

REFERENCE TITLE: **electronic notice; hearings; ordinances**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2020

Introduced by
Representative Stevens

AN ACT

AMENDING SECTIONS 11-251.05, 11-805, 11-808, 11-813, 11-814, 11-821, 11-864 AND 49-112, ARIZONA REVISED STATUTES; RELATING TO COUNTY ORDINANCES.

(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. Ordinance authority under subsection A of this section shall be in
16 addition to and preemptive of ordinance, ~~rule-making~~ RULEMAKING or regulatory
17 authority of any other county board or county commission. A county may not
18 impose taxes except as otherwise provided by law and as specified in section
19 11-251.

20 C. ~~Prior to~~ BEFORE adoption, amendment or repeal of an ordinance under
21 this section, the board of supervisors shall hold a public hearing thereon at
22 least fifteen days' notice of which shall be given by ~~one~~ POSTING ON THE
23 COUNTY'S WEBSITE OR publication ONCE in a newspaper of general circulation in
24 the county seat. After adopted or amended, the ordinance shall be POSTED ON
25 THE COUNTY'S WEBSITE OR published at least once in a newspaper of general
26 circulation in the county seat. IF THE ORDINANCE IS POSTED ON THE COUNTY'S
27 WEBSITE, THE COUNTY SHALL PUBLISH NOTICE OF THE ORDINANCE IN A NEWSPAPER OF
28 GENERAL CIRCULATION IN THE COUNTY SEAT THAT PROVIDES THE LOCATION IN WHICH
29 THE ORDINANCE MAY BE VIEWED IN FULL.

30 D. An ordinance adopted under this section may apply to the
31 unincorporated and incorporated areas in the county if the ordinance is not
32 in conflict with an existing city or town ordinance or state law or otherwise
33 regulated by the state. If the ordinance is intended to apply to any
34 incorporated area of the county, ~~prior to~~ BEFORE the ordinance ~~becoming~~
35 BECOMES effective within the boundaries of a city or town, the city or town
36 council shall consider the ordinance and, if the council finds that the
37 subject matter of the ordinance is not either a matter of local concern or
38 governed by an existing city or town ordinance, the council shall approve by
39 resolution the application or enforcement of ~~such~~ THE ordinance within the
40 boundaries of the city or town. ~~Upon~~ ON thirty days' notice to the county, a
41 city or town council may rescind ~~such~~ THE approval by resolution if the
42 subject matter of the ordinance is governed or to be governed by a city or
43 town ordinance. An ordinance may apply to the unincorporated areas of the
44 county, to part or parts of such areas or to a combination of incorporated

1 and unincorporated areas of the county, as the board deems appropriate and
2 subject to the approval of a city or town as specified in this subsection.

3 E. ~~Nothing contained in~~ This section ~~shall be construed to~~ DOES NOT
4 prohibit a county from exercising such powers and authority as are granted
5 under other provisions of state law.

6 Sec. 2. Section 11-805, Arizona Revised Statutes, is amended to read:
7 11-805. Comprehensive plan adoption; notice; hearing;
8 amendment; expiration; readoption

9 A. The board shall adopt a comprehensive plan and subsequently amend
10 or extend the adopted plan as provided by this article. On adoption or
11 readoption, the plan, or any part of the plan, shall be the official guide
12 for the development of the area of jurisdiction. Any change, amendment,
13 extension or addition of the comprehensive plan may be made only pursuant to
14 this chapter.

15 B. The board of supervisors shall:

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

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

21 (b) The opportunity for written comments.

22 (c) Public hearings after effective notice.

23 (d) Open discussions, communications programs and information
24 services.

25 (e) Consideration of public comments.

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

35 C. The commission shall confer with the state land department and the
36 governing bodies and planning commissions of cities and towns in the county
37 for the purpose of guiding and accomplishing a coordinated, adjusted and
38 harmonious development of the county, of zoning districts, of urban growth
39 and of public improvements and utilities that do not begin and terminate
40 within the boundaries of any single city or town and that will, pursuant to
41 the present and future needs of the county, best promote with efficiency and
42 economy the health, safety, morals, order, convenience or general welfare of
43 the public.

44 D. The commission shall coordinate the production of the comprehensive
45 plan with the creation of the conceptual state land use plans under title 37,

1 chapter 2, article 5.1. The commission shall cooperate with the state land
2 department regarding integrating the conceptual state land use plans into the
3 comprehensive plan.

4 E. The commission may formulate and draft the comprehensive plan as a
5 whole, or as separate parts of the plan corresponding with functional
6 divisions of the subject matter, and, subject to the limitations of this
7 chapter, may amend, extend or add to the comprehensive plan.

