A RECORD OF ALL WRITTEN,
21 ELECTRONIC AND ORAL STATEMENTS, INCLUDING THE RESPONSES TO THE PUBLIC
22 COMMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, BEFORE ADOPTING THE
23 FLOODPLAIN REGULATION.

24 E. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW THE BOARD OF
25 DIRECTORS DETERMINES THAT A PROPOSED FLOODPLAIN REGULATION REQUIRES
26 SUBSTANTIAL CHANGE, THE BOARD SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING
27 THE CHANGES IN THE PROPOSED FLOODPLAIN REGULATION AND PROVIDE FOR ADDITIONAL
28 PUBLIC COMMENT PURSUANT TO THIS SECTION BEFORE ADOPTION.

29 F. NOTWITHSTANDING THIS SECTION, THE BOARD MAY ADOPT A FLOODPLAIN
30 REGULATION WHEN THE BOARD MAKES A FINDING THAT AN EMERGENCY EXISTS IF THE
31 FLOODPLAIN REGULATION TERMINATES AFTER THE BOARD DETERMINES THE EMERGENCY
32 SITUATION NO LONGER EXISTS. AN EMERGENCY EXISTS TO DO ANY OF THE FOLLOWING:

33 1. PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE.
34 2. COMPLY WITH DEADLINES IN AMENDMENTS TO A COUNTY'S GOVERNING LAW OR
35 FEDERAL PROGRAMS.

36 3. AVOID VIOLATION OF FEDERAL LAW OR REGULATION OR OTHER STATE LAW IF
37 THE SITUATION IS NOT THE RESULT OF DELAY OR INACTION BY THE BOARD.

38 4. AVOID AN IMMINENT BUDGET REDUCTION.

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

41 G. THE BOARD OF DIRECTORS, ADVISORY BOARD OR OTHER ENTITY DESIGNATED
42 BY THE BOARD SHALL CONSIDER EACH OF THE FOLLOWING METHODS AND MAY REDUCE THE
43 IMPACT OF THE FLOODPLAIN REGULATION ON SMALL BUSINESSES BY USING ONE OR MORE
44 OF THE FOLLOWING METHODS IF IT FINDS THAT THE METHODS ARE LEGAL AND FEASIBLE

1 IN MEETING THE OBJECTIVES THAT ARE THE BASIS OF THE PROPOSED FLOODPLAIN
2 REGULATION:

- 3 1. ESTABLISH LESS STRINGENT COMPLIANCE OR REPORTING REQUIREMENTS.
- 4 2. ESTABLISH LESS STRINGENT SCHEDULES OR DEADLINES.
- 5 3. CONSOLIDATE OR SIMPLIFY THE COMPLIANCE OR REPORTING REQUIREMENTS.
- 6 4. ESTABLISH PERFORMANCE STANDARDS FOR SMALL BUSINESSES TO REPLACE
7 DESIGN OR OPERATIONAL STANDARDS.

8 5. EXEMPT SMALL BUSINESSES FROM ANY OR ALL REQUIREMENTS.
9 H. A FLOODPLAIN REGULATION IS INVALID UNLESS IT IS MADE AND APPROVED
10 IN SUBSTANTIAL COMPLIANCE WITH THIS SECTION, UNLESS OTHERWISE PROVIDED BY
11 LAW.

- 12 I. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO:
 - 13 1. SUBSTANTIVE POLICY STATEMENTS.
 - 14 2. INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL
15 PROCEDURES OF THE DISTRICT AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR
16 PENALTIES ON REGULATED PARTIES.
 - 17 3. AN INTERPRETATION REQUESTED BY A REGULATED PERSON PROVIDED IT IS
18 SUBJECT TO A PUBLIC APPEALS PROCESS.
 - 19 4. ANY FORM WHOSE CONTENTS OR SUBSTANTIVE REQUIREMENTS ARE PRESCRIBED
20 BY ORDINANCE OR STATUTE, AND INSTRUCTIONS FOR THE EXECUTION OR USE OF THE
21 FORM.

22 48-3609.03. Publication of floodplain regulations

23 A. THERE SHALL BE PUBLISHED ON THE DISTRICT WEBSITE ALL FLOODPLAIN
24 REGULATIONS ADOPTED BY THE DISTRICT BOARD OF DIRECTORS.

