

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1111

AN ACT

AMENDING SECTIONS 9-462.01, 11-251 AND 11-254.06, ARIZONA REVISED STATUTES; REPEALING TITLE 11, CHAPTER 6, ARTICLES 1 AND 2, ARIZONA REVISED STATUTES; RENUMBERING TITLE 11, CHAPTER 6, ARTICLES 3 AND 4, ARIZONA REVISED STATUTES, AS TITLE 11, CHAPTER 6, ARTICLES 5 AND 6, RESPECTIVELY; AMENDING TITLE 11, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING NEW ARTICLES 1, 2, 3 AND 4; AMENDING SECTIONS 11-866, 11-1101, 13-1422, 27-441, 27-442, 27-446, 27-447, 28-6705, 28-6713, 28-8481, 32-2181, 32-2183, 32-2197.08, 33-406, 33-422, 34-201, 34-610, 37-132, 37-331.03, 40-360.53, 41-1512.02, 41-1519, 45-108, 45-108.01, 45-108.02, 45-108.03, 45-108.04, 45-576, 48-3609.01, 48-6414 AND 49-1273, ARIZONA REVISED STATUTES; RELATING TO COUNTY PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-462.01, Arizona Revised Statutes, is amended to
3 read:

4 9-462.01. Zoning regulations; public hearing; definitions

5 A. Pursuant to this article, the legislative body of any municipality
6 by ordinance may in order to conserve and promote the public health, safety
7 and general welfare:

8 1. Regulate the use of buildings, structures and land as between
9 agriculture, residence, industry, business and other purposes.

10 2. Regulate signs and billboards.

11 3. Regulate the location, height, bulk, number of stories and size of
12 buildings and structures, the size and use of lots, yards, courts and other
13 open spaces, the percentage of a lot which may be occupied by a building or
14 structure, access to incident solar energy and the intensity of land use.

15 4. Establish requirements for off-street parking and loading.

16 5. Establish and maintain building setback lines.

17 6. Create civic districts around civic centers, public parks, public
18 buildings or public grounds and establish regulations therefor.

19 7. Require as a condition of rezoning public dedication of
20 rights-of-way as streets, alleys, public ways, drainage and public utilities
21 as are reasonably required by or related to the effect of the rezoning.

22 8. Establish floodplain zoning districts and regulations to protect
23 life and property from the hazards of periodic inundation. Regulations may
24 include variable lot sizes, special grading or drainage requirements, or
25 other requirements deemed necessary for the public health, safety or general
26 welfare.

27 9. Establish special zoning districts or regulations for certain lands
28 characterized by adverse topography, adverse soils, subsidence of the earth,
29 high water table, lack of water or other natural or man-made hazards to life
30 or property. Regulations may include variable lot sizes, special grading or
31 drainage requirements, or other requirements deemed necessary for the public
32 health, safety or general welfare.

33 10. Establish districts of historical significance provided that:

34 (a) The ordinances may require that special permission be obtained for
35 any development within the district if the legislative body has adopted a
36 plan for the preservation of districts of historical significance which meets
37 the requirements of subdivision (b) of this paragraph, and the criteria
38 contained in the ordinance are consistent with the objectives set forth in
39 the plan.

40 (b) A plan for the preservation of districts of historical
41 significance shall identify districts of special historical significance,
42 state the objectives to be sought concerning the development or preservation
43 of sites, area and structures within the district, and formulate a program
44 for public action including the provision of public facilities and the

1 regulation of private development and demolition necessary to realize these
2 objectives.

3 (c) The ordinance establishing districts of historical significance
4 shall set forth standards necessary to preserve the historical character of
5 the area so designated.

6 (d) The ordinances may designate or authorize any committee,
7 commission, department or person to designate structures or sites of special
8 historical significance in accordance with criteria contained in the
9 ordinance, and no designation shall be made except after a public hearing
10 upon notice of the owners of record of the property so designated. The
11 ordinances may require that special permission be obtained for any
12 development respecting the structures or sites.

13 11. Establish age specific community zoning districts in which
14 residency is restricted to a head of a household or spouse who must be of a
15 specific age or older and in which minors are prohibited from living in the
16 home. Age specific community zoning districts shall not be overlaid over
17 property without the permission of all owners of property included as part of
18 the district unless all of the property in the district has been developed,
19 advertised and sold or rented under specific age restrictions. The
20 establishment of age specific community zoning districts is subject to all of
21 the public notice requirements and other procedures prescribed by this
22 article.

23 12. Establish procedures, methods and standards for the transfer of
24 development rights within its jurisdiction. Any proposed transfer of
25 development rights from the sending property or to the receiving property
26 shall be subject to the notice and hearing requirements of section 9-462.04
27 and shall be subject to the approval and consent of the property owners of
28 both the sending and receiving property. Before any transfer of development
29 rights, a municipality shall adopt an ordinance providing for:

30 (a) The issuance and recordation of the instruments necessary to sever
31 development rights from the sending property and to affix development rights
32 to the receiving property. These instruments shall be executed by the
33 affected property owners and lienholders.

34 (b) The preservation of the character of the sending property and
35 assurance that the prohibitions against the use and development of the
36 sending property shall bind the landowner and every successor in interest to
37 the landowner.

38 (c) The severance of transferable development rights from the sending
39 property and the delayed transfer of development rights to a receiving
40 property.

41 (d) The purchase, sale, exchange or other conveyance of transferable
42 development rights prior to the rights being affixed to a receiving property.

43 (e) A system for monitoring the severance, ownership, assignment and
44 transfer of transferable development rights.

1 (f) The right of a municipality to purchase development rights and to
2 hold them for resale.

3 (g) The right of a municipality at its discretion to enter into an
4 intergovernmental agreement with another municipality or a county for the
5 transfer of development rights between jurisdictions. The transfer shall
6 comply with this paragraph, except that if the sending property is located in
7 an unincorporated area of a county, the approval of the development rights to
8 be sent to a municipality shall comply with section ~~11-821.03~~ 11-817.

9 B. For the purposes prescribed in subsection A of this section, the
10 legislative body may divide a municipality, or portion of a municipality,
11 into zones of the number, shape and area it deems best suited to carry out
12 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

13 C. All zoning regulations shall be uniform for each class or kind of
14 building or use of land throughout each zone, but the regulations in one type
15 of zone may differ from those in other types of zones as follows:

16 1. Within individual zones, there may be uses permitted on a
17 conditional basis under which additional requirements must be met, including
18 requiring site plan review and approval by the planning agency. The
19 conditional uses are generally characterized by any of the following:

- 20 (a) Infrequency of use.
- 21 (b) High degree of traffic generation.
- 22 (c) Requirement of large land area.

23 2. Within residential zones, the regulations may permit modifications
24 to minimum yard lot area and height requirements.

25 D. To carry out the purposes of this article and articles 6 and 6.2 of
26 this chapter, the legislative body may adopt overlay zoning districts and
27 regulations applicable to particular buildings, structures and land within
28 individual zones. For the purposes of this subsection, "overlay zoning
29 district" means a special zoning district that includes regulations which
30 modify regulations in another zoning district with which the overlay zoning
31 district is combined. Overlay zoning districts and regulations shall be
32 adopted pursuant to section 9-462.04.

33 E. The legislative body may approve a change of zone conditioned upon
34 a schedule for development of the specific use or uses for which rezoning is
35 requested. If at the expiration of this period the property has not been
36 improved for the use for which it was conditionally approved, the legislative
37 body, after notification by certified mail to the owner and applicant who
38 requested the rezoning, shall schedule a public hearing to take
39 administrative action to extend, remove or determine compliance with the
40 schedule for development or take legislative action to cause the property to
41 revert to its former zoning classification.

42 F. All zoning and rezoning ordinances or regulations adopted under
43 this article shall be consistent with and conform to the adopted general plan
44 of the municipality, if any, as adopted under article 6 of this chapter. In
45 the case of uncertainty in construing or applying the conformity of any part

1 of a proposed rezoning ordinance to the adopted general plan of the
2 municipality, the ordinance shall be construed in a manner that will further
3 the implementation of, and not be contrary to, the goals, policies and
4 applicable elements of the general plan. A rezoning ordinance conforms with
5 the land use element of the general plan if it proposes land uses, densities
6 or intensities within the range of identified uses, densities and intensities
7 of the land use element of the general plan.

8 G. No regulation or ordinance under this section may prevent or
9 restrict agricultural composting on farmland that is five or more contiguous
10 acres and that meets the requirements of this subsection. An agricultural
11 composting operation shall notify in writing the legislative body of the city
12 or town and the nearest fire department of the location of the composting
13 operation. If the nearest fire department is located in a different city or
14 town from the agricultural composting operation, the agricultural composting
15 operation shall also notify in writing the fire department of the city or
16 town in which the operation is located. Agricultural composting is subject
17 to sections 3-112 and 49-141. Agricultural composting may not be conducted
18 within one thousand three hundred twenty feet of an existing residential use,
19 unless the operations are conducted on farmland or land leased in association
20 with farmland. Any disposal of manure shall comply with section 49-247. For
21 the purposes of this subsection:

22 1. "Agricultural composting" means the controlled biological
23 decomposition of organic solid waste under in-vessel anaerobic or aerobic
24 conditions where all or part of the materials are generated on the farmland
25 or will be used on the farmland associated with the agricultural composting
26 operation.

27 2. "Farmland" has the same meaning prescribed in section 3-111 and is
28 subject to regulation under section 49-247.

29 H. For the purposes of this section:

30 1. "Development rights" means the maximum development that would be
31 allowed on the sending property under any general or specific plan and local
32 zoning ordinance of a municipality in effect on the date the municipality
33 adopts an ordinance pursuant to subsection A, paragraph 12 of this section
34 respecting the permissible use, area, bulk or height of improvements made to
35 the lot or parcel. Development rights may be calculated and allocated in
36 accordance with factors including dwelling units, area, floor area, floor
37 area ratio, height limitations, traffic generation or any other criteria that
38 will quantify a value for the development rights in a manner that will carry
39 out the objectives of this section.

40 2. "Receiving property" means a lot or parcel within which development
41 rights are increased pursuant to a transfer of development rights. Receiving
42 property shall be appropriate and suitable for development and shall be
43 sufficient to accommodate the transferable development rights of the sending
44 property without substantial adverse environmental, economic or social impact
45 to the receiving property or to neighboring property.

1 3. "Sending property" means a lot or parcel with special
2 characteristics, including farmland, woodland, desert land, mountain land,
3 floodplain, natural habitats, recreation or parkland, including golf course
4 area, or land that has unique aesthetic, architectural or historic value that
5 a municipality desires to protect from future development.

6 4. "Transfer of development rights" means the process by which
7 development rights from a sending property are affixed to one or more
8 receiving properties.

9 Sec. 2. Section 11-251, Arizona Revised Statutes, is amended to read:

10 11-251. Powers of board

11 The board of supervisors, under such limitations and restrictions as
12 are prescribed by law, may:

13 1. Supervise the official conduct of all county officers and officers
14 of all districts and other subdivisions of the county charged with assessing,
15 collecting, safekeeping, managing or disbursing the public revenues, see that
16 such officers faithfully perform their duties and direct prosecutions for
17 delinquencies, and, when necessary, require the officers to renew their
18 official bonds, make reports and present their books and accounts for
19 inspection.

20 2. Divide the counties into such districts or precincts as required by
21 law, change them and create others as convenience requires.

22 3. Establish, abolish and change election precincts, appoint
23 inspectors and judges of elections, canvass election returns, declare the
24 result and issue certificates thereof.

25 4. Lay out, maintain, control and manage public roads, ferries and
26 bridges within the county and levy such tax for that purpose as may be
27 authorized by law.

28 5. Provide for the care and maintenance of the sick of the county,
29 erect and maintain hospitals for that purpose and, in its discretion, provide
30 a farm in connection with the county hospital and adopt ordinances for
31 working the farm.

32 6. Provide suitable rooms for county purposes.

33 7. Purchase, receive by donation or lease real or personal property
34 necessary for the use of the county prison and take care of, manage and
35 control the property, but no purchase of real property shall be made unless
36 the value has been previously estimated by three disinterested citizens of
37 the county, appointed by the board for that purpose, and no more than the
38 appraised value shall be paid for the property.

39 8. Cause to be erected and furnished a courthouse, jail and hospital
40 and such other buildings as necessary, and construct and establish a branch
41 jail, when necessary, at a point distant from the county seat.

42 9. Sell at public auction, after thirty days' previous notice given by
43 publication in a newspaper of the county, stating the time and place of the
44 auction, and convey to the highest bidder, for cash or contract of purchase
45 extending not more than ten years from the date of sale and upon such terms

1 and conditions and for such consideration as the board shall prescribe, any
2 property belonging to the county that the board deems advantageous for the
3 county to sell, or that the board deems unnecessary for use by the county,
4 and shall pay the proceeds thereof into the county treasury for use of the
5 county, except that personal property need not be sold but may be used as a
6 trade-in on the purchase of personal property when the board deems this
7 disposition of the personal property to be in the best interests of the
8 county. When the property for sale is real property, the board shall have
9 such property appraised by a qualified independent fee appraiser who has an
10 office located in this state. The appraiser shall establish a minimum price,
11 which shall not be less than ninety per cent of the appraised value. The
12 notice regarding the sale of real property shall be published in the county
13 where the property is situated and may be published in one or more other
14 counties, and shall contain, among other things, the appraised value, the
15 minimum acceptable sale price, and the common and legal description of the
16 real property. Notwithstanding the requirement for a sale at public auction
17 prescribed in this paragraph, a county, with unanimous consent of the board,
18 without a public auction, may sell or lease any county property to any other
19 duly constituted governmental entity, including the state, cities, towns and
20 other counties. A county, with unanimous consent of the board, ~~AND~~ without
21 public auction, may grant an easement on county property for public purposes
22 to a utility as defined in section 40-491. A county, with unanimous consent
23 of the board, without public auction, may sell or lease any county property
24 for a specific use to any solely charitable, social or benevolent nonprofit
25 organization incorporated or operating in this state. A county may dispose
26 of surplus equipment and materials that have little or no value or that are
27 unauctionable in any manner authorized by the board.

28 10. Examine and exhibit the accounts of all officers having the care,
29 management, collection or disbursement of money belonging to the county or
30 appropriated by law or otherwise for the use and benefit of the county.

31 11. Examine, settle and allow all accounts legally chargeable against
32 the county, order warrants to be drawn on the county treasurer for that
33 purpose and provide for issuing the warrants.

34 12. Levy such tax annually on the taxable property of the county as may
35 be necessary to defray the general current expenses thereof, including
36 salaries otherwise unprovided for, and levy such other taxes as are required
37 to be levied by law.

38 13. Equalize assessments.

39 14. Direct and control the prosecution and defense of all actions to
40 which the county is a party, and compromise them.

41 15. Insure the county buildings in the name of and for the benefit of
42 the county.

43 16. Fill by appointment all vacancies occurring in county or precinct
44 offices.

1 17. Adopt provisions necessary to preserve the health of the county,
2 and provide for the expenses thereof.

3 18. With the approval of the department of health services, contract
4 with any qualified person to provide all or part of the health services,
5 funded through the department of health services with federal or state
6 monies, that the board in its discretion extends to residents of the county.

7 19. Contract for county printing and advertising, and provide books and
8 stationery for county officers.

9 20. Provide for rebinding county records, or, if necessary, the
10 transcribing of county records.

11 21. Make and enforce necessary rules and regulations for the government
12 of its body, the preservation of order and the transaction of business.

13 22. Adopt a seal for the board, a description and impression of which
14 shall be filed by the clerk in the office of the county recorder and the
15 secretary of state.