8 F. At least sixty days before the comprehensive plan or an element or
9 major amendment of a comprehensive plan is noticed pursuant to subsection G
10 of this section, the commission shall transmit the proposal to the board of
11 supervisors and submit a copy for review and further comment to:

12 1. Each municipality in the county.

13 2. Each other county that is contiguous to the county.

14 3. The regional planning agency in the county.

15 4. The Arizona commerce authority or any other state agency that is
16 subsequently designated as the general planning agency for this state.

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

19 6. If the comprehensive plan or an element or amendment of the
20 comprehensive plan is applicable to territory in the vicinity of a military
21 airport or ancillary military facility as defined in section 28-8461, the
22 military airport.

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

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

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

37 1. ~~POSTING ON THE COUNTY'S WEBSITE OR~~ publication at least once in a
38 newspaper of general circulation in the county seat.

39 2. ~~POSTING ON THE COUNTY'S WEBSITE OR~~ publication at least once in a
40 newspaper of general circulation in the area to be affected, or adjacent to
41 the area to be affected, if the area affected is other than the county seat.

42 3. ~~Such~~ ANY other manner in addition to ~~POSTING OR~~ publication as the
43 county may deem necessary or desirable.

1 H. After the commission recommends the comprehensive plan or any
2 section of the plan, the plan shall be submitted to the board of supervisors
3 for ~~its~~ consideration and official action.

4 I. Before the adoption, amendment or extension of the plan, the board
5 shall hold at least one public hearing on the plan. After the board
6 considers the commission's recommendation and any recommendations from the
7 review required under subsection F of this section, the board shall hold at
8 least one public hearing at which residents of the county shall be heard
9 concerning the matters contained in the plan. At least fifteen days' notice
10 of the hearing shall be given by ~~one~~ POSTING ON THE COUNTY'S WEBSITE OR
11 publication ONCE in a newspaper of general circulation in the county seat.
12 The board shall consider protests and objections to the plan and may change
13 or alter any portion of the comprehensive plan. However, before any change
14 is made, that portion of the plan proposed to be changed shall be re-referred
15 to the commission for its recommendation, which may be accepted or rejected
16 by the board.

17 J. The board of supervisors may adopt the county comprehensive plan as
18 a whole or by successive actions adopt separate parts of the plan. The
19 adoption or readoption of the comprehensive plan or any amendment to the plan
20 shall be by resolution of the board. The adoption or readoption of, or a
21 major amendment to, the county comprehensive plan shall be approved by the
22 affirmative vote of at least two-thirds of the members of the board. All
23 major amendments proposed for adoption to the comprehensive plan by the board
24 shall be presented at a single public hearing during the calendar year the
25 proposal is made. The adoption or readoption of the comprehensive plan, and
26 any major amendment to the comprehensive plan, shall not be enacted as an
27 emergency measure and is subject to referendum as provided by article IV,
28 part 1, section 1, subsection (8), Constitution of Arizona, and title 19,
29 chapter 1, article 4. For the purposes of this section, "major amendment"
30 means a substantial alteration of the county's land use mixture or balance as
31 established in the county's existing comprehensive plan land use element for
32 that area of the county. The county's comprehensive plan shall define the
33 criteria to determine if a proposed amendment to the comprehensive plan
34 effects a substantial alteration of the county's land use mixture or balance
35 as established in the county's existing comprehensive plan land use element
36 for that area of the county.

37 K. If the county's area of jurisdiction includes property in the high
38 noise or accident potential zone of a military airport or ancillary military
39 facility as defined in section 28-8461, the board shall send notice of the
40 approval, adoption or readoption of the comprehensive plan or major amendment
41 to the comprehensive plan to the attorney general by certified mail, return
42 receipt requested, within three business days after the approval, adoption or
43 readoption. If the attorney general determines the approval, adoption or
44 readoption of the comprehensive plan or major amendment to the comprehensive
45 plan is not in compliance with section 28-8481, subsection J, the attorney

1 general shall notify the county by certified mail, return receipt requested,
 2 of the determination of noncompliance. The board shall receive the notice
 3 from the attorney general within twenty-five days after the notice from the
 4 board to the attorney general is mailed pursuant to this subsection. The
 5 effective date of any approval, adoption or readoption of, or major amendment
 6 to, the comprehensive plan shall be thirty days after the board's receipt of
 7 the attorney general's determination of noncompliance. Within thirty days
 8 after the receipt of a determination of noncompliance by the attorney general
 9 as prescribed by this section, the board shall reconsider any approval,
 10 adoption or readoption of, or major amendment to, the comprehensive plan that
 11 impacts property in the high noise or accident potential zone of a military
 12 airport or ancillary military facility as defined in section 28-8461. If the
 13 board reaffirms a prior action subject to an attorney general's determination
 14 of noncompliance pursuant to this section, the attorney general may institute
 15 a civil action pursuant to section 28-8481, subsection L. If the board
 16 timely sends notice pursuant to this subsection and the attorney general
 17 fails to timely notify the board of a determination of noncompliance, the
 18 comprehensive plan or major amendment to the comprehensive plan is deemed to
 19 comply with section 28-8481, subsection J. For the purposes of this
 20 subsection "major amendment" has the same meaning prescribed in subsection J
 21 of this section.