25 B. THERE SHALL BE PUBLISHED ON THE DISTRICT WEBSITE A REGISTER OF
26 ACTIVITIES RELATED TO THE ADOPTION OF FLOODPLAIN REGULATIONS THAT SHALL
27 INCLUDE:

- 28 1. A SCHEDULE OF THE TIME, DATE AND PLACE OF ALL HEARINGS ON PROPOSED
29 REPEALS, ADOPTIONS OR AMENDMENTS OF FLOODPLAIN REGULATIONS.
- 30 2. ANY NOTICES RELATED TO PROPOSED FLOODPLAIN REGULATIONS, INCLUDING
31 THE FULL TEXT OF ANY PROPOSED FLOODPLAIN REGULATION, AN EXPLANATION OF ANY
32 PROPOSED FLOODPLAIN REGULATION AND THE STATUTORY AUTHORITY FOR THE FLOODPLAIN
33 REGULATION.
- 34 3. A SUMMARY OF BOARD ACTION ON EACH FLOODPLAIN REGULATION.
- 35 4. SUPPLEMENTAL NOTICES AND ANY NEW AMENDED OR ADDED LANGUAGE TO A
36 PROPOSED FLOODPLAIN REGULATION.

37 Sec. 9. Section 48-3642, Arizona Revised Statutes, is amended to read:

38 48-3642. Regulatory bill of rights

- 39 A. To ensure fair and open regulation by districts, a person:
 - 40 1. Is eligible for reimbursement of fees and other expenses if the
41 person prevails by adjudication on the merits against a district in a court
42 proceeding regarding a district decision as provided in section 12-348.
 - 43 2. Is entitled to receive information and notice regarding inspections
44 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, **RULE**, regulation or substantive policy statement that fails to
27 comply with this section.

28 **B. IN A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE**
29 **PERSONS, A PERSON MAY:**

30 1. REVIEW THE FULL TEXT OR SUMMARY OF ALL ACTIVITY RELATED TO THE
31 ADOPTION OF FLOODPLAIN REGULATIONS PURSUANT TO SECTION 48-3609.03 AND THE
32 SUMMARY OF SUBSTANTIVE POLICY STATEMENTS IN THE DIRECTORY AS PROVIDED IN
33 SECTION 48-3647.

34 2. ALLEGE THAT AN EXISTING DISTRICT PRACTICE OR SUBSTANTIVE POLICY
35 STATEMENT CONSTITUTES A FLOODPLAIN REGULATION AND HAVE THAT DISTRICT PRACTICE
36 OR SUBSTANTIVE POLICY STATEMENT DECLARED VOID BECAUSE THE PRACTICE OR
37 SUBSTANTIVE POLICY STATEMENT CONSTITUTES A FLOODPLAIN REGULATION.

38 Sec. 10. Section 48-3648, Arizona Revised Statutes, is amended to
39 read:

40 48-3648. Complaints; board of review

41 The board of review **IN A COUNTY WITH A POPULATION OF LESS THAN THREE**
42 **HUNDRED THOUSAND PERSONS** shall receive complaints concerning ordinances,
43 substantive policy statements or district practices alleged to violate this
44 article. The board of review may review any ordinance, regulation,
45 substantive policy statement or district practice alleged to violate this

1 article and may hold hearings regarding the allegations. The board of review
2 may recommend actions to alleviate the aspects of the ordinances,
3 regulations, substantive policy statements or district practices alleged to
4 violate this article.

5 Sec. 11. Title 48, chapter 21, article 2, Arizona Revised Statutes, is
6 amended by adding section 48-3648.01, to read:

7 48-3648.01. Complaints; districts in large counties

8 A. THE BOARD OF REVIEW IN A COUNTY WITH A POPULATION OF THREE HUNDRED
9 THOUSAND OR MORE PERSONS SHALL PROVIDE A PROCEDURE FOR COMPLAINTS CONCERNING
10 ORDINANCES, SUBSTANTIVE POLICY STATEMENTS OR DISTRICT PRACTICES ALLEGED TO
11 VIOLATE THIS CHAPTER.