16 23. Establish, maintain and conduct or aid in establishing, maintaining
17 and conducting public aviation fields, purchase, receive by donation or lease
18 any property necessary for that purpose, lease, at a nominal rental if
19 desired, sell such aviation fields or property to the United States or any
20 department, or sell or lease such aviation fields to a city, exchange lands
21 acquired pursuant to this section for other lands, or act in conjunction with
22 the United States in maintaining, managing and conducting all such property.
23 If any such property or part of that property is not needed for these
24 purposes, it shall be sold by the board and the proceeds shall be paid into
25 the general fund of the county.

26 24. Acquire and hold property for the use of county fairs, and conduct,
27 take care of and manage them.

28 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
29 dollars in one case, for information leading to the arrest and conviction of
30 persons charged with crime.

31 26. Contract for the transportation of insane persons to the state
32 hospital or direct the sheriff to transport such persons. The county is
33 responsible for such expense to the extent the expense is not covered by any
34 third party payor.

35 27. Provide for the reasonable expenses of burial for deceased
36 indigents as provided in section 36-831 and maintain a permanent register of
37 deceased indigents, including name, age and date of death, and when burial
38 occurs, the board shall mark the grave with a permanent marker giving the
39 name, age, and date of birth, if known.

40 28. Sell or grant to the United States the title or interest of the
41 county in any toll road or toll train in or partly within a national park,
42 upon such terms and consideration as may be agreed upon by the board and the
43 secretary of the interior of the United States.

44 29. Enter into agreements for acquiring rights-of-way, construction,
45 reconstruction or maintenance of highways in their respective counties,

1 including highways that pass through Indian reservations, with the government
2 of the United States, acting through its duly authorized officers or agents
3 pursuant to any act of Congress, except that the governing body of any Indian
4 tribe whose lands are affected must consent to the use of its land, and any
5 such agreements entered into before June 26, 1952 are validated and
6 confirmed.

7 30. Do and perform all other acts and things necessary to the full
8 discharge of its duties as the legislative authority of the county
9 government, including receiving and accepting payment of monies by credit
10 card or debit card, or both. Any fees or costs incurred by the use of the
11 credit or debit card shall be paid by the person tendering payment unless the
12 charging entity determines that the financial benefits of accepting credit
13 cards or debit cards exceeds the additional processing fees.

14 31. Make and enforce all local, police, sanitary and other regulations
15 not in conflict with general law.

16 32. Budget for funds for foster home care during the school week for
17 mentally retarded and otherwise handicapped children who reside within the
18 county and attend a school for the handicapped in a city or town within such
19 county.

20 33. Do and perform all acts necessary to enable the county to
21 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
22 508), as amended.

23 34. Provide a plan or plans for its employees that provide tax deferred
24 annuity and deferred compensation plans as authorized pursuant to title 26,
25 United States Code. Such plans shall allow voluntary participation by all
26 employees of the county. Participating employees shall authorize the board
27 to make reductions in their remuneration as provided in an executed deferred
28 compensation agreement.

29 35. Adopt and enforce standards for shielding and filtration of
30 commercial or public outdoor portable or permanent light fixtures in
31 proximity to astronomical or meteorological laboratories.

32 36. Subject to the prohibitions, restrictions and limitations as set
33 forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation,
34 landfill and grading to prevent unnecessary loss from erosion, flooding and
35 landslides.

36 37. Make and enforce necessary ordinances for the operation and
37 licensing of any establishment not in the limits of an incorporated city or
38 town in which is carried on the business of providing baths, showers or other
39 forms of hydrotherapy or any service of manual massage of the human body.

40 38. Provide pecuniary compensation as salary or wages for overtime work
41 performed by county employees, including those employees covered by title 23,
42 chapter 2, article 9. In so providing, the board may establish salary and
43 wage plans incorporating classifications and conditions prescribed by the
44 federal fair labor standards act.

1 39. Establish, maintain and operate facilities that provide for
2 physical evaluation, diagnosis and treatment of patients and that do not keep
3 patients overnight as bed patients or treat patients under general
4 anesthesia.

5 40. Enact ordinances under its police authority prescribing reasonable
6 curfews in the entire unincorporated area or any area less than the entire
7 unincorporated area of the county for minors and fines not to exceed the fine
8 for a petty offense for violation of such ordinances. Nothing in this
9 paragraph shall be construed to require a request from an association or a
10 majority of the residents of an area before the board may enact an ordinance
11 applicable to the entire or any portion of the unincorporated area. An
12 ordinance enacted pursuant to this paragraph shall provide that a minor is
13 not violating a curfew if the minor is accompanied by a parent, a guardian or
14 an adult having supervisory custody, is on an emergency errand or has been
15 specifically directed to the location on reasonable, legitimate business or
16 some other activity by the parent, guardian or adult having supervisory
17 custody. If no curfew ordinance is applicable to a particular unincorporated
18 area of the county, the board may adopt a curfew ordinance on the request or
19 petition of either:

20 (a) A homeowners' association that represents a majority of the
21 homeowners in the area covered by the association and to which the curfew
22 would apply.

23 (b) A majority of the residents of the area to which the curfew would
24 apply.

25 41. Lease or sublease personal property owned by the county to other
26 political subdivisions of this state to be used for a public purpose.

27 42. In addition to the agreements authorized by section 11-651, enter
28 into long-term agreements for the purchase of personal property, provided
29 that the board may cancel any such agreement at the end of a fiscal year, at
30 which time the seller may repossess the property and the agreement shall be
31 deemed terminated.

32 43. Make and enforce necessary ordinances not in conflict with the laws
33 of this state to regulate off-road recreational motor vehicles that are
34 operated within the county on public lands without lawful authority or on
35 private lands without the consent of the lawful owner or that generate air
36 pollution. For the purposes of this paragraph, "off-road recreational motor
37 vehicle" means three and four wheel vehicles manufactured for recreational
38 nonhighway all terrain travel.

39 44. Acquire land for roads, drainage ways and other public purposes by
40 exchange without public auction, except that notice shall be published thirty
41 days before the exchange, listing the property ownership and descriptions.

42 45. Purchase real property for public purposes, provided that final
43 payment shall be made not later than five years after the date of purchase.

44 46. Lease-purchase real property and improvements for real property for
45 public purposes, provided that final payment shall be made not later than

1 twenty-five years after the date of purchase. Any increase in the final
2 payment date from fifteen years up to the maximum of twenty-five years shall
3 be made only on unanimous approval by the board of supervisors.

4 47. Make and enforce ordinances for the protection and disposition of
5 domestic animals subject to inhumane, unhealthful or dangerous conditions or
6 circumstances provided that nothing in this paragraph limits or restricts the
7 authority granted to incorporated cities and towns or counties pursuant to
8 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
9 restrict or limit the authority of the game and fish commission to regulate
10 the taking of wildlife. For the purposes of this paragraph, "domestic
11 animal" means an animal kept as a pet and not primarily for economic
12 purposes.

13 48. If a part of a parcel of land is to be taken for roads, drainage,
14 flood control or other public purposes and the board and the affected
15 property owner determine that the remainder will be left in such a condition
16 as to give rise to a claim or litigation concerning severance or other
17 damage, acquire the whole parcel by purchase, donation, dedication, exchange,
18 condemnation or other lawful means, and the remainder may be sold or
19 exchanged for other properties needed for any public purpose.

20 49. Make and enforce necessary rules providing for the reimbursement of
21 travel and subsistence expenses of members of county boards, commissions and
22 advisory committees when acting in the performance of their duties, if the
23 board, commission or advisory committee is authorized or required by federal
24 or state law or county ordinance, and the members serve without compensation.

25 50. Provide a plan or plans for county employee benefits that allow for
26 participation in a cafeteria plan that meets the requirements of the United
27 States internal revenue code of 1986.

28 51. Provide for fringe benefits for county employees, including sick
29 leave, personal leave, vacation and holiday pay and jury duty pay.

30 52. Make and enforce ordinances that are more restrictive than state
31 requirements to reduce or encourage the reduction of carbon monoxide and
32 ozone levels, provided an ordinance does not establish a standard for
33 vehicular emissions, including ordinances to reduce or encourage the
34 reduction of the commuter use of motor vehicles by employees of the county
35 and employees whose place of employment is in unincorporated areas of the
36 county.

37 53. Make and enforce ordinances to provide for the reimbursement of up
38 to one hundred per cent of the cost to county employees of public bus or van
39 pool transportation to and from their place of employment.

40 54. Lease for public purposes any real property, improvements for real
41 property and personal property under the same terms and conditions, to the
42 extent applicable, as are specified in sections 11-651 and 11-653 for
43 lease-purchases.

44 55. Enact ordinances prescribing regulation of alarm systems and
45 providing for civil penalties to reduce the incidence of false alarms at

1 business and residential structures relating to burglary, robbery, fire and
2 other emergencies not within the limits of an incorporated city or town.

3 56. In addition to paragraph 9 of this section, and notwithstanding
4 section 23-504, sell or dispose of, at no less than fair market value, county
5 personal property that the board deems no longer useful or necessary through
6 a retail outlet or to another government entity if the personal property has
7 a fair market value of no more than one thousand dollars, or by retail sale
8 or private bid, if the personal property has a fair market value of no more
9 than fifteen thousand dollars. Notice of sales in excess of one thousand
10 dollars shall include a description and sale price of each item and shall be
11 published in a newspaper of general circulation in the county, and for thirty
12 days after notice other bids may be submitted that exceed the sale price by
13 at least five per cent. The county shall select the highest bid received at
14 the end of the thirty day period.

15 57. Sell services, souvenirs, sundry items or informational
16 publications that are uniquely prepared for use by the public and by
17 employees and license and sell information systems and intellectual property
18 developed from county resources that the county is not obligated to provide
19 as a public record.

20 58. On unanimous consent of the board of supervisors, license, lease or
21 sell any county property pursuant to paragraphs 56 and 57 of this section at
22 less than fair market value to any other governmental entity, including this
23 state, cities, towns, public improvement districts or other counties within
24 or outside of this state, or for a specific purpose to any charitable, social
25 or benevolent nonprofit organization incorporated or operating in this state.

26 59. On unanimous consent of the board of supervisors, provide technical
27 assistance and related services to a fire district pursuant to an
28 intergovernmental agreement.

29 60. Adopt contracting procedures for the operation of a county health
30 system pursuant to section 11-291. Before the adoption of contracting
31 procedures the board shall hold a public hearing. The board shall publish
32 one notification in a newspaper of general circulation in the county seat at
33 least fifteen days before the hearing.

34 61. Enter into an intergovernmental agreement pursuant to chapter 7,
35 article 3 of this title for a city or town to provide emergency fire or
36 emergency medical services pursuant to section 9-500.23 to a county island as
37 defined in section 11-251.12. The board may charge the owners of record in
38 the county island a fee to cover the cost of an intergovernmental agreement
39 that provides fire and emergency medical services.

40 62. In counties that employ or have designated an animal control county
41 enforcement agent pursuant to section 11-1005, enter into agreements with
42 foundations or charitable organizations to solicit donations, property or
43 services, excluding enforcement or inspection services, for use by the county
44 enforcement agent solely to perform nonmandated services and to fund capital
45 improvements for county animal control, subject to annual financial and

1 performance audits by an independent party as designated by the county board
2 of supervisors. For the purposes of this paragraph, nonmandated services are
3 limited to low cost spay and neuter services, public education and outreach
4 efforts, pet adoption efforts, care for pets that are victims of cruelty or
5 neglect and support for volunteer programs.

6 63. Adopt and provide for the enforcement of ordinances prohibiting
7 open fires and campfires on designated lands in the unincorporated areas of
8 the county when a determination of emergency is issued by the county
9 emergency management officer and the board deems it necessary to protect
10 public health and safety on those lands.

11 64. Fix the amount of license fees to be paid by any person, firm,
12 corporation or association for carrying on any game or amusement business in
13 unincorporated areas of the county and prescribe the method of collection or
14 payment of those fees, for a stated period in advance, and fix penalties for
15 failure to comply by fine. Nothing in this article shall be construed as
16 authorizing any county to require an occupational license or fee for any
17 activity if state law precludes requiring such a license or fee.

18 65. Adopt and enforce ordinances for the prevention, abatement and
19 removal of graffiti, providing that any restrictions on the retail display of
20 potential graffiti tools be limited to any of the following, as determined by
21 the retail business:

22 (a) In a place that is in the line of sight of a cashier or in the
23 line of sight from a work station normally continuously occupied during
24 business hours.

25 (b) In a manner that makes the product accessible to a patron of the
26 business establishment only with the assistance of an employee of the
27 establishment.

28 (c) In an area electronically protected, or viewed by surveillance
29 equipment that is monitored, during business hours.

30 66. Adopt ordinances and fees related to the implementation of a local
31 stormwater quality program pursuant to title 49, chapter 2, article 11.

32 Sec. 3. Section 11-254.06, Arizona Revised Statutes, is amended to
33 read:

34 11-254.06. County infill incentive districts

35 A. The board of supervisors may designate an infill incentive district
36 in any unincorporated area of the county that meets at least three of the
37 following requirements:

38 1. There is a large number of vacant, older or dilapidated structures.

39 2. There is a large number of vacant or underused parcels of property
40 that are of small or inappropriate sizes or that are environmentally
41 contaminated, that are owned by different owners and that are located in an
42 area that lacks the presence of development and investment activity compared
43 to other areas in the county.

44 3. There is a large number of parcels of property or buildings where
45 nuisances exist or occur.

1 4. There is a high occurrence of crime.
2 5. There is a continuing decline in population.
3 B. Before establishing an infill incentive district, the board of
4 supervisors shall:
5 1. Identify the boundaries of the proposed district.
6 2. Notify the owners of private property in the proposed district and
7 property managers of federal and state land in the proposed district by first
8 class mail sent to the addresses on the most recent tax roll. The notice
9 shall be mailed at least fifteen days before the hearing held pursuant to
10 paragraph 4 of this subsection.
11 3. Publish notice of the proposed district in a newspaper of general
12 circulation in the county once each week for two consecutive weeks before the
13 hearing held pursuant to paragraph 4 of this subsection.
14 4. Hold at least one public hearing in the county supervisorial
15 district in which the proposed district is located to provide information and
16 receive public comments.
17 C. If, after the hearing, it appears to the board that the public
18 interest, convenience and welfare will be served by establishing ~~a county~~ AN
19 infill INCENTIVE district, the board may establish the district by adopting a
20 resolution stating the reasons for establishing the district, the specific
21 conditions described in subsection A of this section that qualify the area
22 ~~for~~ AS a district and provisions for the orderly and beneficial redevelopment
23 of the district.
24 D. If the board of supervisors establishes an infill incentive
25 district, it shall adopt an infill incentive plan to encourage redevelopment
26 in the district. The plan shall emphasize voluntary incentives, including,
27 if appropriate, continuing traditional rural and agricultural enterprises.
28 The plan may include:
29 1. Expedited zoning or rezoning procedures.
30 2. Expedited processing of plans and proposals.
31 3. Waivers of county and county improvement district fees and
32 assessments for development activities.
33 4. Waivers of development standards and procedural requirements.
34 E. The infill incentive plan shall not impair the ability of utilities
35 to provide electricity, water, natural gas or other services in accordance
36 with health, safety and industry standards, including meeting electric
37 service load growth demand by customers.
38 F. Infill incentives established pursuant to this section shall not be
39 in violation of the requirements of the county comprehensive plan pursuant to
40 section ~~11-821~~ 11-804.
41 Sec. 4. Repeal
42 Title 11, chapter 6, articles 1 and 2, Arizona Revised Statutes, are
43 repealed.