22 L. If the motion to adopt or readopt the plan or an amendment to the
 23 plan fails to pass, the board may reconsider the motion in any manner allowed
 24 by the board's rules of procedure, but any subsequent motion for the adoption
 25 or readoption of the plan or a major amendment to the plan must be approved
 26 by an affirmative vote of at least two-thirds of the members of the board.
 27 If the board fails to adopt or readopt the plan, the current plan remains in
 28 effect until a new plan is adopted. The board shall either reconsider the
 29 proposed plan or consider a revised plan within one year and shall continue
 30 to do so until one is adopted. All subsequent considerations of a new or
 31 revised plan must comply with the procedures prescribed by this article.

32 M. A county comprehensive plan, with any amendments, is effective for
 33 up to ten years ~~from~~ AFTER the date the plan was initially adopted or until
 34 the plan is readopted or a new plan is adopted pursuant to this subsection
 35 and becomes effective. On or before the tenth anniversary of the plan's most
 36 recent adoption, the board shall either readopt the existing plan for an
 37 additional term of up to ten years or shall adopt a new comprehensive plan as
 38 provided by this article.

39 N. A person, after having participated in the public hearing pursuant
 40 to subsection I of this section, may file a petition for special action in
 41 superior court to review the board of supervisor's decision that does not
 42 comply with the mandatory requirement prescribed in section 11-804,
 43 subsection B, paragraph 1, subdivision (e) within thirty days after the board
 44 has rendered its decision. The court may affirm, reverse or remand to the
 45 board of supervisors, in whole or in part, the decision reviewed for further

1 action that is necessary to comply with the mandatory requirements prescribed
2 in section 11-804, subsection B, paragraph 1, subdivision (e).

3 Sec. 3. Section 11-808, Arizona Revised Statutes, is amended to read:

4 11-808. Infrastructure service area boundaries; notice;
5 hearing; adoption

6 A. The county planning and zoning commission may prepare a plan and
7 provide regulations determining the location of infrastructure service area
8 boundaries consistent with the growth area element of the comprehensive plan
9 beyond which the county may limit or prescribe conditions on publicly
10 financed extensions of water, sewer and street improvements. The plan and
11 regulations shall consider all elements of the comprehensive plan, including
12 the circulation and public facilities elements. For the purposes of this
13 subsection, publicly financed does not include special taxing district
14 financing other than municipal or county improvement district revenues or
15 bonds. The regulations shall also include components that:

16 1. Assign or delegate administrative functions, powers and duties to
17 county officers and employees.

18 2. Identify the procedure for determining the initial infrastructure
19 service area boundaries.

20 3. Identify the methodology and procedures for adjusting the
21 infrastructure service area boundaries.

22 B. Before recommending the plan and regulations, or any part,
23 amendment, extension or addition, to the board of supervisors, the commission
24 shall hold at least one public hearing on the service area boundaries, after
25 giving at least fifteen days' notice by **POSTING ON THE COUNTY'S WEBSITE OR**
26 publication in a newspaper of general circulation in the county seat and in a
27 newspaper of general circulation in the area to be affected, if that area is
28 other than the county seat.

29 C. The board of supervisors shall adopt any such plan and regulations
30 and amendments by resolution.

31 Sec. 4. Section 11-813, Arizona Revised Statutes, is amended to read:

32 11-813. Zoning ordinance; adoption; amendments; notice; hearing

33 A. The commission shall formulate and draft the zoning ordinance.
34 Before recommending the zoning ordinance to the board of supervisors for
35 adoption, the commission shall hold at least one public hearing, after giving
36 at least fifteen days' notice of the hearing by ~~one~~ **POSTING ON THE COUNTY'S**
37 **WEBSITE OR** publication **ONCE** in a newspaper of general circulation in the
38 county seat.

39 B. After the commission recommends the zoning ordinance, the zoning
40 ordinance shall be submitted to the board of supervisors for its
41 consideration and official action. After the board considers the
42 commission's recommendation, the board shall hold at least one public hearing
43 at which residents of the county shall be heard concerning the zoning
44 ordinance. At least fifteen days' notice of the hearing shall be given by
45 ~~one~~ **POSTING ON THE COUNTY'S WEBSITE OR** publication **ONCE** in a newspaper of

1 general circulation in the county seat. The board shall consider protests
2 and objections to the zoning ordinance and may change or alter any portion of
3 the zoning ordinance.