12 B. THE BOARD OF DIRECTORS MAY REQUIRE THE COMPLAINT TO BE MADE IN
13 WRITING AND INCLUDE THE FOLLOWING INFORMATION:

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

15 2. THE ORDINANCE, RULE, SUBSTANTIVE POLICY STATEMENT ALLEGED TO
16 VIOLATE THIS CHAPTER.

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

18 C. IF THE COMPLAINT CONCERNS A SUBSTANTIVE POLICY STATEMENT OR
19 DISTRICT PRACTICE, THE COMPLAINT SHALL BE SUBMITTED TO THE BOARD OF REVIEW.
20 WITHIN FORTY-FIVE DAYS AFTER SUBMISSION, THE BOARD OF REVIEW SHALL IN WRITING
21 RESPOND TO THE COMPLAINT OR MAKE RECOMMENDATIONS FOR ACTION TO THE BOARD OF
22 DIRECTORS.

23 D. THE AFFECTED PERSON, BY FILING WITH THE CLERK OF THE BOARD, MAY
24 APPEAL TO THE BOARD OF DIRECTORS WITHIN THIRTY DAYS AFTER THE BOARD OF REVIEW
25 GIVES A WRITTEN DECISION PURSUANT TO SUBSECTION C OF THIS SECTION. THE BOARD
26 OF DIRECTORS SHALL PLACE THE COMPLAINT CONCERNING A SUBSTANTIVE POLICY
27 STATEMENT OR DISTRICT PRACTICE ON ITS AGENDA WITHIN THIRTY DAYS OF ITS FILING
28 WITH THE CLERK.

29 E. IF THE COMPLAINT CONCERNS WHETHER A FLOODPLAIN REGULATION HAS BEEN
30 ADOPTED IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER, THE
31 AFFECTED PERSON, BY FILING A COMPLAINT WITH THE CLERK OF THE BOARD, MAY
32 REQUEST A REVIEW OF THE VALIDITY OF A FLOODPLAIN REGULATION. THE BOARD OF
33 DIRECTORS SHALL PLACE THE COMPLAINT ON THE BOARD'S AGENDA WITHIN THIRTY DAYS
34 OF ITS FILING WITH THE CLERK AND PROVIDE A RESPONSE TO THE COMPLAINT AT THE
35 MEETING.

36 F. IF THE COMPLAINANT IS UNSATISFIED WITH AN ACTION TAKEN BY THE BOARD
37 ON THE COMPLAINT, THE COMPLAINANT MAY FILE AN ACTION FOR DECLARATORY JUDGMENT
38 PURSUANT TO SECTION 48-3651.

39 Sec. 12. Title 48, chapter 21, article 2, Arizona Revised Statutes, is
40 amended by adding section 48-3651, to read:

41 48-3651. Declaratory judgment

42 A. IN A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE
43 PERSONS, ANY PERSON WHO IS AFFECTED BY A DISTRICT POLICY OR PRACTICE MAY
44 OBTAIN A JUDICIAL DECLARATION OF THE VALIDITY OF THE POLICY OR PRACTICE UNDER

1 SECTION 48-3609, SUBSECTION B BY FILING AN ACTION FOR DECLARATORY RELIEF
2 PURSUANT TO TITLE 12, CHAPTER 10, ARTICLE 2.

3 B. IN A COUNTY WITH A POPULATION OF THREE HUNDRED THOUSAND OR MORE
4 PERSONS, ANY PERSON WHO IS AFFECTED BY A DISTRICT FLOODPLAIN REGULATION MAY
5 OBTAIN A JUDICIAL DECLARATION OF WHETHER THE FLOODPLAIN REGULATION IS VOID
6 BECAUSE IT FAILS TO SUBSTANTIALLY COMPLY WITH THE PROCEDURES ADOPTED BY THE
7 BOARD PURSUANT TO SECTION 48-3609.02 OR THE PROVISIONS OF THIS CHAPTER BY
8 FILING AN ACTION FOR DECLARATORY RELIEF IN ACCORDANCE WITH TITLE 12, CHAPTER
9 10, ARTICLE 2.

10 C. BEFORE FILING AN ACTION PURSUANT TO THIS SECTION THE PERSON MUST
11 COMPLY WITH THE REQUIREMENTS OF SECTION 48-3648.

12 Sec. 13. Effective date

13 This act is effective from and after August 31, 2013.