1 Sec. 5. Renumber
2 Title 11, chapter 6, articles 3 and 4, Arizona Revised Statutes, are
3 renumbered as title 11, chapter 6, articles 5 and 6, respectively.

4 Sec. 6. Title 11, chapter 6, Arizona Revised Statutes, is amended by
5 adding new articles 1, 2, 3 and 4, to read:

6 ARTICLE 1. COUNTY PLANNING

7 11-801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AREA OF JURISDICTION" MEANS THAT PART OF THE COUNTY OUTSIDE THE
10 CORPORATE LIMITS OF ANY MUNICIPALITY.

11 2. "BOARD" MEANS THE BOARD OF SUPERVISORS.

12 3. "COMMISSION" MEANS THE COUNTY PLANNING AND ZONING COMMISSION.

13 4. "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE HELD IN TRUST BY THE
14 UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF INDIAN TRIBES BY TREATY,
15 LAW OR EXECUTIVE ORDER AND THAT ARE CURRENTLY RECOGNIZED AS INDIAN
16 RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

17 5. "INSPECTOR" MEANS THE COUNTY ZONING INSPECTOR.

18 6. "NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT" MEANS A DAILY
19 OR WEEKLY NEWSPAPER IF ANY IS PUBLISHED IN THE COUNTY SEAT.

20 7. "REZONING" MEANS A CHANGE IN THE ZONING ORDINANCE CHANGING THE
21 ZONING DISTRICT BOUNDARIES WITHIN AN AREA PREVIOUSLY ZONED.

22 8. "ZONING DISTRICT" MEANS ANY PORTION OF A COUNTY IN WHICH THE SAME
23 SET OF ZONING REGULATIONS APPLIES.

24 9. "ZONING ORDINANCE" MEANS AN ORDINANCE THAT IS ADOPTED BY THE BOARD
25 OF SUPERVISORS AND THAT CONTAINS ZONING REGULATIONS TOGETHER WITH A MAP
26 SETTING FORTH THE PRECISE BOUNDARIES OF ZONING DISTRICTS WITHIN WHICH THE
27 VARIOUS ZONING REGULATIONS ARE EFFECTIVE.

28 10. "ZONING REGULATIONS" MEANS PROVISIONS THAT GOVERN THE USE OF LAND
29 OR BUILDINGS, OR BOTH, THE HEIGHT AND LOCATION OF BUILDINGS, THE SIZE OF
30 YARDS, COURTS AND OPEN SPACES, THE ESTABLISHMENT OF SETBACK LINES AND SUCH
31 OTHER MATTERS AS MAY OTHERWISE BE AUTHORIZED UNDER THIS CHAPTER AND THAT THE
32 BOARD DEEMS SUITABLE AND PROPER.

33 11. "ZONING REGULATIONS AMENDMENT" MEANS A CHANGE IN THE ZONING
34 ORDINANCE THAT MODIFIES, ADDS TO, TRANSFERS OR REPEALS ONE OR MORE ZONING
35 REGULATIONS OR THAT ADDS ONE OR MORE ZONING REGULATIONS.

36 11-802. County planning and zoning commissions

37 A. THE BOARD OF SUPERVISORS OF A COUNTY, IN ORDER TO CONSERVE AND
38 PROMOTE THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND GENERAL WELFARE AND
39 PURSUANT TO THIS CHAPTER, SHALL PLAN AND PROVIDE FOR THE FUTURE GROWTH AND
40 IMPROVEMENT OF ITS AREA OF JURISDICTION, COORDINATE ALL PUBLIC IMPROVEMENTS
41 PURSUANT TO THE PLAN, FORM A PLANNING AND ZONING COMMISSION TO CONSULT WITH
42 AND ADVISE IT REGARDING MATTERS OF PLANNING, ZONING AND SUBDIVISION PLATTING
43 AND, IN THE MANNER PROVIDED IN THIS CHAPTER, ADOPT AND ENFORCE THOSE RULES,
44 REGULATIONS, ORDINANCES AND PLANS AS MAY APPLY TO THE DEVELOPMENT OF ITS AREA
45 OF JURISDICTION.

1 B. THE COMMISSION SHALL ACT IN AN ADVISORY CAPACITY TO THE BOARD AND
2 MAY OR, IF REQUESTED BY THE BOARD, SHALL MAKE A REPORT OR RECOMMENDATION IN
3 CONNECTION WITH ANY MATTER RELATING TO THE DEVELOPMENT OF THE COUNTY UNDER
4 THE JURISDICTION OF THE BOARD. THE COMMISSION SHALL MAKE THOSE
5 INVESTIGATIONS, MAPS, REPORTS AND RECOMMENDATIONS IN CONNECTION WITH THOSE
6 INVESTIGATIONS, MAPS AND REPORTS AS SEEM DESIRABLE WITHIN THE LIMITS OF THE
7 MONIES AVAILABLE.

8 C. IN THE COUNTIES HAVING THREE SUPERVISORIAL DISTRICTS, EACH COUNTY
9 PLANNING AND ZONING COMMISSION SHALL CONSIST OF NINE MEMBERS WHO SHALL BE
10 QUALIFIED ELECTORS OF THE COUNTY. THREE MEMBERS SHALL BE APPOINTED FROM EACH
11 SUPERVISORIAL DISTRICT BY THE SUPERVISOR FROM THAT DISTRICT, AND NOT MORE
12 THAN ONE OF THE THREE MAY BE A RESIDENT OF AN INCORPORATED MUNICIPALITY.
13 MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION EXCEPT FOR
14 REASONABLE TRAVEL EXPENSES.

15 D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, IN THE COUNTIES
16 HAVING FIVE SUPERVISORIAL DISTRICTS, EACH COUNTY PLANNING AND ZONING
17 COMMISSION SHALL CONSIST OF TEN MEMBERS WHO SHALL BE QUALIFIED ELECTORS OF
18 THE COUNTY. TWO MEMBERS SHALL BE APPOINTED FROM EACH SUPERVISORIAL DISTRICT
19 BY THE SUPERVISOR FROM THAT DISTRICT. MEMBERS SHALL BE RESIDENTS OF THE
20 DISTRICT FROM WHICH THEY ARE APPOINTED. MEMBERS OF THE COMMISSION SHALL
21 SERVE WITHOUT COMPENSATION EXCEPT FOR REASONABLE TRAVEL EXPENSES.

22 E. IF ANY SUPERVISORIAL DISTRICT IS AT LEAST NINETY PER CENT INDIAN
23 RESERVATION AND AT LEAST NINETY PER CENT OF THE DISTRICT IS NOT SUBJECT TO
24 COUNTY ZONING REGULATIONS, THE SUPERVISOR FROM THE DISTRICT MAY APPOINT SOME
25 OR ALL OF THE MEMBERS TO THE COMMISSION FROM ANY SUPERVISORIAL DISTRICT IN
26 THE COUNTY IF THERE IS NO APPOINTEE WHO IS WILLING TO SERVE WITHIN THE
27 SUPERVISORIAL DISTRICT. THESE APPOINTMENTS ARE SUBJECT TO THE LIMITATIONS ON
28 RESIDENCY REQUIRED BY SUBSECTIONS C AND D OF THIS SECTION. MEMBERS APPOINTED
29 TO THE COMMISSION PURSUANT TO THIS SUBSECTION REQUIRE THE APPROVAL OF THE
30 BOARD.

31 F. IN COUNTIES WITH A POPULATION OF LESS THAN ONE HUNDRED SEVENTY-NINE
32 THOUSAND PERSONS, AN ALTERNATE MEMBER MAY BE APPOINTED BY THE APPOINTING
33 SUPERVISOR FOR EACH COMMISSION MEMBER APPOINTED PURSUANT TO SUBSECTIONS C, D
34 AND E OF THIS SECTION TO SERVE IN THE ABSENCE OF THAT MEMBER. ALTERNATE
35 MEMBERS MAY BE APPOINTED FROM ANY SUPERVISORIAL DISTRICT IN THE COUNTY.
36 DURING ANY MEETING OF THE COMMISSION, IF THE REGULARLY APPOINTED MEMBER
37 BECOMES AVAILABLE, THE ALTERNATE MEMBER SHALL CONCLUDE ANY ACTION ON THE
38 AGENDA ITEM UNDER CONSIDERATION AND THE REGULARLY APPOINTED MEMBER SHALL BE
39 SEATED FOR THE REMAINING ITEMS.

40 G. THE TERMS OF THE MEMBERS OF THE COMMISSIONS SHALL BE FOR FOUR YEARS
41 EXCEPT FOR THOSE INITIALLY APPOINTED. OF THOSE MEMBERS INITIALLY APPOINTED
42 PURSUANT TO SUBSECTION C OF THIS SECTION, FIVE MEMBERS SHALL BE APPOINTED TO
43 A TWO YEAR TERM AND FOUR MEMBERS SHALL BE APPOINTED TO A FOUR YEAR TERM. OF
44 THOSE MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION D OF THIS SECTION,
45 FIVE MEMBERS SHALL BE APPOINTED TO A TWO YEAR TERM AND FIVE MEMBERS SHALL BE

1 APPOINTED TO A FOUR YEAR TERM. THEREAFTER, EACH TERM SHALL BE FOUR YEARS.
2 IF A VACANCY OCCURS OTHERWISE THAN BY EXPIRATION OF TERM, THE VACANCY SHALL
3 BE FILLED BY APPOINTMENT FOR THE UNEXPIRED PORTION OF THE TERM. THE BOARD
4 MAY REMOVE MEMBERS OF THE COMMISSION FOR CAUSE.

5 H. ON A CONVERSION FROM THREE TO FIVE SUPERVISORIAL DISTRICTS PURSUANT
6 TO SECTION 11-212, THE BOARD OF SUPERVISORS, ON EXPIRATION OF THE TERMS OF
7 MEMBERS OF THE COMMISSION SERVING ON THE DATE OF THE CONVERSION, SHALL MAKE
8 THOSE APPOINTMENTS TO FILL THE VACANCIES TO CONFORM TO SUBSECTION D OF THIS
9 SECTION AS SOON AS IS PRACTICABLE.

10 I. THE COUNTY ASSESSOR, COUNTY ENGINEER, COUNTY HEALTH OFFICER AND
11 COUNTY ATTORNEY SHALL SERVE IN AN ADVISORY CAPACITY TO THE COMMISSION AND TO
12 THE BOARDS OF ADJUSTMENT.

13 J. THE COMMISSION SHALL:

14 1. ELECT A CHAIRPERSON FROM AMONG ITS MEMBERS FOR A TERM OF ONE YEAR
15 AND THOSE OTHER OFFICERS AS IT DETERMINES.

16 2. BY RESOLUTION FIX THE TIME AND PLACE WITHIN THE DISTRICT OF REGULAR
17 MEETINGS, HOLD AT LEAST ONE REGULAR MEETING EACH MONTH AND HOLD ADDITIONAL
18 MEETINGS AS THE CHAIRPERSON OR A MAJORITY OF THE COMMISSION DEEMS NECESSARY.

19 3. ADOPT RULES FOR THE TRANSACTION OF BUSINESS AND KEEP A RECORD OF
20 ITS RESOLUTIONS, TRANSACTIONS, FINDINGS AND DETERMINATIONS, WHICH RECORD
21 SHALL BE A PUBLIC RECORD AND BE OPEN TO PUBLIC INSPECTION.

22 4. TRANSMIT ALL OF ITS RECOMMENDATIONS, DECISIONS, FINDINGS, REPORTS
23 AND OFFICIAL ACTIONS, REGARDLESS OF VOTE, TO THE BOARD OF SUPERVISORS.

24 K. A MAJORITY OF THE COMMISSION CONSTITUTES A QUORUM FOR THE
25 TRANSACTION OF BUSINESS AND A MAJORITY VOTE OF THE QUORUM IS REQUIRED FOR ANY
26 OFFICIAL ACTION.

27 11-803. Consultants; employees; use of services by city or town

28 A. THE BOARD MAY CONTRACT WITH CONSULTANTS FOR SERVICES AS MAY BE
29 REQUIRED, EMPLOY THOSE PERSONS AND PROVIDE MONIES AS IT DEEMS NECESSARY TO
30 CARRY ON THE WORK OF THE COMMISSION AND THE ENFORCEMENT OF THIS CHAPTER.

31 B. IF A CONSULTANT OR EMPLOYEES, OR BOTH, ARE PROVIDED TO CARRY ON
32 COUNTY PLANNING WORK AS PRESCRIBED IN THIS CHAPTER, THE REGULARLY APPOINTED
33 PLANNING AND ZONING COMMISSION OF AN INCORPORATED CITY OR TOWN WITHIN THE
34 COUNTY MAY REQUEST THE SERVICES OF THE CONSULTANT OR EMPLOYEES, OR BOTH, FOR
35 CONSULTATION AND ADVICE, INCLUDING THE PREPARATION OR REVIEW OF COMPREHENSIVE
36 PLANS, ZONING ORDINANCES AND SUBDIVISION REGULATIONS WITHIN THE BOUNDARIES OF
37 THE INCORPORATED CITY OR TOWN. THE BOARD, IF IT DEEMS IT PROPER AFTER
38 CONSULTATION WITH THE COMMISSION, MAY MAKE THOSE SERVICES AVAILABLE AS
39 MUTUALLY AGREED TO BY THE BOARD, COMMISSION AND THE AFFECTED CITY OR TOWN.

40 11-804. Comprehensive plan; contents

41 A. THE COMMISSION SHALL FORMULATE AND THE BOARD OF SUPERVISORS SHALL
42 ADOPT OR READOPT A LONG-TERM COMPREHENSIVE PLAN FOR THE DEVELOPMENT OF THE
43 AREA OF JURISDICTION IN THE MANNER PRESCRIBED BY THIS ARTICLE. THE
44 COMPREHENSIVE PLAN, WITH THE ACCOMPANYING MAPS, PLATS, CHARTS AND DESCRIPTIVE
45 MATTER, SHALL SHOW THE COMMISSION'S RECOMMENDATIONS FOR THE DEVELOPMENT OF

1 THE AREA OF JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE MADE WITH THE
2 GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND
3 HARMONIOUS DEVELOPMENT OF THE AREA OF JURISDICTION PURSUANT TO THE PRESENT
4 AND FUTURE NEEDS OF THE COUNTY. THE COMPREHENSIVE PLAN SHALL BE DEVELOPED SO
5 AS TO CONSERVE THE NATURAL RESOURCES OF THE COUNTY, TO ENSURE EFFICIENT
6 EXPENDITURE OF PUBLIC MONIES AND TO PROMOTE THE HEALTH, SAFETY, CONVENIENCE
7 AND GENERAL WELFARE OF THE PUBLIC. THE COMPREHENSIVE PLAN MAY INCLUDE
8 STUDIES AND RECOMMENDATIONS RELATIVE TO THE LOCATION, CHARACTER AND EXTENT OF
9 HIGHWAYS, RAILROADS, BUS AND OTHER TRANSPORTATION ROUTES, BICYCLE FACILITIES,
10 BRIDGES, PUBLIC BUILDINGS, PUBLIC SERVICES, SCHOOLS, PARKS, OPEN SPACE,
11 HOUSING QUALITY, VARIETY AND AFFORDABILITY, PARKWAYS, HIKING AND RIDING
12 TRAILS, AIRPORTS, FORESTS, WILDLIFE AREAS, DAMS, PROJECTS AFFECTING
13 CONSERVATION OF NATURAL RESOURCES, AIR QUALITY, WATER QUALITY AND FLOODPLAIN
14 ZONING. IN THE PREPARATION OF THE COMPREHENSIVE PLAN, THE COMMISSION SHALL
15 MAKE SURVEYS AND STUDIES OF THE PRESENT CONDITIONS AND PROSPECTIVE FUTURE
16 GROWTH OF THE AREA OF THE JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE A
17 PUBLIC RECORD, BUT ITS PURPOSE AND EFFECT SHALL BE PRIMARILY AS AN AID TO THE
18 COUNTY PLANNING AND ZONING COMMISSION AND TO THE BOARD OF SUPERVISORS IN THE
19 PERFORMANCE OF THEIR DUTIES. THE COMPREHENSIVE PLAN SHALL INCLUDE PROVISIONS
20 THAT IDENTIFY CHANGES OR MODIFICATIONS THAT CONSTITUTE AMENDMENTS AND MAJOR
21 AMENDMENTS TO THE PLAN.