4 C. A property owner or authorized agent of a property owner desiring a
5 zoning regulations amendment shall file an application for the amendment.

6 D. The commission, on its own motion, may propose a zoning regulations
7 amendment and, after holding a public hearing as required by this chapter,
8 may transmit the proposal to the board, which shall proceed as prescribed in
9 this chapter for any other amendment.

10 E. On receipt of the application the board shall submit the
11 application to the commission for a report. Before reporting to the board,
12 the commission shall hold at least one public hearing after giving at least
13 fifteen days' notice of the hearing by ~~one~~ POSTING ON THE COUNTY'S WEBSITE OR
14 publication ONCE in a newspaper of general circulation in the county seat.
15 The following specific notice provisions also apply:

16 1. In proceedings involving one or more of the following proposed
17 changes or related series of changes in the standards governing land uses,
18 notice shall be provided in the manner prescribed by paragraph 2 of this
19 subsection:

20 (a) A ten ~~per-cent~~ PERCENT or more increase or decrease in the number
21 of square feet or units that may be developed.

22 (b) A ten ~~per-cent~~ PERCENT or more increase or reduction in the
23 allowable height of buildings.

24 (c) An increase or reduction in the allowable number of stories of
25 buildings.

26 (d) A ten ~~per-cent~~ PERCENT or more increase or decrease in setback or
27 open space requirements.

28 (e) An increase or reduction in permitted uses.

29 2. In proceedings governed by paragraph 1 of this subsection, the
30 county shall provide notice to real property owners pursuant to at least one
31 of the following notification procedures:

32 (a) Notice shall be sent by first class mail to each real property
33 owner, as shown on the last assessment, whose real property is directly
34 affected by the changes.

35 (b) If the county issues utility bills or other mass mailings that
36 periodically include notices or other informational or advertising materials,
37 the county shall include notice of the changes with the utility bills or
38 other mailings.

39 (c) The county shall publish in a newspaper of general circulation in
40 the county OR POST ON THE COUNTY'S WEBSITE the changes before the first
41 hearing on the changes. IF THE CHANGES ARE POSTED IN FULL ON THE COUNTY'S
42 WEBSITE, THE COUNTY SHALL PUBLISH NOTICE OF THE CHANGES IN A NEWSPAPER OF
43 GENERAL CIRCULATION IN THE COUNTY THAT PROVIDES THE LOCATION IN WHICH THE
44 CHANGES MAY BE VIEWED IN FULL. IF THE CHANGES ARE PUBLISHED IN FULL IN A

1 **NEWSPAPER OF GENERAL CIRCULATION**, the changes shall be published in a display
2 advertisement covering not less than one-eighth of a full page.

3 3. If notice is provided pursuant to paragraph 2, subdivision (b) or
4 (c) of this subsection, the county shall also send notice by first class mail
5 **OR ELECTRONIC MAIL** to persons who register their names and ~~addresses~~ **REQUIRED**
6 **CONTACT INFORMATION** with the county as being interested in receiving the
7 notice. The county may charge a fee ~~not to exceed five dollars per year~~ for
8 providing this service and may adopt procedures to implement this paragraph.

9 4. Notwithstanding the notice requirements prescribed in paragraph 2
10 of this subsection, the failure of any person or entity to receive notice
11 does not constitute grounds for any court to invalidate the actions of a
12 county for which the notice was given.

13 F. After the commission has held a public hearing, the board shall
14 hold a public hearing on the proposed amendment at least fifteen days' notice
15 of which shall be given by ~~one~~ **POSTING ON THE COUNTY'S WEBSITE OR** publication
16 **ONCE** in a newspaper of general circulation in the county seat. After holding
17 the hearing, the board may adopt the amendment.

18 G. Notwithstanding title 19, chapter 1, article 4, a decision by the
19 governing body that changes the zoning standards of land that is not owned by
20 the county as prescribed in subsection E, paragraph 1 of this section may not
21 be enacted as an emergency measure and ~~such a~~ **THE** change shall not be
22 effective for at least thirty days after final approval of the change in
23 classification by the board. Unless a resident files a written objection
24 with the board of supervisors, the change may be enacted as an emergency
25 measure that becomes effective immediately by a four-fifths majority vote of
26 the board for those counties with five or more supervisors or a two-thirds
27 majority vote of the board for those counties with fewer than five
28 supervisors.

29 Sec. 5. Section 11-814, Arizona Revised Statutes, is amended to read:
30 11-814. Rezoning; conditional zoning change; notice; hearing;
31 citizen review; definition

32 A. All rezonings adopted under this article shall be consistent with
33 and conform to the adopted comprehensive plan. In the case of uncertainty in
34 constructing or applying the conformity of any part of a proposed rezoning to
35 the adopted comprehensive plan, the rezoning shall be construed in a manner
36 that will further the implementation of, and not be contrary to, the goals,
37 policies and applicable elements of the comprehensive plan. A rezoning
38 conforms with the comprehensive plan if it proposes land uses, densities or
39 intensities within the range of identified uses, densities and intensities of
40 the comprehensive plan.