22 B. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED
23 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE
24 THAN ONE HUNDRED TWENTY-FIVE THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL
25 INCLUDE, AND FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:

26 1. PLANNING FOR LAND USE THAT DESIGNATES THE PROPOSED GENERAL
27 DISTRIBUTION AND LOCATION AND EXTENT OF USES OF THE LAND FOR HOUSING,
28 BUSINESS, INDUSTRY, AGRICULTURE, RECREATION, EDUCATION, PUBLIC BUILDINGS AND
29 GROUNDS, OPEN SPACE AND OTHER CATEGORIES OF PUBLIC AND PRIVATE USES OF LAND
30 APPROPRIATE TO THE COUNTY. THE LAND USE PLAN SHALL INCLUDE:

31 (a) A STATEMENT OF THE STANDARDS OF POPULATION DENSITY AND BUILDING
32 INTENSITY RECOMMENDED FOR THE VARIOUS LAND USE CATEGORIES COVERED BY THE
33 PLAN.

34 (b) SPECIFIC PROGRAMS AND POLICIES THAT THE COUNTY MAY USE TO PROMOTE
35 COMPACT FORM DEVELOPMENT ACTIVITY AND LOCATIONS WHERE THOSE DEVELOPMENT
36 PATTERNS SHOULD BE ENCOURAGED.

37 (c) CONSIDERATION OF AIR QUALITY AND ACCESS TO INCIDENT SOLAR ENERGY
38 FOR ALL GENERAL CATEGORIES OF LAND USE.

39 (d) POLICIES THAT ADDRESS MAINTAINING A BROAD VARIETY OF LAND USES
40 INCLUDING THE RANGE OF USES EXISTING IN THE COUNTY AT THE TIME THE PLAN IS
41 ADOPTED, READOPTED OR AMENDED.

42 2. PLANNING FOR CIRCULATION CONSISTING OF THE GENERAL LOCATION AND
43 EXTENT OF EXISTING AND PROPOSED FREEWAYS, ARTERIAL AND COLLECTOR STREETS,
44 BICYCLE ROUTES AND ANY OTHER MODES OF TRANSPORTATION AS MAY BE APPROPRIATE,
45 ALL CORRELATED WITH THE LAND USE PLAN UNDER PARAGRAPH 1 OF THIS SUBSECTION.

1 3. PLANNING FOR WATER RESOURCES THAT ADDRESSES:
2 (a) THE KNOWN LEGALLY AND PHYSICALLY AVAILABLE SURFACE WATER,
3 GROUNDWATER AND EFFLUENT SUPPLIES.
4 (b) THE DEMAND FOR WATER THAT WILL RESULT FROM FUTURE GROWTH PROJECTED
5 IN THE COMPREHENSIVE PLAN, ADDED TO EXISTING USES.
6 (c) AN ANALYSIS OF HOW THE DEMAND FOR WATER THAT WILL RESULT FROM
7 FUTURE GROWTH PROJECTED IN THE COMPREHENSIVE PLAN WILL BE SERVED BY THE WATER
8 SUPPLIES IDENTIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH OR A PLAN TO OBTAIN
9 ADDITIONAL NECESSARY WATER SUPPLIES.
10 4. PLANNING FOR ENERGY USE THAT:
11 (a) ENCOURAGES AND PROVIDES INCENTIVES FOR EFFICIENT USE OF ENERGY.
12 (b) IDENTIFIES POLICIES AND PRACTICES FOR GREATER USE OF RENEWABLE
13 ENERGY.
14 C. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED
15 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE
16 THAN TWO HUNDRED THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL INCLUDE, AND
17 FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:
18 1. PLANNING FOR OPEN SPACE ACQUISITION AND PRESERVATION. THE OPEN
19 SPACE PLAN SHALL INCLUDE:
20 (a) A COMPREHENSIVE INVENTORY OF OPEN SPACE AREAS, RECREATIONAL
21 RESOURCES AND DESIGNATIONS OF ACCESS POINTS TO OPEN SPACE AREAS AND
22 RESOURCES.
23 (b) AN ANALYSIS OF FORECASTED NEEDS, POLICIES FOR MANAGING AND
24 PROTECTING OPEN SPACE AREAS AND RESOURCES AND IMPLEMENTATION STRATEGIES TO
25 ACQUIRE ADDITIONAL OPEN SPACE AREAS AND FURTHER ESTABLISH RECREATIONAL
26 RESOURCES.
27 (c) POLICIES AND IMPLEMENTATION STRATEGIES DESIGNED TO PROMOTE A
28 REGIONAL SYSTEM OF INTEGRATED OPEN SPACE AND RECREATIONAL RESOURCES AND A
29 CONSIDERATION OF ANY EXISTING REGIONAL OPEN SPACE PLAN.
30 2. PLANNING FOR GROWTH AREAS, SPECIFICALLY IDENTIFYING THOSE AREAS, IF
31 ANY, THAT ARE PARTICULARLY SUITABLE FOR PLANNED MULTIMODAL TRANSPORTATION AND
32 INFRASTRUCTURE EXPANSION AND IMPROVEMENTS DESIGNED TO SUPPORT A PLANNED
33 CONCENTRATION OF A VARIETY OF USES, SUCH AS RESIDENTIAL, OFFICE, COMMERCIAL,
34 TOURISM AND INDUSTRIAL USES. THE MIXED USE PLANNING SHALL INCLUDE POLICIES
35 AND IMPLEMENTATION STRATEGIES THAT ARE DESIGNED TO:
36 (a) MAKE AUTOMOBILE, TRANSIT AND OTHER MULTIMODAL CIRCULATION MORE
37 EFFICIENT, MAKE INFRASTRUCTURE EXPANSION MORE ECONOMICAL AND PROVIDE FOR A
38 RATIONAL PATTERN OF LAND DEVELOPMENT.
39 (b) CONSERVE SIGNIFICANT NATURAL RESOURCES AND OPEN AREAS IN THE
40 GROWTH AREA AND COORDINATE THEIR LOCATION TO SIMILAR AREAS OUTSIDE THE GROWTH
41 AREA'S BOUNDARIES.
42 (c) PROMOTE THE PUBLIC AND PRIVATE CONSTRUCTION OF TIMELY AND
43 FINANCIALLY SOUND INFRASTRUCTURE EXPANSION THROUGH THE USE OF INFRASTRUCTURE
44 FUNDING AND FINANCING PLANNING THAT IS COORDINATED WITH DEVELOPMENT ACTIVITY.

1 3. AN ENVIRONMENTAL PLANNING ELEMENT THAT CONTAINS ANALYSES, POLICIES
2 AND STRATEGIES TO ADDRESS ANTICIPATED EFFECTS, IF ANY, OF PLAN ELEMENTS ON
3 AIR QUALITY, WATER QUALITY AND NATURAL RESOURCES ASSOCIATED WITH PROPOSED
4 DEVELOPMENT UNDER THE COMPREHENSIVE PLAN. THE POLICIES AND STRATEGIES TO BE
5 DEVELOPED UNDER THIS ELEMENT SHALL BE DESIGNED TO HAVE COUNTYWIDE
6 APPLICABILITY AND SHALL NOT REQUIRE THE PRODUCTION OF AN ADDITIONAL
7 ENVIRONMENTAL IMPACT STATEMENT OR SIMILAR ANALYSIS BEYOND THE REQUIREMENTS OF
8 STATE AND FEDERAL LAW.

9 4. A COST OF DEVELOPMENT ELEMENT THAT IDENTIFIES POLICIES AND
10 STRATEGIES THAT THE COUNTY WILL USE TO REQUIRE DEVELOPMENT TO PAY ITS FAIR
11 SHARE TOWARD THE COST OF ADDITIONAL PUBLIC FACILITY NEEDS GENERATED BY NEW
12 DEVELOPMENT, WITH APPROPRIATE EXCEPTIONS WHEN IN THE PUBLIC INTEREST. THIS
13 ELEMENT SHALL INCLUDE:

14 (a) A COMPONENT THAT IDENTIFIES VARIOUS MECHANISMS THAT ARE ALLOWED BY
15 LAW AND THAT CAN BE USED TO FUND AND FINANCE ADDITIONAL PUBLIC SERVICES
16 NECESSARY TO SERVE THE DEVELOPMENT, INCLUDING BONDING, SPECIAL TAXING
17 DISTRICTS, DEVELOPMENT FEES, IN LIEU FEES AND FACILITY CONSTRUCTION,
18 DEDICATIONS AND PRIVATIZATION.

19 (b) A COMPONENT THAT IDENTIFIES POLICIES TO ENSURE THAT ANY MECHANISMS
20 THAT ARE ADOPTED BY THE COUNTY UNDER THIS ELEMENT RESULT IN A BENEFICIAL USE
21 TO THE DEVELOPMENT, BEAR A REASONABLE RELATIONSHIP TO THE BURDEN IMPOSED ON
22 THE COUNTY TO PROVIDE ADDITIONAL NECESSARY PUBLIC FACILITIES TO THE
23 DEVELOPMENT AND OTHERWISE ARE IMPOSED PURSUANT TO LAW.

24 D. THE WATER RESOURCES ELEMENT OF THE COMPREHENSIVE PLAN DOES NOT
25 REQUIRE:

26 1. NEW INDEPENDENT HYDROGEOLOGIC STUDIES.

27 2. THE COUNTY TO BE A WATER SERVICE PROVIDER.

28 E. IN APPLYING AN OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A
29 COMPREHENSIVE PLAN, A COUNTY SHALL NOT DESIGNATE PRIVATE OR STATE LAND AS
30 OPEN SPACE, RECREATION, CONSERVATION OR AGRICULTURE UNLESS THE COUNTY
31 RECEIVES THE WRITTEN CONSENT OF THE LANDOWNER OR PROVIDES AN ALTERNATIVE,
32 ECONOMICALLY VIABLE DESIGNATION IN THE COMPREHENSIVE PLAN OR ZONING
33 ORDINANCE, ALLOWING AT LEAST ONE RESIDENTIAL DWELLING PER ACRE. IF THE
34 LANDOWNER IS THE PREVAILING PARTY IN ANY ACTION BROUGHT TO ENFORCE THIS
35 SUBSECTION, A COURT SHALL AWARD FEES AND OTHER EXPENSES TO THE LANDOWNER.
36 EACH COUNTY SHALL INCORPORATE THIS SUBSECTION INTO ITS COMPREHENSIVE PLAN AND
37 PROVIDE A PROCESS FOR A LANDOWNER TO RESOLVE DISCREPANCIES RELATING TO THIS
38 SUBSECTION.

39 F. THE POLICIES AND STRATEGIES TO BE DEVELOPED UNDER THESE ELEMENTS
40 SHALL BE DESIGNED TO HAVE REGIONAL APPLICABILITY.

41 G. FOR COUNTIES WITH TERRITORY IN THE VICINITY OF A MILITARY AIRPORT
42 OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION
43 SHALL ALSO CONSIDER MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY
44 OPERATIONS AND, ON OR BEFORE DECEMBER 31, 2005, SHALL IDENTIFY THE BOUNDARIES
45 OF ANY HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461 IN

1 ITS COMPREHENSIVE PLAN FOR PURPOSES OF PLANNING LAND USES IN THE HIGH NOISE
2 OR ACCIDENT POTENTIAL ZONE THAT ARE COMPATIBLE WITH THE OPERATION OF THE
3 MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY PURSUANT TO SECTION 28-8481,
4 SUBSECTION J.

5 11-805. Comprehensive plan adoption: notice: hearing:
6 amendment: expiration: readoption

7 A. THE BOARD SHALL ADOPT A COMPREHENSIVE PLAN AND SUBSEQUENTLY AMEND
8 OR EXTEND THE ADOPTED PLAN AS PROVIDED BY THIS ARTICLE. ON ADOPTION OR
9 READOPTION, THE PLAN, OR ANY PART OF THE PLAN, SHALL BE THE OFFICIAL GUIDE
10 FOR THE DEVELOPMENT OF THE AREA OF JURISDICTION. ANY CHANGE, AMENDMENT,
11 EXTENSION OR ADDITION OF THE COMPREHENSIVE PLAN MAY BE MADE ONLY PURSUANT TO
12 THIS CHAPTER.

13 B. THE BOARD OF SUPERVISORS SHALL:

14 1. ADOPT WRITTEN PROCEDURES TO PROVIDE EFFECTIVE, EARLY AND CONTINUOUS
15 PUBLIC PARTICIPATION IN THE DEVELOPMENT AND MAJOR AMENDMENT OF THE
16 COMPREHENSIVE PLAN FROM ALL GEOGRAPHIC, ETHNIC AND ECONOMIC AREAS OF THE
17 COUNTY. THE PROCEDURES SHALL PROVIDE FOR:

18 (a) THE BROAD DISSEMINATION OF PROPOSALS AND ALTERNATIVES.

19 (b) THE OPPORTUNITY FOR WRITTEN COMMENTS.

20 (c) PUBLIC HEARINGS AFTER EFFECTIVE NOTICE.

21 (d) OPEN DISCUSSIONS, COMMUNICATIONS PROGRAMS AND INFORMATION
22 SERVICES.

23 (e) CONSIDERATION OF PUBLIC COMMENTS.

24 2. CONSULT WITH, ADVISE AND PROVIDE AN OPPORTUNITY FOR OFFICIAL
25 COMMENT BY PUBLIC OFFICIALS AND AGENCIES, MUNICIPALITIES, SCHOOL DISTRICTS,
26 ASSOCIATIONS OF GOVERNMENTS, PUBLIC LAND MANAGEMENT AGENCIES, THE MILITARY
27 AIRPORT IF THE COUNTY'S AREA OF JURISDICTION INCLUDES TERRITORY IN THE
28 VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN
29 SECTION 28-8461, OTHER APPROPRIATE GOVERNMENT JURISDICTIONS, PUBLIC UTILITY
30 COMPANIES, CIVIC, EDUCATIONAL, PROFESSIONAL AND OTHER ORGANIZATIONS, PROPERTY
31 OWNERS AND CITIZENS GENERALLY TO SECURE THE MAXIMUM COORDINATION OF PLANS AND
32 TO INDICATE PROPERLY LOCATED SITES FOR ALL PUBLIC PURPOSES ON THE PLAN.

33 C. THE COMMISSION SHALL CONFER WITH THE STATE LAND DEPARTMENT AND THE
34 GOVERNING BODIES AND PLANNING COMMISSIONS OF CITIES AND TOWNS IN THE COUNTY
35 FOR THE PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND
36 HARMONIOUS DEVELOPMENT OF THE COUNTY, OF ZONING DISTRICTS, OF URBAN GROWTH
37 AND OF PUBLIC IMPROVEMENTS AND UTILITIES THAT DO NOT BEGIN AND TERMINATE
38 WITHIN THE BOUNDARIES OF ANY SINGLE CITY OR TOWN AND THAT WILL, PURSUANT TO
39 THE PRESENT AND FUTURE NEEDS OF THE COUNTY, BEST PROMOTE WITH EFFICIENCY AND
40 ECONOMY THE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE OR GENERAL WELFARE OF
41 THE PUBLIC.

42 D. THE COMMISSION SHALL COORDINATE THE PRODUCTION OF THE COMPREHENSIVE
43 PLAN WITH THE CREATION OF THE CONCEPTUAL STATE LAND USE PLANS UNDER TITLE 37,
44 CHAPTER 2, ARTICLE 5.1. THE COMMISSION SHALL COOPERATE WITH THE STATE LAND

1 DEPARTMENT REGARDING INTEGRATING THE CONCEPTUAL STATE LAND USE PLANS INTO THE
2 COMPREHENSIVE PLAN.

3 E. THE COMMISSION MAY FORMULATE AND DRAFT THE COMPREHENSIVE PLAN AS A
4 WHOLE, OR SEPARATE PARTS OF THE PLAN CORRESPONDING WITH FUNCTIONAL DIVISIONS
5 OF THE SUBJECT MATTER, AND, SUBJECT TO THE LIMITATIONS OF THIS CHAPTER, MAY
6 AMEND, EXTEND OR ADD TO THE COMPREHENSIVE PLAN.

7 F. AT LEAST SIXTY DAYS BEFORE THE COMPREHENSIVE PLAN OR AN ELEMENT OR
8 MAJOR AMENDMENT OF A COMPREHENSIVE PLAN IS NOTICED PURSUANT TO SUBSECTION G
9 OF THIS SECTION, THE COMMISSION SHALL TRANSMIT THE PROPOSAL TO THE BOARD OF
10 SUPERVISORS AND SUBMIT A COPY FOR REVIEW AND FURTHER COMMENT TO:

11 1. EACH MUNICIPALITY IN THE COUNTY.

12 2. EACH OTHER COUNTY THAT IS CONTIGUOUS TO THE COUNTY.

13 3. THE REGIONAL PLANNING AGENCY IN THE COUNTY.

14 4. THE DEPARTMENT OF COMMERCE OR ANY OTHER STATE AGENCY THAT IS
15 SUBSEQUENTLY DESIGNATED AS THE GENERAL PLANNING AGENCY FOR THIS STATE.

16 5. THE DEPARTMENT OF WATER RESOURCES FOR REVIEW AND COMMENT ON THE
17 WATER RESOURCES ELEMENT, IF A WATER RESOURCES ELEMENT IS REQUIRED.

18 6. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR AMENDMENT OF THE
19 COMPREHENSIVE PLAN IS APPLICABLE TO TERRITORY IN THE VICINITY OF A MILITARY
20 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE
21 MILITARY AIRPORT.

22 7. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF THE
23 COMPREHENSIVE PLAN IS APPLICABLE TO PROPERTY IN THE HIGH NOISE OR ACCIDENT
24 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS
25 DEFINED IN SECTION 28-8461, THE ATTORNEY GENERAL. FOR THE PURPOSES OF THIS
26 PARAGRAPH, "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S
27 LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE COUNTY'S EXISTING
28 COMPREHENSIVE PLAN LAND USE ELEMENT FOR THAT AREA OF THE COUNTY.

29 8. ANY PERSON OR ENTITY THAT REQUESTS IN WRITING TO RECEIVE A REVIEW
30 COPY OF THE PROPOSAL.

31 G. AFTER CONSIDERING ANY RECOMMENDATIONS FROM THE REVIEW REQUIRED
32 UNDER SUBSECTION F OF THIS SECTION, THE COMMISSION SHALL HOLD AT LEAST ONE
33 PUBLIC HEARING. NOTICE OF THE TIME AND PLACE OF A HEARING AND AVAILABILITY
34 OF STUDIES AND SUMMARIES RELATED TO THE HEARING SHALL BE GIVEN AT LEAST
35 FIFTEEN AND NOT MORE THAN THIRTY CALENDAR DAYS BEFORE THE HEARING BY:

36 1. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN
37 THE COUNTY SEAT.

38 2. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN
39 THE AREA TO BE AFFECTED, OR ADJACENT TO THE AREA TO BE AFFECTED, IF THE AREA
40 AFFECTED IS OTHER THAN THE COUNTY SEAT.

41 3. SUCH OTHER MANNER IN ADDITION TO PUBLICATION AS THE COUNTY MAY DEEM
42 NECESSARY OR DESIRABLE.

43 H. AFTER THE COMMISSION RECOMMENDS THE COMPREHENSIVE PLAN OR ANY
44 SECTION OF THE PLAN, THE PLAN SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS
45 FOR ITS CONSIDERATION AND OFFICIAL ACTION.

1 I. BEFORE THE ADOPTION, AMENDMENT OR EXTENSION OF THE PLAN, THE BOARD
2 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PLAN. AFTER THE BOARD
3 CONSIDERS THE COMMISSION'S RECOMMENDATION AND ANY RECOMMENDATIONS FROM THE
4 REVIEW REQUIRED UNDER SUBSECTION F OF THIS SECTION, THE BOARD SHALL HOLD AT
5 LEAST ONE PUBLIC HEARING AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD
6 CONCERNING THE MATTERS CONTAINED IN THE PLAN. AT LEAST FIFTEEN DAYS' NOTICE
7 OF THE HEARING SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL
8 CIRCULATION IN THE COUNTY SEAT. THE BOARD SHALL CONSIDER PROTESTS AND
9 OBJECTIONS TO THE PLAN AND MAY CHANGE OR ALTER ANY PORTION OF THE
10 COMPREHENSIVE PLAN. HOWEVER, BEFORE ANY CHANGE IS MADE, THAT PORTION OF THE
11 PLAN PROPOSED TO BE CHANGED SHALL BE RE-REFERRED TO THE COMMISSION FOR ITS
12 RECOMMENDATION, WHICH MAY BE ACCEPTED OR REJECTED BY THE BOARD.

13 J. THE BOARD OF SUPERVISORS MAY ADOPT THE COUNTY COMPREHENSIVE PLAN AS
14 A WHOLE OR BY SUCCESSIVE ACTIONS ADOPT SEPARATE PARTS OF THE PLAN. THE
15 ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR ANY AMENDMENT TO THE PLAN
16 SHALL BE BY RESOLUTION OF THE BOARD. THE ADOPTION OR READOPTION OF, OR A
17 MAJOR AMENDMENT TO, THE COUNTY COMPREHENSIVE PLAN SHALL BE APPROVED BY THE
18 AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD. ALL
19 MAJOR AMENDMENTS PROPOSED FOR ADOPTION TO THE COMPREHENSIVE PLAN BY THE BOARD
20 SHALL BE PRESENTED AT A SINGLE PUBLIC HEARING DURING THE CALENDAR YEAR THE
21 PROPOSAL IS MADE. THE ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN, AND
22 ANY MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN, SHALL NOT BE ENACTED AS AN
23 EMERGENCY MEASURE AND IS SUBJECT TO REFERENDUM AS PROVIDED BY ARTICLE IV,
24 PART 1, SECTION 1, SUBSECTION (8), CONSTITUTION OF ARIZONA, AND TITLE 19,
25 CHAPTER 1, ARTICLE 4. FOR THE PURPOSES OF THIS SECTION, "MAJOR AMENDMENT"
26 MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE AS
27 ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT FOR
28 THAT AREA OF THE COUNTY. THE COUNTY'S COMPREHENSIVE PLAN SHALL DEFINE THE
29 CRITERIA TO DETERMINE IF A PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN
30 EFFECTS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE
31 AS ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT
32 FOR THAT AREA OF THE COUNTY.

33 K. IF THE COUNTY'S AREA OF JURISDICTION INCLUDES PROPERTY IN THE HIGH
34 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY
35 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL SEND NOTICE OF THE
36 APPROVAL, ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT
37 TO THE COMPREHENSIVE PLAN TO THE ATTORNEY GENERAL BY CERTIFIED MAIL, RETURN
38 RECEIPT REQUESTED, WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR
39 READOPTION. IF THE ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR
40 READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE
41 PLAN IS NOT IN COMPLIANCE WITH SECTION 28-8481, SUBSECTION J, THE ATTORNEY
42 GENERAL SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
43 OF THE DETERMINATION OF NONCOMPLIANCE. THE BOARD SHALL RECEIVE THE NOTICE
44 FROM THE ATTORNEY GENERAL WITHIN TWENTY-FIVE DAYS AFTER THE NOTICE FROM THE
45 BOARD TO THE ATTORNEY GENERAL IS MAILED PURSUANT TO THIS SUBSECTION. THE

1 EFFECTIVE DATE OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT
2 TO, THE COMPREHENSIVE PLAN SHALL BE THIRTY DAYS AFTER THE BOARD'S RECEIPT OF
3 THE ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE. WITHIN THIRTY DAYS
4 AFTER THE RECEIPT OF A DETERMINATION OF NONCOMPLIANCE BY THE ATTORNEY GENERAL
5 AS PRESCRIBED BY THIS SECTION, THE BOARD SHALL RECONSIDER ANY APPROVAL,
6 ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE COMPREHENSIVE PLAN THAT
7 IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY
8 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461. IF THE
9 BOARD REAFFIRMS A PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION
10 OF NONCOMPLIANCE PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE
11 A CIVIL ACTION PURSUANT TO SECTION 28-8481, SUBSECTION L. IF THE BOARD
12 TIMELY SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL
13 FAILS TO TIMELY NOTIFY THE BOARD OF A DETERMINATION OF NONCOMPLIANCE, THE
14 COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN IS DEEMED TO
15 COMPLY WITH SECTION 28-8481, SUBSECTION J. FOR THE PURPOSES OF THIS
16 SUBSECTION "MAJOR AMENDMENT" HAS THE SAME MEANING PRESCRIBED IN SUBSECTION J
17 OF THIS SECTION.

18 L. IF THE MOTION TO ADOPT OR READOPT THE PLAN OR AN AMENDMENT TO THE
19 PLAN FAILS TO PASS, THE BOARD MAY RECONSIDER THE MOTION IN ANY MANNER ALLOWED
20 BY THE BOARD'S RULES OF PROCEDURE, BUT ANY SUBSEQUENT MOTION FOR THE ADOPTION
21 OR READOPTION OF THE PLAN OR A MAJOR AMENDMENT TO THE PLAN MUST BE APPROVED
22 BY AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD.
23 IF THE BOARD FAILS TO ADOPT OR READOPT THE PLAN, THE CURRENT PLAN REMAINS IN
24 EFFECT UNTIL A NEW PLAN IS ADOPTED. THE BOARD SHALL EITHER RECONSIDER THE
25 PROPOSED PLAN OR CONSIDER A REVISED PLAN WITHIN ONE YEAR AND SHALL CONTINUE
26 TO DO SO UNTIL ONE IS ADOPTED. ALL SUBSEQUENT CONSIDERATIONS OF A NEW OR
27 REVISED PLAN MUST COMPLY WITH THE PROCEDURES PRESCRIBED BY THIS ARTICLE.

28 M. A COUNTY COMPREHENSIVE PLAN, WITH ANY AMENDMENTS, IS EFFECTIVE FOR
29 UP TO TEN YEARS FROM THE DATE THE PLAN WAS INITIALLY ADOPTED OR UNTIL THE
30 PLAN IS READOPTED OR A NEW PLAN IS ADOPTED PURSUANT TO THIS SUBSECTION AND
31 BECOMES EFFECTIVE. ON OR BEFORE THE TENTH ANNIVERSARY OF THE PLAN'S MOST
32 RECENT ADOPTION, THE BOARD SHALL EITHER READOPT THE EXISTING PLAN FOR AN
33 ADDITIONAL TERM OF UP TO TEN YEARS OR SHALL ADOPT A NEW COMPREHENSIVE PLAN AS
34 PROVIDED BY THIS ARTICLE.

35 11-806. Rural planning areas; rural planning zones; formation

36 A. IN COUNTIES WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
37 PERSONS, THE BOARD OF SUPERVISORS SHALL RECEIVE PETITIONS TO FORM A RURAL
38 PLANNING AREA THAT ARE SIGNED BY PERSONS WHO OWN REAL PROPERTY IN ANY
39 SPECIFIC PORTION OF THE COUNTY OUTSIDE THE CORPORATE BOUNDARIES OF ANY CITIES
40 AND TOWNS. OWNERS OF A MAJORITY OF THE ACRES OF REAL PROPERTY IN THE
41 PROPOSED PLANNING AREA MUST SIGN THE PETITION. PARTICIPATION IN THE RURAL
42 PLANNING AREA IS VOLUNTARY, AND ANY PERSON MAY WITHDRAW REAL PROPERTY OWNED
43 BY THE PERSON FROM THE PLANNING AREA. THE BOARD OF SUPERVISORS SHALL
44 ENCOURAGE VOLUNTARY PARTICIPATION IN THE PLANNING AREA AND SHALL AID THE
45 PLANNING AREAS IN PROVIDING A SOUND FACTUAL AND POLICY BASIS FOR PLANNING.

1 THE RECOMMENDATIONS OF RURAL PLANNING AREAS SHALL EMPHASIZE VOLUNTARY,
2 NONREGULATORY INCENTIVES FOR COMPLIANCE AND ACCOMMODATION OF CONTINUING
3 TRADITIONAL RURAL AND AGRICULTURAL ENTERPRISES. RURAL PLANNING AREAS SHALL
4 TRANSMIT THEIR RECOMMENDATIONS TO THE BOARD OF SUPERVISORS FOR ITS
5 CONSIDERATION FOR INCLUSION IN THE COUNTY COMPREHENSIVE PLAN.

6 B. IN ANY COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
7 PERSONS, ANY CITIES AND TOWNS AND THE COUNTY SHARING A MULTIJURISDICTIONAL
8 AREA WITH A COMBINED POPULATION OF MORE THAN FIFTY THOUSAND BUT LESS THAN ONE
9 HUNDRED THOUSAND PERSONS, ACCORDING TO THE MOST RECENT DEPARTMENT OF ECONOMIC
10 SECURITY ESTIMATES, MAY VOLUNTARILY FORM RURAL PLANNING ZONES TO DEVELOP
11 COORDINATED AND COMPREHENSIVE REGIONAL PLANS.

12 11-807. Specific zoning plans; adoption; administration;
13 contents

14 A. THE BOARD OR COMMISSION OF A COUNTY WITH A POPULATION OF LESS THAN
15 ONE MILLION PERSONS MAY PREPARE SPECIFIC ZONING PLANS FOR DESIGNATED PARCELS
16 OF LAND, WHICH SHALL INCLUDE A TEXT AND MAPS OF A LAND USE PLAN AND SPECIFIC
17 ZONING, SIGN, STREET AND OTHER REGULATIONS FOR IMPLEMENTATION OF THE COUNTY
18 MASTER PLANS. ALL PROPERTY OWNERS WITHIN THE BOUNDARIES OF THE SPECIFIC
19 ZONING PLAN SHALL GIVE WRITTEN CONSENT BEFORE THE PLAN MAY BE ESTABLISHED. A
20 SPECIFIC ZONING PLAN SHALL NOT BE ADOPTED IF IT CREATES AN AREA THAT IS NOT
21 WITHIN THE PLAN BUT IS COMPLETELY SURROUNDED BY THE PLAN BOUNDARIES.