41 B. A property owner or authorized agent of a property owner desiring a
42 rezoning shall file an application for the rezoning.

43 C. The commission, on its own motion, may propose a rezoning and,
44 after holding a public hearing as required by this chapter, may transmit the

1 proposal to the board, which shall proceed as prescribed in this chapter for
2 any other rezoning.

3 D. On receipt of the application the board shall submit the
4 application to the commission for a report. Before reporting to the board,
5 the commission shall hold at least one public hearing after giving at least
6 fifteen days' notice of the hearing by ~~one~~ POSTING ON THE COUNTY'S WEBSITE OR
7 publication ONCE in a newspaper of general circulation in the county seat and
8 by posting of the area included in the proposed rezoning. If the matter to
9 be considered applies to territory in a high noise or accident potential zone
10 as defined in section 28-8461, the notice shall include a general statement
11 that the matter applies to property located in the high noise or accident
12 potential zone. The posting shall be in no less than two places with at
13 least one notice for each quarter mile of frontage along perimeter public
14 rights-of-way so that the notices are visible from the nearest public
15 right-of-way. The commission shall also send notice by first class mail to
16 each real property owner as shown on the last assessment of the property
17 within three hundred feet of the proposed rezoning and each county and
18 municipality that is contiguous to the area of the proposed rezoning. In
19 proceedings involving rezoning of land that is located within territory in
20 the vicinity of a military airport or ancillary military facility as defined
21 in section 28-8461, the commission shall send copies of the notice of public
22 hearing by first class mail to the military airport. The notice sent by mail
23 shall include, at a minimum, the date, time and place of the hearing on the
24 proposed rezoning including a general explanation of the matter to be
25 considered and a general description of the area of the proposed rezoning.
26 For those counties with five or more supervisors, the notice must include a
27 general description of how the real property owners within the zoning area
28 may file approvals or protests of the proposed rezoning, and notification
29 that if twenty ~~per-cent~~ PERCENT of the property owners by area and number
30 within the zoning area file protests, an affirmative vote of three-fourths of
31 all members of the board will be required to approve the rezoning. In
32 proceedings that are initiated by the commission involving rezoning, notice
33 by first class mail shall be sent to each real property owner, as shown on
34 the last assessment of the property, of the area to be rezoned and all
35 property owners, as shown on the last assessment of the property, within
36 three hundred feet of the property to be rezoned.

37 E. If the commission or hearing officer has held a public hearing, the
38 board may adopt the recommendations of the commission or hearing officer
39 through use of a consent calendar without holding a second public hearing if
40 there is no objection, request for public hearing or other protest. If there
41 is an objection, a request for public hearing or a protest, the board shall
42 hold a public hearing at least fifteen days' notice of which shall be given
43 by ~~one~~ POSTING ON THE COUNTY'S WEBSITE OR publication ONCE in a newspaper of
44 general circulation in the county seat and by posting the area included in
45 the proposed rezoning. In counties with territory in the vicinity of a

1 military airport or ancillary military facility as defined in section
2 28-8461, the board shall hold a public hearing if, after notice is mailed to
3 the military airport pursuant to subsection D of this section and before the
4 public hearing, the military airport provides comments or analysis concerning
5 the compatibility of the proposed rezoning with the high noise or accident
6 potential generated by military airport or ancillary military facility
7 operations that may have an adverse impact on public health and safety, and
8 the board shall consider and analyze the comments or analysis before making a
9 final determination. After holding the hearing the board may adopt the
10 rezoning by a majority vote of the board for those counties with fewer than
11 five supervisors, or for those counties with five or more supervisors if a
12 protest has not been filed. If twenty ~~per cent~~ PERCENT of the owners of
13 property by area and number within the zoning area file a protest to the
14 proposed rezoning, the change shall not be made except by a three-fourths
15 vote of all members of the board for those counties with five or more
16 supervisors. If any members of the board are unable to vote on the question
17 because of a conflict of interest, the required number of votes for the
18 passage of the question is three-fourths of the remaining membership of the
19 board for those counties with five or more supervisors, except that the
20 required number of votes in no event shall be less than a majority of the
21 full membership of the board. In calculating the owners by area, only that
22 portion of a lot or parcel of record situated within three hundred feet of
23 the property to be rezoned shall be included. In calculating the owners by
24 number or area, county property and public rights-of-way shall not be
25 included.

26 F. The board of supervisors shall adopt by ordinance a citizen review
27 process that applies to all rezoning and specific zoning plan applications
28 that require a public hearing. The citizen review process shall include at
29 least the following requirements:

30 1. Adjacent landowners and other potentially affected citizens will be
31 notified of the application.

32 2. The county will inform adjacent landowners and other potentially
33 affected citizens of the substance of the proposed rezoning.

34 3. Adjacent landowners and other potentially affected citizens will be
35 provided an opportunity to express any issues or concerns that they may have
36 with the proposed rezoning before the public hearing.

37 G. The rezoning or subdivision plat of any unincorporated area
38 completely surrounded by a city or town shall use as a guideline the adopted
39 general plan and standards as prescribed in the subdivision and zoning
40 ordinances of the city or town after April 10, 1986.

41 H. The board or commission, before taking any action on a rezoning or
42 subdivision plat in an area as prescribed in subsection G of this section,
43 may require the affected city or town to supply information to allow the
44 county to meet the guideline. If an affected city or town objects to any
45 such proposed action the board or commission shall prescribe in the minutes

1 of the meeting specific reasons why in its opinion the guideline is actually
2 being followed or why it is not practicable to follow the guideline of the
3 general plan.

4 I. The board may approve a change of zone conditioned on a schedule
5 for development of the specific use or uses for which rezoning is requested.
6 If at the expiration of this period the property has not been improved for
7 the use for which it was conditionally approved, the board after notification
8 by certified mail to the owner and applicant who requested the rezoning shall
9 schedule a public hearing to grant an extension, determine compliance with
10 the schedule for development or cause the property to revert to its former
11 zoning classification.

12 J. The legislature finds that a rezoning of land that changes the
13 zoning classification of the land or that restricts the use or reduces the
14 value of the land is a matter of statewide concern. Such a change in zoning
15 that is initiated by the governing body or zoning body shall not be made
16 without the express written consent of the property owner. In applying an
17 open space element or a growth element of a comprehensive plan, a parcel of
18 land shall not be rezoned for open space, recreation, conservation or
19 agriculture unless the owner of the land consents to the rezoning in writing.
20 For the purposes of this subsection, rezoning does not include the creation
21 or expansion of overlay zones solely for the purpose of implementing airport
22 safety and protection. Rezoning also does not include the redesignation of
23 areas of the county to which the residential provisions of the county
24 building codes apply or do not apply. The county shall not adopt any change
25 in a zoning classification to circumvent the purpose of this subsection.

26 K. Notwithstanding title 19, chapter 1, article 4, a decision by the
27 governing body involving rezoning of land that is not owned by the county and
28 that changes the zoning classification of the land may not be enacted as an
29 emergency measure and ~~such a~~ THE change shall not be effective for at least
30 thirty days after final approval of the change in classification by the
31 board. Unless a resident files a written objection with the board of
32 supervisors, the rezoning may be enacted as an emergency measure that becomes
33 effective immediately by a four-fifths majority vote of the board for those
34 counties with five or more supervisors or a two-thirds majority vote of the
35 board for those counties with fewer than five supervisors.

36 L. For the purposes of this section, "zoning area" means the area
37 within three hundred feet of the proposed amendment or change.

38 Sec. 6. Section 11-821, Arizona Revised Statutes, is amended to read:

39 11-821. Subdivision regulations; subdivision reservation for
40 public facilities and services; conditions;
41 procedures; time limitation

42 A. The county board of supervisors shall regulate the subdivision of
43 all lands within ~~its~~ THE COUNTY'S corporate limits, except subdivisions that
44 are regulated by municipalities.

1 B. The commission shall recommend to the board and the board shall
2 adopt general regulations of uniform application governing plats and
3 subdivisions of land within ~~it's~~ THE BOARD'S area of jurisdiction. The
4 regulations adopted shall secure and provide for the proper arrangement of
5 streets or other highways in relation to existing or planned streets,
6 highways or bicycle facilities or to the official map for adequate and
7 convenient open spaces for traffic, utilities, drainage, access of
8 firefighting apparatus, recreation, light and air. The board may adopt
9 general regulations to provide for the proper arrangement of hiking and
10 equestrian trails in relation to existing or planned streets or highways, and
11 if adopted, the hiking and equestrian trails shall conform to the official
12 map for adequate and convenient open spaces for traffic, utilities, drainage,
13 access of firefighting apparatus, recreation, light and air. The general
14 regulations may provide for modification by the commission in planned area
15 development or specific cases where unusual topographical or other
16 exceptional conditions may require such action. The regulations shall
17 include provisions as to the extent to which streets and other highways shall
18 be graded and improved and to which water, sewer or other utility mains,
19 piping or other facilities shall be installed or provided for on the plat as
20 a condition precedent to the approval of the final plat.