22 B. A SPECIFIC ZONING PLAN MAY BE ADOPTED OR AMENDED AFTER NOTICE AND
23 HEARINGS BEFORE THE COMMISSION AND BOARD AS PROVIDED IN SECTION 11-813. IF
24 THE BOARD ADOPTS A SPECIFIC ZONING PLAN, IT SHALL ESTABLISH ADMINISTRATIVE
25 RULES AND PROCEDURES FOR THE APPLICATION AND ENFORCEMENT OF THE PLAN AND MAY
26 ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES FOR THE PLAN
27 TO COUNTY OFFICERS AND OFFICIALS.

28 C. A SPECIFIC ZONING PLAN SHALL INCLUDE TEXT, MAPS AND ILLUSTRATIONS
29 SPECIFYING ALL OF THE FOLLOWING:

30 1. THE DISTRIBUTION, LOCATION AND EXTENT OF LAND USES, INCLUDING OPEN
31 SPACE.

32 2. THE DISTRIBUTION, LOCATION, EXTENT AND INTENSITY OF MAJOR
33 COMPONENTS OF PUBLIC AND PRIVATE TRANSPORTATION, SEWAGE AND SOLID WASTE
34 DISPOSAL, DRAINAGE AND OTHER FACILITIES NECESSARY TO PROVIDE FOR THE LAND
35 USES DESCRIBED IN THE SPECIFIC ZONING PLAN.

36 3. STANDARDS BY WHICH DEVELOPMENT SHALL PROCEED AND, IF APPLICABLE,
37 REQUIREMENTS FOR CONSERVATION, DEVELOPMENT AND UTILIZATION OF NATURAL
38 RESOURCES.

39 4. A STATEMENT OF WHETHER THE SPECIFIC ZONING PLAN IS CONSISTENT WITH
40 THE COMPREHENSIVE PLAN REQUIRED BY SECTION 11-804.

41 5. ANY OTHER MATTERS NECESSARY OR DESIRABLE FOR IMPLEMENTATION OF THE
42 SPECIFIC ZONING PLAN.

43 D. ALL SPECIFIC ZONING PLANS ADOPTED UNDER THIS ARTICLE SHALL BE
44 CONSISTENT WITH AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN.

1 11-808. Infrastructure service area boundaries: notice:
2 hearing: adoption

3 A. THE COUNTY PLANNING AND ZONING COMMISSION MAY PREPARE A PLAN AND
4 PROVIDE REGULATIONS DETERMINING THE LOCATION OF INFRASTRUCTURE SERVICE AREA
5 BOUNDARIES CONSISTENT WITH THE GROWTH AREA ELEMENT OF THE COMPREHENSIVE PLAN
6 BEYOND WHICH THE COUNTY MAY LIMIT OR PRESCRIBE CONDITIONS ON PUBLICLY
7 FINANCED EXTENSIONS OF WATER, SEWER AND STREET IMPROVEMENTS. THE PLAN AND
8 REGULATIONS SHALL CONSIDER ALL ELEMENTS OF THE COMPREHENSIVE PLAN, INCLUDING
9 THE CIRCULATION AND PUBLIC FACILITIES ELEMENTS. FOR THE PURPOSES OF THIS
10 SUBSECTION, PUBLICLY FINANCED DOES NOT INCLUDE SPECIAL TAXING DISTRICT
11 FINANCING OTHER THAN MUNICIPAL OR COUNTY IMPROVEMENT DISTRICT REVENUES OR
12 BONDS. THE REGULATIONS SHALL ALSO INCLUDE COMPONENTS THAT:

13 1. ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES TO
14 COUNTY OFFICERS AND EMPLOYEES.

15 2. IDENTIFY THE PROCEDURE FOR DETERMINING THE INITIAL INFRASTRUCTURE
16 SERVICE AREA BOUNDARIES.

17 3. IDENTIFY THE METHODOLOGY AND PROCEDURES FOR ADJUSTING THE
18 INFRASTRUCTURE SERVICE AREA BOUNDARIES.

19 B. BEFORE RECOMMENDING THE PLAN AND REGULATIONS, OR ANY PART,
20 AMENDMENT, EXTENSION OR ADDITION, TO THE BOARD OF SUPERVISORS, THE COMMISSION
21 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE SERVICE AREA BOUNDARIES, AFTER
22 GIVING AT LEAST FIFTEEN DAYS' NOTICE BY PUBLICATION IN A NEWSPAPER OF GENERAL
23 CIRCULATION IN THE COUNTY SEAT AND IN A NEWSPAPER OF GENERAL CIRCULATION IN
24 THE AREA TO BE AFFECTED, IF THAT AREA IS OTHER THAN THE COUNTY SEAT.

25 C. THE BOARD OF SUPERVISORS SHALL ADOPT ANY SUCH PLAN AND REGULATIONS
26 AND AMENDMENTS BY RESOLUTION.

27 ARTICLE 2. COUNTY ZONING

28 11-811. Zoning ordinance: zoning districts: definitions

29 A. PURSUANT TO THIS ARTICLE, THE BOARD OF SUPERVISORS MAY ADOPT A
30 ZONING ORDINANCE IN ORDER TO CONSERVE AND PROMOTE THE PUBLIC HEALTH, SAFETY
31 AND GENERAL WELFARE. THE ZONING ORDINANCE AND ALL REZONINGS AND ZONING
32 REGULATIONS AMENDMENTS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT WITH
33 AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN ADDITION TO THE OTHER
34 MATTERS THAT ARE REQUIRED OR AUTHORIZED UNDER THIS SECTION AND ARTICLE 1 OF
35 THIS CHAPTER, THE ZONING ORDINANCE:

36 1. SHALL SHOW THE ZONING DISTRICTS DESIGNATED AS APPROPRIATE FOR
37 VARIOUS CLASSES OF RESIDENTIAL, BUSINESS AND INDUSTRIAL USES AND SHALL
38 PROVIDE FOR THE ESTABLISHMENT OF SETBACK LINES AND OTHER PLANS PROVIDING FOR
39 ADEQUATE LIGHT, AIR AND PARKING FACILITIES AND FOR EXPEDITING TRAFFIC WITHIN
40 THE DISTRICTS.

41 2. MAY ESTABLISH THE PERCENTAGE OF A LOT OR PARCEL THAT MAY BE COVERED
42 BY BUILDINGS AND THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES.

43 3. SHALL CONSIDER ACCESS TO INCIDENT SOLAR ENERGY.

44 4. MAY PROVIDE FOR RETIREMENT COMMUNITY ZONING DISTRICTS.

1 5. MAY PROVIDE FOR THE REGULATION AND USE OF BUSINESS LICENSES, ADULT
2 ORIENTED BUSINESS MANAGER PERMITS AND ADULT SERVICE PROVIDER PERMITS IN
3 CONJUNCTION WITH THE ESTABLISHMENT OR OPERATION OF ADULT ORIENTED BUSINESSES
4 AND FACILITIES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES OR VIDEO STORES,
5 CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION PICTURE
6 THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS AND NUDE MODEL STUDIOS.
7 WITH RESPECT TO CABARETS, THE ORDINANCE SHALL NOT CONFLICT WITH SPECIFIC
8 STATUTORY OR VALID REGULATORY REQUIREMENTS APPLICABLE TO PERSONS LICENSED TO
9 DISPENSE ALCOHOLIC BEVERAGES, BUT THE ORDINANCE MAY INCLUDE REGULATION OF THE
10 AGE AND CONDUCT OF EROTIC ENTERTAINERS IN A MANNER AT LEAST AS RESTRICTIVE AS
11 RULES ADOPTED UNDER TITLE 4. NOTWITHSTANDING SECTION 11-812, A COUNTY IN
12 REGULATING OR LICENSING BUSINESSES AND FACILITIES PURSUANT TO THIS PARAGRAPH
13 MAY IMPOSE REASONABLE OPERATING REQUIREMENTS THAT AFFECT THE EXISTING USES OF
14 BUSINESSES AND FACILITIES.

15 6. SHALL DESIGNATE AND ZONE APPROPRIATE AREAS OF REASONABLE SIZE IN
16 WHICH THERE MAY BE ESTABLISHED WITH REASONABLE PERMANENCY CANNERIES,
17 FERTILIZER PLANTS, REFINERIES, COMMERCIAL FEED LOTS, MEAT PACKING PLANTS,
18 TALLOW WORKS AND OTHER LIKE BUSINESSES.

19 B. TO CARRY OUT THE PURPOSES OF THIS ARTICLE, THE BOARD MAY ADOPT
20 OVERLAY ZONING DISTRICTS AND REGULATIONS APPLICABLE TO PARTICULAR BUILDINGS,
21 STRUCTURES AND LAND WITHIN INDIVIDUAL ZONES. FOR THE PURPOSES OF THIS
22 SUBSECTION, "OVERLAY ZONING DISTRICT" MEANS A SPECIAL ZONING DISTRICT THAT
23 INCLUDES REGULATIONS THAT MODIFY REGULATIONS IN ANOTHER ZONING DISTRICT WITH
24 WHICH THE OVERLAY ZONING DISTRICT IS COMBINED. OVERLAY ZONING DISTRICTS AND
25 REGULATIONS SHALL BE ADOPTED PURSUANT TO SECTION 11-813. THE PROVISIONS OF
26 OVERLAY ZONING SHALL APPLY RETROACTIVELY TO AUTHORIZE OVERLAY ZONING
27 DISTRICTS AND REGULATIONS ADOPTED BEFORE APRIL 20, 1993.

28 C. THIS SECTION DOES NOT AUTHORIZE:

29 1. THE IMPOSITION OF DEDICATIONS, EXACTIONS, FEES OR OTHER
30 REQUIREMENTS THAT ARE NOT OTHERWISE AUTHORIZED BY LAW.

31 2. THE REGULATION OR RESTRICTION OF THE USE OR OCCUPATION OF LAND OR
32 IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL
33 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS
34 COMMERCIAL ACRES.

35 D. FOR THE PURPOSES OF THIS SECTION:

36 1. "ADULT ARCADE" MEANS ANY PLACE TO WHICH THE PUBLIC IS PERMITTED OR
37 INVITED AND IN WHICH COIN-OPERATED OR SLUG-OPERATED OR ELECTRONICALLY,
38 ELECTRICALLY OR MECHANICALLY CONTROLLED STILL OR MOTION PICTURE MACHINES,
39 PROJECTORS OR OTHER IMAGE PRODUCING DEVICES ARE MAINTAINED TO SHOW IMAGES
40 INVOLVING SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS TO PERSONS
41 IN BOOTHS OR VIEWING ROOMS.

42 2. "ADULT BOOKSTORE OR VIDEO STORE" MEANS A COMMERCIAL ESTABLISHMENT
43 THAT OFFERS FOR SALE OR RENT ANY OF THE FOLLOWING AS ONE OF ITS PRINCIPAL
44 BUSINESS PURPOSES:

1 (a) BOOKS, MAGAZINES, PERIODICALS OR OTHER PRINTED MATTER,
2 PHOTOGRAPHS, FILMS, MOTION PICTURES, VIDEOCASSETTES OR REPRODUCTIONS OR
3 SLIDES OR OTHER VISUAL REPRESENTATIONS THAT DEPICT OR DESCRIBE SPECIFIC
4 SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS.

5 (b) INSTRUMENTS, DEVICES OR PARAPHERNALIA THAT ARE DESIGNED FOR USE IN
6 CONNECTION WITH SPECIFIC SEXUAL ACTIVITIES.

7 3. "ADULT LIVE ENTERTAINMENT ESTABLISHMENT" MEANS AN ESTABLISHMENT
8 THAT FEATURES EITHER:

9 (a) PERSONS WHO APPEAR IN A STATE OF NUDITY.

10 (b) LIVE PERFORMANCES THAT ARE CHARACTERIZED BY THE EXPOSURE OF
11 SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL ACTIVITIES.

12 4. "ADULT MOTION PICTURE THEATER" MEANS A COMMERCIAL ESTABLISHMENT IN
13 WHICH FOR ANY FORM OF CONSIDERATION FILMS, MOTION PICTURES, VIDEOCASSETTES,
14 SLIDES OR OTHER SIMILAR PHOTOGRAPHIC REPRODUCTIONS THAT ARE CHARACTERIZED BY
15 THE DEPICTION OR DESCRIPTION OF SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC
16 ANATOMICAL AREAS ARE PREDOMINANTLY SHOWN.

17 5. "ADULT ORIENTED BUSINESS" MEANS ADULT ARCADES, ADULT BOOKSTORES OR
18 VIDEO STORES, CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION
19 PICTURE THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS THAT OFFER ADULT
20 SERVICE OR NUDE MODEL STUDIOS.

21 6. "ADULT ORIENTED BUSINESS MANAGER" MEANS A PERSON ON THE PREMISES OF
22 AN ADULT ORIENTED BUSINESS WHO IS AUTHORIZED TO EXERCISE OVERALL OPERATIONAL
23 CONTROL OF THE BUSINESS.

24 7. "ADULT SERVICE" MEANS DANCING, SERVING FOOD OR BEVERAGES, MODELING,
25 POSING, WRESTLING, SINGING, READING, TALKING, LISTENING OR OTHER PERFORMANCES
26 OR ACTIVITIES CONDUCTED FOR ANY CONSIDERATION IN AN ADULT ORIENTED BUSINESS
27 BY A PERSON WHO IS NUDE OR SEMINUDE DURING ALL OR PART OF THE TIME THAT THE
28 PERSON IS PROVIDING THE SERVICE.

29 8. "ADULT SERVICE PROVIDER" OR "EROTIC ENTERTAINER" MEANS ANY NATURAL
30 PERSON WHO PROVIDES AN ADULT SERVICE.

31 9. "ADULT THEATER" MEANS A THEATER, CONCERT HALL, AUDITORIUM OR
32 SIMILAR COMMERCIAL ESTABLISHMENT THAT PREDOMINANTLY FEATURES PERSONS WHO
33 APPEAR IN A STATE OF NUDITY OR WHO ENGAGE IN LIVE PERFORMANCES THAT ARE
34 CHARACTERIZED BY THE EXPOSURE OF SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL
35 ACTIVITIES.

36 10. "CABARET" MEANS AN ADULT ORIENTED BUSINESS LICENSED TO PROVIDE
37 ALCOHOLIC BEVERAGES PURSUANT TO TITLE 4, CHAPTER 2, ARTICLE 1.

38 11. "DISCERNIBLY TURGID STATE" MEANS THE STATE OF BEING VISIBLY
39 SWOLLEN, BLOATED, INFLATED OR DISTENDED.

40 12. "MASSAGE ESTABLISHMENT" MEANS AN ESTABLISHMENT IN WHICH A PERSON,
41 FIRM, ASSOCIATION OR CORPORATION ENGAGES IN OR PERMITS MASSAGE ACTIVITIES,
42 INCLUDING ANY METHOD OF PRESSURE ON, FRICTION AGAINST, STROKING, KNEADING,
43 RUBBING, TAPPING, POUNDING, VIBRATING OR STIMULATING OF EXTERNAL SOFT PARTS
44 OF THE BODY WITH THE HANDS OR WITH THE AID OF ANY MECHANICAL APPARATUS OR
45 ELECTRICAL APPARATUS OR APPLIANCE. THIS PARAGRAPH DOES NOT APPLY TO:

1 (a) PHYSICIANS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 7, 8,
2 13, 14 OR 17.

3 (b) REGISTERED NURSES, LICENSED PRACTICAL NURSES OR TECHNICIANS WHO
4 ARE ACTING UNDER THE SUPERVISION OF A PHYSICIAN WHO IS LICENSED PURSUANT TO
5 TITLE 32, CHAPTER 13 OR 17.

6 (c) REGISTERED NURSE PRACTITIONERS WHO ARE LICENSED PURSUANT TO TITLE
7 32, CHAPTER 15.