21 C. Boards of supervisors of counties shall prepare specifications and
22 make orders, inspections, examinations and certificates as may be necessary
23 to protect and complete the provisions and make them effective. The
24 regulations shall require the posting of performance bonds, assurances or
25 such other security as may be appropriate and necessary to ensure the
26 installation of required street, sewer, electric and water utilities,
27 drainage, flood control and improvements meeting established minimum
28 standards of design and construction.

29 D. Before adoption of regulations by the board or any amendment as
30 provided in this article, the commission shall hold a public hearing. The
31 commission shall certify a copy of the regulations to the county board of
32 supervisors, which shall hold a public hearing after notice of the time and
33 place has been given by ~~one~~ POSTING ON THE COUNTY'S WEBSITE OR publication
34 ONCE in a newspaper of general circulation in the county fifteen days before
35 the public hearing.

36 E. A board of supervisors may require by ordinance that land areas
37 within a subdivision be reserved for parks, recreational facilities, school
38 sites and fire stations subject to the following conditions:

39 1. The requirement may only be made on preliminary plats filed at
40 least thirty days after the adoption of a comprehensive plan or amendment of
41 the plan affecting the land area to be reserved.

42 2. The required reservations are in accordance with definite
43 principles and standards adopted by the board or commission.

1 3. The land area reserved is of such a size and shape as to permit the
2 remainder of the land area of the subdivision within which the reservation is
3 located to develop in an orderly and efficient manner.

4 4. The land area reserved is in such multiples of streets and parcels
5 as to permit an efficient division of the reserved area if it is not acquired
6 within the prescribed period.

7 F. The public agency for whose benefit an area has been reserved has
8 one year after recording the final subdivision plat to enter into an
9 agreement to acquire the reserved land area. The purchase price is the fair
10 market value of the land at the time of the filing of the preliminary
11 subdivision plat plus the taxes against the reserved area from the date of
12 the reservation and any other costs incurred by the subdivider in the
13 maintenance of the reserved area, including interest cost incurred on any
14 loan covering the reserved area.

15 G. If the public agency for whose benefit an area has been reserved
16 does not exercise the reservation agreement within the one year period or an
17 extended period mutually agreed on by the public agency and the subdivider,
18 the reservation of the area terminates.

19 Sec. 7. Section 11-864, Arizona Revised Statutes, is amended to read:
20 11-864. Publication of ordinance adopting code

21 Any code authorized by this article may be enacted without setting
22 forth in full such provisions, but the adopting ordinance shall be published
23 in full IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR POSTED ON THE
24 COUNTY'S WEBSITE. IF THE ADOPTING ORDINANCE IS POSTED IN FULL ON THE
25 COUNTY'S WEBSITE, THE COUNTY SHALL PUBLISH NOTICE OF THE ADOPTING ORDINANCE
26 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY THAT PROVIDES THE
27 LOCATION IN WHICH THE ADOPTING ORDINANCE MAY BE VIEWED IN FULL. At least
28 three copies of the code shall be filed in the office of the clerk of the
29 board of supervisors and kept available for public use and inspection. A
30 code enacted by reference may be amended in the same manner.

31 Sec. 8. Section 49-112, Arizona Revised Statutes, is amended to read:
32 49-112. County regulation; standards

33 A. When authorized by law, a county may adopt a rule, ordinance or
34 other regulation that is more stringent than or in addition to a provision of
35 this title or rule adopted by the director or any board or commission
36 authorized to adopt rules pursuant to this title if all of the following
37 conditions are met:

38 1. The rule, ordinance or other regulation is necessary to address a
39 peculiar local condition.

40 2. There is credible evidence that the rule, ordinance or other
41 regulation is either:

42 (a) Necessary to prevent a significant threat to public health or the
43 environment that results from a peculiar local condition and is technically
44 and economically feasible.

1 (b) Required under a federal statute or regulation, or authorized
2 pursuant to an intergovernmental agreement with the federal government to
3 enforce federal statutes or regulations if the county rule, ordinance or
4 other regulation is equivalent to federal statutes or regulations.

5 3. Any fee or tax adopted under the rule, ordinance or other
6 regulation will not exceed the reasonable costs of the county to issue and
7 administer that permit or plan approval program.

8 B. When authorized by law, a county may adopt rules, ordinances or
9 other regulations in lieu of a state program that are as stringent as a
10 provision of this title or rule adopted by the director or any board or
11 commission authorized to adopt rules pursuant to this title if the county
12 demonstrates that the cost of obtaining permits or other approvals from the
13 county will approximately equal or be less than the fee or cost of obtaining
14 similar permits or approvals under this title or any rule adopted pursuant to
15 this title. If the state has not adopted a fee or tax for similar permits or
16 approvals, the county may adopt a fee when authorized by law in the rule,
17 ordinance or other regulation that does not exceed the reasonable costs of
18 the county to issue and administer that permit or plan approval program.