8 (d) PERSONS WHO ARE EMPLOYED OR ACTING AS TRAINERS FOR A BONA FIDE
9 AMATEUR, SEMIPROFESSIONAL OR PROFESSIONAL ATHLETE OR ATHLETIC TEAM.

10 (e) PERSONS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 3 OR 5 IF
11 THE ACTIVITY IS LIMITED TO THE HEAD, FACE OR NECK.

12 13. "NUDE MODEL STUDIO" MEANS A PLACE IN WHICH A PERSON WHO APPEARS IN
13 A STATE OF NUDITY OR WHO DISPLAYS SPECIFIC ANATOMICAL AREAS IS OBSERVED,
14 SKETCHED, DRAWN, PAINTED, SCULPTURED, PHOTOGRAPHED OR OTHERWISE DEPICTED BY
15 OTHER PERSONS WHO PAY MONEY OR OTHER CONSIDERATION. NUDE MODEL STUDIO DOES
16 NOT INCLUDE A PROPRIETARY SCHOOL THAT IS LICENSED BY THIS STATE, A COLLEGE,
17 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY
18 TAXATION, A PRIVATE COLLEGE OR UNIVERSITY THAT MAINTAINS AND OPERATES
19 EDUCATIONAL PROGRAMS IN WHICH CREDITS ARE TRANSFERABLE TO A COLLEGE,
20 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY
21 TAXATION OR A STRUCTURE TO WHICH THE FOLLOWING APPLY:

22 (a) A SIGN IS NOT VISIBLE FROM THE EXTERIOR OF THE STRUCTURE AND NO
23 OTHER ADVERTISING APPEARS INDICATING THAT A NUDE PERSON IS AVAILABLE FOR
24 VIEWING.

25 (b) A STUDENT MUST ENROLL AT LEAST THREE DAYS IN ADVANCE OF A CLASS IN
26 ORDER TO PARTICIPATE.

27 (c) NO MORE THAN ONE NUDE OR SEMINUDE MODEL IS ON THE PREMISES AT ANY
28 TIME.

29 14. "NUDE", "NUDITY" OR "STATE OF NUDITY" MEANS ANY OF THE FOLLOWING:

30 (a) THE APPEARANCE OF A HUMAN ANUS, GENITALS OR A FEMALE BREAST BELOW
31 A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA.

32 (b) A STATE OF DRESS THAT FAILS TO OPAQUELY COVER A HUMAN ANUS,
33 GENITALS OR A FEMALE BREAST BELOW A POINT IMMEDIATELY ABOVE THE TOP OF THE
34 AREOLA.

35 15. "PRINCIPAL BUSINESS PURPOSES" MEANS THAT A COMMERCIAL ESTABLISHMENT
36 DERIVES FIFTY PER CENT OR MORE OF ITS GROSS INCOME FROM THE SALE OR RENTAL OF
37 ITEMS LISTED IN PARAGRAPH 2 OF THIS SUBSECTION.

38 16. "SEMINUDE" MEANS A STATE OF DRESS IN WHICH CLOTHING COVERS NO MORE
39 THAN THE GENITALS, PUBIC REGION AND FEMALE BREAST BELOW A POINT IMMEDIATELY
40 ABOVE THE TOP OF THE AREOLA, AS WELL AS PORTIONS OF THE BODY THAT ARE COVERED
41 BY SUPPORTING STRAPS OR DEVICES.

42 17. "SPECIFIC ANATOMICAL AREAS" MEANS ANY OF THE FOLLOWING:

43 (a) A HUMAN ANUS, GENITALS, THE PUBIC REGION OR A FEMALE BREAST BELOW
44 A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA THAT IS LESS THAN COMPLETELY
45 AND OPAQUELY COVERED.

1 (b) MALE GENITALS IN A DISCERNIBLY TURGID STATE EVEN IF COMPLETELY
2 AND OPAQUELY COVERED.

3 18. "SPECIFIC SEXUAL ACTIVITIES" MEANS ANY OF THE FOLLOWING:

4 (a) HUMAN GENITALS IN A STATE OF SEXUAL STIMULATION OR AROUSAL.

5 (b) SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED, INCLUDING ACTS
6 OF HUMAN MASTURBATION, SEXUAL INTERCOURSE, ORAL COPULATION OR SODOMY.

7 (c) FONDLING OR OTHER EROTIC TOUCHING OF THE HUMAN GENITALS, PUBIC
8 REGION, BUTTOCKS, ANUS OR FEMALE BREAST.

9 (d) EXCRETORY FUNCTIONS AS PART OF OR IN CONNECTION WITH ANY OF THE
10 ACTIVITIES UNDER SUBDIVISION (a), (b) OR (c) OF THIS PARAGRAPH.

11 11-812. Restriction on regulation; exceptions; aggregate mining
12 regulation; definitions

13 A. NOTHING CONTAINED IN ANY ORDINANCE AUTHORIZED BY THIS CHAPTER
14 SHALL:

15 1. AFFECT EXISTING USES OF PROPERTY OR THE RIGHT TO ITS CONTINUED USE
16 OR THE REASONABLE REPAIR OR ALTERATION OF THE PROPERTY FOR THE PURPOSE FOR
17 WHICH USED AT THE TIME THE ORDINANCE AFFECTING THE PROPERTY TAKES EFFECT.

18 2. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
19 LAND OR IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL
20 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS
21 COMMERCIAL ACRES. FOR THE PURPOSES OF THIS PARAGRAPH, "MINING" HAS THE SAME
22 MEANING PRESCRIBED IN SECTION 27-301.

23 3. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
24 LAND OR IMPROVEMENTS FOR AGRICULTURAL COMPOSTING, IF THE TRACT IS FIVE OR
25 MORE CONTIGUOUS COMMERCIAL ACRES. AN AGRICULTURAL COMPOSTING OPERATION SHALL
26 NOTIFY IN WRITING THE BOARD OF SUPERVISORS AND THE NEAREST FIRE DEPARTMENT OF
27 THE LOCATION OF THE COMPOSTING OPERATION. IF THE NEAREST FIRE DEPARTMENT IS
28 LOCATED IN A CITY, TOWN OR FIRE DISTRICT WHERE THE AGRICULTURAL COMPOSTING IS
29 NOT LOCATED, THE AGRICULTURAL COMPOSTING OPERATION SHALL ALSO NOTIFY IN
30 WRITING THE FIRE DISTRICT IN WHICH THE OPERATION IS LOCATED. AGRICULTURAL
31 COMPOSTING IS SUBJECT TO SECTIONS 3-112 AND 49-141. FOR THE PURPOSES OF THIS
32 PARAGRAPH, "AGRICULTURAL COMPOSTING" HAS THE SAME MEANING PRESCRIBED IN
33 SECTION 9-462.01, SUBSECTION G.

34 B. A NONCONFORMING BUSINESS USE WITHIN A DISTRICT MAY EXPAND IF THE
35 EXPANSION DOES NOT EXCEED ONE HUNDRED PER CENT OF THE AREA OF THE ORIGINAL
36 BUSINESS.

37 C. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION,
38 MINING DOES NOT INCLUDE AGGREGATE MINING OPERATIONS IN AN AGGREGATE MINING
39 OPERATIONS ZONING DISTRICT ESTABLISHED PURSUANT TO THIS SECTION. THE BOARD
40 OF SUPERVISORS OF ANY COUNTY WITH A POPULATION OF MORE THAN TWO MILLION
41 PERSONS SHALL DESIGNATE AND ESTABLISH THE BOUNDARIES OF AN AGGREGATE MINING
42 OPERATIONS ZONING DISTRICT ON THE PETITION OF AT LEAST ONE HUNDRED PERSONS
43 WHO RESIDE WITHIN ONE-HALF MILE OF AN EXISTING AGGREGATE MINING OPERATION.
44 IN ADDITION, THE BOARD OF SUPERVISORS OF ANY COUNTY MAY ESTABLISH, IN ITS
45 DISCRETION AND ON THE BOARD'S INITIATIVE, ONE OR MORE AGGREGATE MINING

1 OPERATIONS ZONING DISTRICTS. AGGREGATE MINING OPERATIONS ZONING DISTRICTS
2 MAY ONLY BE LOCATED IN AREAS THAT ARE INVENTORIED AND MAPPED AS AREAS OF
3 KNOWN RESERVES OR IN AREAS WITH EXISTING AGGREGATE MINING OPERATIONS.
4 SUBJECT TO SUBSECTIONS E AND F OF THIS SECTION, A COUNTY AND THE STATE MINE
5 INSPECTOR MAY JOINTLY ADOPT, AS INTERNAL ADMINISTRATIVE REGULATIONS,
6 REASONABLE AGGREGATE MINING OPERATIONS ZONING DISTRICT STANDARDS LIMITED TO
7 PERMITTED USES, PROCEDURES FOR APPROVAL OF PROPERTY DEVELOPMENT PLANS AND
8 SITE DEVELOPMENT STANDARDS FOR DUST CONTROL, HEIGHT REGULATIONS, SETBACKS,
9 DAYS AND HOURS OF OPERATION, OFF-STREET PARKING, SCREENING, NOISE, VIBRATION
10 AND AIR POLLUTION CONTROL, SIGNS, ROADWAY ACCESS LANES, ARTERIAL HIGHWAY
11 PROTECTION AND PROPERTY RECLAMATION FOR WHICH AGGREGATE MINING OPERATIONS ARE
12 NOT OTHERWISE SUBJECT TO FEDERAL, STATE OR LOCAL REGULATION OR A GOVERNMENTAL
13 CONTRACTUAL OBLIGATION. REGULATIONS JOINTLY ADOPTED PURSUANT TO THIS
14 SUBSECTION BY THE COUNTY AND THE STATE MINE INSPECTOR SHALL NOT PROHIBIT THE
15 ACTIVITIES INCLUDED IN THE DEFINITION OF MINE PURSUANT TO SECTION 27-301,
16 PARAGRAPH 8 OR DUPLICATE, CONFLICT WITH OR BE MORE STRINGENT THAN APPLICABLE
17 FEDERAL, STATE OR LOCAL LAWS.

18 D. THE BOARD OF SUPERVISORS OF ANY COUNTY THAT ESTABLISHES AN
19 AGGREGATE MINING OPERATIONS ZONING DISTRICT SHALL APPOINT AN AGGREGATE MINING
20 OPERATIONS RECOMMENDATION COMMITTEE FOR THE DISTRICT. THE COMMITTEE CONSISTS
21 OF NOT MORE THAN SEVEN OPERATORS, OR REPRESENTATIVES OF OPERATORS, OF ACTIVE
22 AGGREGATE MINING OPERATIONS IN ANY DISTRICT WITHIN THE COUNTY AND AN EQUAL
23 NUMBER OF PRIVATE CITIZENS, WHO ARE NOT OPERATORS, WHO ARE NOT EMPLOYED BY
24 OPERATORS AND WHO DO NOT REPRESENT OPERATORS, RESIDING WITHIN THREE MILES OF
25 THE BOUNDARIES OF AGGREGATE MINING OPERATIONS OR A PROPOSED AGGREGATE MINING
26 OPERATION IN THE DISTRICT FOR WHICH THE COMMITTEE IS ESTABLISHED. THE
27 INITIAL MEMBERS APPOINTED TO THE COMMITTEE SHALL BE DEEMED THE PRIMARY
28 MEMBERS, AND THE BOARD OF SUPERVISORS SHALL APPOINT NO MORE THAN FIVE
29 ALTERNATE MEMBERS WHO REPRESENT OPERATORS AND SHALL APPOINT NO MORE THAN FIVE
30 ALTERNATE MEMBERS WHO ARE PRIVATE CITIZENS. ALTERNATE MEMBERS MAY SERVE AT
31 MEETINGS OF THE COMMITTEE WHEN A PRIMARY MEMBER IS UNABLE TO ATTEND. AN
32 AGGREGATE MINING OPERATOR MAY SERVE ON MORE THAN ONE COMMITTEE IN THE SAME
33 COUNTY. THE BOARD OF SUPERVISORS SHALL DETERMINE THE LENGTH OF TERMS OF
34 MEMBERS OF THE COMMITTEE AND SHALL STAGGER THE INITIAL APPOINTMENTS SO THAT
35 NOT ALL MEMBERS' TERMS EXPIRE AT THE SAME TIME. MEMBERS OF THE COMMITTEE WHO
36 NO LONGER QUALIFY FOR MEMBERSHIP AS PROVIDED BY THIS SUBSECTION ARE SUBJECT
37 TO REMOVAL AND REPLACEMENT BY THE BOARD OF SUPERVISORS. THE COMMITTEE SHALL
38 ELECT A MEMBER WHO IS AN AGGREGATE MINING OPERATOR TO SERVE AS CHAIRPERSON
39 FOR THE FIRST YEAR IN WHICH THE COMMITTEE IS CREATED. FOR EACH YEAR
40 THEREAFTER, THE CHAIRPERSON SHALL BE ELECTED BY THE MEMBERS OF THE COMMITTEE
41 WITH A MEMBER WHO IS A PRIVATE CITIZEN AND A MEMBER WHO IS AN AGGREGATE
42 MINING OPERATOR SERVING AS CHAIRPERSON IN ALTERNATE YEARS. THE COMMITTEE IS
43 SUBJECT TO THE OPEN MEETING REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

1 E. WITHIN NINETY DAYS AFTER AN AGGREGATE MINING OPERATIONS
2 RECOMMENDATION COMMITTEE IS ESTABLISHED, THE COMMITTEE SHALL NOTIFY ALL
3 EXISTING AGGREGATE MINING OPERATORS IN THE DISTRICT OF THE APPLICATION OF
4 THIS SECTION AND TITLE 27, CHAPTER 3, ARTICLE 6 TO THE AGGREGATE MINING
5 OPERATION. IN ADDITION, THE COMMITTEE SHALL:

6 1. BY A MAJORITY VOTE OF ALL MEMBERS MAKE RECOMMENDATIONS TO THE BOARD
7 OF SUPERVISORS FOR AGGREGATE MINING ZONING DISTRICTS AND ADMINISTRATIVE
8 REGULATIONS AS PROVIDED IN THIS SECTION. THE BOARD OF SUPERVISORS MAY ADOPT
9 OR REJECT THE RECOMMENDATIONS BUT MAY NOT MAKE ANY MODIFICATIONS TO THE
10 RECOMMENDATIONS UNLESS THE MODIFICATION IS APPROVED BY A MAJORITY OF THE
11 MEMBERS OF THE RECOMMENDATION COMMITTEE.

12 2. SERVE AS A FORUM FOR MEDIATION OF DISPUTES BETWEEN MEMBERS OF THE
13 PUBLIC AND AGGREGATE MINING OWNERS OR OPERATORS. IF THE COMMITTEE IS UNABLE
14 TO RESOLVE A DISPUTE, THE COMMITTEE SHALL TRANSMIT THE MATTER TO THE STATE
15 MINE INSPECTOR, WITH WRITTEN FINDINGS AND RECOMMENDATIONS, FOR FURTHER
16 ACTION.

17 3. HEAR WRITTEN COMPLAINTS FILED WITH THE STATE MINE INSPECTOR
18 REGARDING ALLEGED MATERIAL DEVIATIONS FROM APPROVED COMMUNITY NOTICES FOR
19 AGGREGATE MINING OPERATIONS AND MAKE WRITTEN RECOMMENDATIONS TO THE STATE
20 MINE INSPECTOR PURSUANT TO SECTION 27-446.