19 C. If a county has adopted rules, ordinances or other regulations
20 pursuant to subsection B of this section and at any time cannot comply with
21 subsection B of this section, the county shall give notice of noncompliance
22 to the director. The county shall file that notice with the secretary of
23 state for publication in the next issue of the Arizona administrative
24 register at no cost to the county. If the county does not comply with
25 subsection B of this section within one year after publication of the notice
26 in the Arizona administrative register, the director shall provide written
27 notice to and assert regulatory jurisdiction over those persons and entities
28 subject to the affected county rules, ordinances or other regulations.

29 D. Except as provided in chapter 3, article 3 of this title, before
30 adopting or enforcing any rule, ordinance or other regulation pursuant to
31 subsection A or B of this section, the county shall comply with all of the
32 following:

33 1. File with the secretary of state a written statement including a
34 summary of the proposed rule, ordinance or other regulation and a
35 demonstration of the grounds and evidence of compliance with subsection A or
36 B of this section. The summary shall provide the name of the person with the
37 county to contact with questions or comments. The secretary of state shall
38 publish the written statement in the next issue of the Arizona administrative
39 register at no cost to the county. The county shall publish, **OR POST ON THE**
40 **COUNTY'S WEBSITE**, notice of the availability of the complete summary and the
41 demonstration in other newspapers as may be required by this title and shall
42 make the text of any proposed environmental rule, ordinance or other
43 regulation available to the public at the same time it files the written
44 summary of the environmental rule, ordinance or other regulation with the
45 secretary of state as provided in this paragraph.

1 2. Provide at least thirty days' opportunity for comment by the public
2 after publication of the summary as prescribed by paragraph 1 of this
3 subsection. The county shall accept written comments on the proposed rule,
4 ordinance or regulation and the written demonstration.

5 3. Respond in writing and make available to the public for a
6 reasonable cost the county's responses to the written comments submitted by
7 the public pursuant to paragraph 2 of this subsection.

8 4. Provide for a public hearing at the request of the authorized
9 county officer or if there is sufficient public interest. The county shall
10 publish the notice of any public hearing at least twenty days prior to the
11 hearing. The county shall submit the notice of the public hearing to the
12 secretary of state for publication in the next issue of the Arizona
13 administrative register at no cost to the county. The county shall publish
14 in any newspaper as prescribed by this title or county ordinance **OR POST ON**
15 **THE COUNTY'S WEBSITE** notice of any public hearing required pursuant to this
16 paragraph. The county shall select a time and location for the public
17 hearing that affords a reasonable opportunity for the public to participate.

18 E. A county is not required to comply with subsection D, paragraphs 2,
19 3 and 4 of this section before it adopts or enforces a rule, ordinance or
20 other regulation if the rule, ordinance or other regulation only adopts by
21 reference an existing state or federal rule or law that provides greater
22 regulatory flexibility for regulated parties and otherwise satisfies the
23 requirements prescribed in subsection B of this section.

24 F. Until June 30, 1995, a person may file with the clerk of the board
25 of supervisors for that county a petition challenging a county rule,
26 ordinance or other regulation adopted before July 15, 1994 for compliance
27 with the criteria set forth in subsection A or B of this section. The
28 petition shall contain the grounds for challenging the specific county rule,
29 ordinance or other regulation. Within one year after the petition is filed,
30 the board of supervisors shall review the challenged rule, ordinance or other
31 regulation and make a written demonstration of compliance with the criteria
32 set forth in subsection A or B of this section and challenged in the
33 petition. Any rules, ordinances or other regulations that have been
34 challenged and for which the board of supervisors has not made the written
35 demonstration within one year of the filing of the petition required by this
36 section become unenforceable as of that date. If a county has already made a
37 written demonstration under section 49-479, subsection C, for a rule,
38 ordinance or regulation, the person filing the petition shall state the
39 specific grounds in the petition why that demonstration does not meet the
40 requirements of this section.

41 G. A rule, ordinance or other regulation adopted pursuant to
42 subsection A of this section may not be invalidated subsequent to its
43 adoption on the grounds that the economic feasibility analysis is
44 insufficient or inaccurate if a county makes a good faith effort to comply
45 with the economic feasibility requirement of subsection A, paragraph 2,

1 subdivision (a), of this section and has explained in the written statement,
2 made public pursuant to subsection D of this section, the methodology used to
3 satisfy the economic feasibility requirement.

4 H. This section shall not apply to any rule, ordinance or other
5 regulation adopted by a county pursuant to:

6 1. Title 36 for which the state has similar statutory or rule making
7 authority in this title.

8 2. Section 49-391.

9 3. Chapter 3, article 8 of this title.

10 4. Chapter 4, article 3 of this title and section 49-765.

11 5. Nonsubstantive rules relating to the application process ~~which~~ THAT
12 have a de minimis economic effect on regulated parties.