21 F. ANY ADMINISTRATIVE REGULATIONS ADOPTED BY A BOARD OF SUPERVISORS
22 PURSUANT TO THIS SECTION ARE NOT EFFECTIVE UNTIL THE REGULATIONS ARE APPROVED
23 BY THE STATE MINE INSPECTOR. THE INSPECTOR MAY DISAPPROVE THE ADMINISTRATIVE
24 REGULATIONS ADOPTED BY THE BOARD OF SUPERVISORS ONLY IF THEY DUPLICATE,
25 CONFLICT WITH OR ARE MORE STRINGENT THAN APPLICABLE FEDERAL, STATE OR LOCAL
26 LAWS, RULES OR REGULATIONS. IF THE INSPECTOR DISAPPROVES THE ADMINISTRATIVE
27 REGULATIONS, THE INSPECTOR MUST PROVIDE WRITTEN REASONS FOR THE DISAPPROVAL.
28 THE INSPECTOR SHALL NOT MAKE ANY MODIFICATION TO THE ADMINISTRATIVE
29 REGULATIONS AS ADOPTED BY THE BOARD OF SUPERVISORS UNLESS THE MODIFICATION IS
30 APPROVED BY A MAJORITY OF THE MEMBERS OF THE BOARD OF SUPERVISORS.

31 G. A PERSON OR ENTITY IS SUBJECT TO THIS CHAPTER IF THE USE OR
32 OCCUPATION OF LAND OR IMPROVEMENTS BY THE PERSON OR ENTITY CONSISTS OF OR
33 INCLUDES CHANGING, REMANUFACTURING OR TREATING HUMAN SEWAGE OR SLUDGE FOR
34 DISTRIBUTION OR RESALE. THESE ACTIVITIES ARE NOT EXEMPT FROM THIS CHAPTER
35 UNDER SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.

36 H. A COUNTY SHALL NOT REQUIRE AS A CONDITION FOR A PERMIT OR FOR ANY
37 APPROVAL, OR OTHERWISE CAUSE, AN OWNER OR POSSESSOR OF PROPERTY TO WAIVE THE
38 RIGHT TO CONTINUE AN EXISTING NONCONFORMING OUTDOOR ADVERTISING USE OR
39 STRUCTURE WITHOUT ACQUIRING THE USE OR STRUCTURE BY PURCHASE OR CONDEMNATION
40 AND PAYING JUST COMPENSATION UNLESS THE COUNTY, AT ITS OPTION, ALLOWS THE USE
41 OR STRUCTURE TO BE RELOCATED TO A COMPARABLE SITE IN THE COUNTY WITH THE SAME
42 OR A SIMILAR ZONING CLASSIFICATION, OR TO ANOTHER SITE IN THE COUNTY
43 ACCEPTABLE TO BOTH THE COUNTY AND THE OWNER OF THE USE OR STRUCTURE, AND THE
44 USE OR STRUCTURE IS RELOCATED TO THE OTHER SITE. THE COUNTY SHALL PAY FOR
45 RELOCATING THE OUTDOOR ADVERTISING USE OR STRUCTURE INCLUDING THE COST OF

1 REMOVING AND CONSTRUCTING THE NEW USE OR STRUCTURE THAT IS AT LEAST THE SAME
2 SIZE AND HEIGHT. THIS SUBSECTION DOES NOT APPLY TO COUNTY REZONING OF
3 PROPERTY AT THE REQUEST OF THE PROPERTY OWNER TO A MORE INTENSIVE ZONING
4 DISTRICT.

5 I. FOR THE PURPOSES OF THIS SECTION:

6 1. "AGGREGATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 27-441.

7 2. "AGGREGATE MINING" HAS THE SAME MEANING PRESCRIBED IN SECTION
8 27-441.

9 3. "AGGREGATE MINING OPERATION" MEANS PROPERTY THAT IS OWNED, OPERATED
10 OR MANAGED BY THE SAME PERSON FOR AGGREGATE MINING.

11 4. "OPERATORS" MEANS PERSONS WHO ARE ACTIVELY ENGAGED IN AGGREGATE
12 MINING OPERATIONS WITHIN THE ZONING DISTRICT OR PROPOSED ZONING DISTRICT AND
13 WHO HAVE GIVEN NOTICE TO THE STATE MINE INSPECTOR PURSUANT TO SECTION 27-303.

14 11-813. Zoning ordinance; adoption; amendments; notice; hearing

15 A. THE COMMISSION SHALL FORMULATE AND DRAFT THE ZONING ORDINANCE.
16 BEFORE RECOMMENDING THE ZONING ORDINANCE TO THE BOARD OF SUPERVISORS FOR
17 ADOPTION, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING, AFTER GIVING
18 AT LEAST FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A
19 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT.

20 B. AFTER THE COMMISSION RECOMMENDS THE ZONING ORDINANCE, THE ZONING
21 ORDINANCE SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS FOR ITS
22 CONSIDERATION AND OFFICIAL ACTION. AFTER THE BOARD CONSIDERS THE
23 COMMISSION'S RECOMMENDATION, THE BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING
24 AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD CONCERNING THE ZONING
25 ORDINANCE. AT LEAST FIFTEEN DAYS NOTICE OF THE HEARING SHALL BE GIVEN BY ONE
26 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT. THE
27 BOARD SHALL CONSIDER PROTESTS AND OBJECTIONS TO THE ZONING ORDINANCE AND MAY
28 CHANGE OR ALTER ANY PORTION OF THE ZONING ORDINANCE.

29 C. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A
30 ZONING REGULATIONS AMENDMENT SHALL FILE AN APPLICATION FOR THE AMENDMENT.

31 D. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A ZONING REGULATIONS
32 AMENDMENT AND, AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER,
33 MAY TRANSMIT THE PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN
34 THIS CHAPTER FOR ANY OTHER AMENDMENT.

35 E. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE
36 APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD,
37 THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST
38 FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF
39 GENERAL CIRCULATION IN THE COUNTY SEAT. THE FOLLOWING SPECIFIC NOTICE
40 PROVISIONS ALSO APPLY:

41 1. IN PROCEEDINGS INVOLVING ONE OR MORE OF THE FOLLOWING PROPOSED
42 CHANGES OR RELATED SERIES OF CHANGES IN THE STANDARDS GOVERNING LAND USES,
43 NOTICE SHALL BE PROVIDED IN THE MANNER PRESCRIBED BY PARAGRAPH 2 OF THIS
44 SUBSECTION:

1 (a) A TEN PER CENT OR MORE INCREASE OR DECREASE IN THE NUMBER OF
2 SQUARE FEET OR UNITS THAT MAY BE DEVELOPED.

3 (b) A TEN PER CENT OR MORE INCREASE OR REDUCTION IN THE ALLOWABLE
4 HEIGHT OF BUILDINGS.

5 (c) AN INCREASE OR REDUCTION IN THE ALLOWABLE NUMBER OF STORIES OF
6 BUILDINGS.

7 (d) A TEN PER CENT OR MORE INCREASE OR DECREASE IN SETBACK OR OPEN
8 SPACE REQUIREMENTS.

9 (e) AN INCREASE OR REDUCTION IN PERMITTED USES.

10 2. IN PROCEEDINGS GOVERNED BY PARAGRAPH 1 OF THIS SUBSECTION, THE
11 COUNTY SHALL PROVIDE NOTICE TO REAL PROPERTY OWNERS PURSUANT TO AT LEAST ONE
12 OF THE FOLLOWING NOTIFICATION PROCEDURES:

13 (a) NOTICE SHALL BE SENT BY FIRST CLASS MAIL TO EACH REAL PROPERTY
14 OWNER, AS SHOWN ON THE LAST ASSESSMENT, WHOSE REAL PROPERTY IS DIRECTLY
15 AFFECTED BY THE CHANGES.

16 (b) IF THE COUNTY ISSUES UTILITY BILLS OR OTHER MASS MAILINGS THAT
17 PERIODICALLY INCLUDE NOTICES OR OTHER INFORMATIONAL OR ADVERTISING MATERIALS,
18 THE COUNTY SHALL INCLUDE NOTICE OF THE CHANGES WITH THE UTILITY BILLS OR
19 OTHER MAILINGS.

20 (c) THE COUNTY SHALL PUBLISH THE CHANGES BEFORE THE FIRST HEARING ON
21 THE CHANGES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE CHANGES
22 SHALL BE PUBLISHED IN A DISPLAY ADVERTISEMENT COVERING NOT LESS THAN
23 ONE-EIGHTH OF A FULL PAGE.

24 3. IF NOTICE IS PROVIDED PURSUANT TO PARAGRAPH 2, SUBDIVISION (b) OR
25 (c) OF THIS SUBSECTION, THE COUNTY SHALL ALSO SEND NOTICE BY FIRST CLASS MAIL
26 TO PERSONS WHO REGISTER THEIR NAMES AND ADDRESSES WITH THE COUNTY AS BEING
27 INTERESTED IN RECEIVING THE NOTICE. THE COUNTY MAY CHARGE A FEE NOT TO
28 EXCEED FIVE DOLLARS PER YEAR FOR PROVIDING THIS SERVICE AND MAY ADOPT
29 PROCEDURES TO IMPLEMENT THIS PARAGRAPH.

30 4. NOTWITHSTANDING THE NOTICE REQUIREMENTS PRESCRIBED IN PARAGRAPH 2
31 OF THIS SUBSECTION, THE FAILURE OF ANY PERSON OR ENTITY TO RECEIVE NOTICE
32 DOES NOT CONSTITUTE GROUNDS FOR ANY COURT TO INVALIDATE THE ACTIONS OF A
33 COUNTY FOR WHICH THE NOTICE WAS GIVEN.

34 F. AFTER THE COMMISSION HAS HELD A PUBLIC HEARING, THE BOARD SHALL
35 HOLD A PUBLIC HEARING ON THE PROPOSED AMENDMENT AT LEAST FIFTEEN DAYS' NOTICE
36 OF WHICH SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL
37 CIRCULATION IN THE COUNTY SEAT. AFTER HOLDING THE HEARING, THE BOARD MAY
38 ADOPT THE AMENDMENT.

39 G. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE
40 GOVERNING BODY THAT CHANGES THE ZONING STANDARDS OF LAND THAT IS NOT OWNED BY
41 THE COUNTY AS PRESCRIBED IN SUBSECTION E, PARAGRAPH 1 OF THIS SECTION MAY NOT
42 BE ENACTED AS AN EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE
43 FOR AT LEAST THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION
44 BY THE BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF
45 SUPERVISORS, THE CHANGE MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES

1 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE
2 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE
3 BOARD FOR THOSE COUNTIES WITH FEWER THAN FIVE SUPERVISORS.

4 11-814. Rezoning; conditional zoning change; notice; hearing;
5 citizen review; definition

6 A. ALL REZONINGS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT WITH
7 AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN THE CASE OF UNCERTAINTY IN
8 CONSTRUCTING OR APPLYING THE CONFORMITY OF ANY PART OF A PROPOSED REZONING TO
9 THE ADOPTED COMPREHENSIVE PLAN, THE REZONING SHALL BE CONSTRUED IN A MANNER
10 THAT WILL FURTHER THE IMPLEMENTATION OF, AND NOT BE CONTRARY TO, THE GOALS,
11 POLICIES AND APPLICABLE ELEMENTS OF THE COMPREHENSIVE PLAN. A REZONING
12 CONFORMS WITH THE COMPREHENSIVE PLAN IF IT PROPOSES LAND USES, DENSITIES OR
13 INTENSITIES WITHIN THE RANGE OF IDENTIFIED USES, DENSITIES AND INTENSITIES OF
14 THE COMPREHENSIVE PLAN.

15 B. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A
16 REZONING SHALL FILE AN APPLICATION FOR THE REZONING.

17 C. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A REZONING AND,
18 AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER, MAY TRANSMIT THE
19 PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN THIS CHAPTER FOR
20 ANY OTHER REZONING.

21 D. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE
22 APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD,
23 THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST
24 FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF
25 GENERAL CIRCULATION IN THE COUNTY SEAT AND BY POSTING OF THE AREA INCLUDED IN
26 THE PROPOSED REZONING. IF THE MATTER TO BE CONSIDERED APPLIES TO TERRITORY
27 IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, THE
28 NOTICE SHALL INCLUDE A GENERAL STATEMENT THAT THE MATTER APPLIES TO PROPERTY
29 LOCATED IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE. THE POSTING SHALL BE
30 IN NO LESS THAN TWO PLACES WITH AT LEAST ONE NOTICE FOR EACH QUARTER MILE OF
31 FRONTAGE ALONG PERIMETER PUBLIC RIGHTS-OF-WAY SO THAT THE NOTICES ARE VISIBLE
32 FROM THE NEAREST PUBLIC RIGHT-OF-WAY. THE COMMISSION SHALL ALSO SEND NOTICE
33 BY FIRST CLASS MAIL TO EACH REAL PROPERTY OWNER AS SHOWN ON THE LAST
34 ASSESSMENT OF THE PROPERTY WITHIN THREE HUNDRED FEET OF THE PROPOSED REZONING
35 AND EACH COUNTY AND MUNICIPALITY THAT IS CONTIGUOUS TO THE AREA OF THE
36 PROPOSED REZONING. IN PROCEEDINGS INVOLVING REZONING OF LAND THAT IS LOCATED
37 WITHIN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY
38 FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION SHALL SEND COPIES OF
39 THE NOTICE OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE MILITARY AIRPORT.
40 THE NOTICE SENT BY MAIL SHALL INCLUDE, AT A MINIMUM, THE DATE, TIME AND PLACE
41 OF THE HEARING ON THE PROPOSED REZONING INCLUDING A GENERAL EXPLANATION OF
42 THE MATTER TO BE CONSIDERED, A GENERAL DESCRIPTION OF THE AREA OF THE
43 PROPOSED REZONING, HOW THE REAL PROPERTY OWNERS WITHIN THE ZONING AREA MAY
44 FILE APPROVALS OR PROTESTS OF THE PROPOSED REZONING, AND NOTIFICATION THAT IF
45 TWENTY PER CENT OF THE PROPERTY OWNERS BY AREA AND NUMBER WITHIN THE ZONING

1 AREA FILE PROTESTS, AN AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL MEMBERS OF
2 THE BOARD WILL BE REQUIRED TO APPROVE THE REZONING. IN PROCEEDINGS THAT ARE
3 INITIATED BY THE COMMISSION INVOLVING REZONING, NOTICE BY FIRST CLASS MAIL
4 SHALL BE SENT TO EACH REAL PROPERTY OWNER, AS SHOWN ON THE LAST ASSESSMENT OF
5 THE PROPERTY, OF THE AREA TO BE REZONED AND ALL PROPERTY OWNERS, AS SHOWN ON
6 THE LAST ASSESSMENT OF THE PROPERTY, WITHIN THREE HUNDRED FEET OF THE
7 PROPERTY TO BE REZONED

8 E. IF THE COMMISSION OR HEARING OFFICER HAS HELD A PUBLIC HEARING, THE
9 BOARD MAY ADOPT THE RECOMMENDATIONS OF THE COMMISSION OR HEARING OFFICER
10 THROUGH USE OF A CONSENT CALENDAR WITHOUT HOLDING A SECOND PUBLIC HEARING IF
11 THERE IS NO OBJECTION, REQUEST FOR PUBLIC HEARING OR OTHER PROTEST. IF THERE
12 IS AN OBJECTION, A REQUEST FOR PUBLIC HEARING OR A PROTEST, THE BOARD SHALL
13 HOLD A PUBLIC HEARING AT LEAST FIFTEEN DAYS' NOTICE OF WHICH SHALL BE GIVEN
14 BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT
15 AND BY POSTING THE AREA INCLUDED IN THE PROPOSED REZONING. IN COUNTIES WITH
16 TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY
17 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL HOLD A PUBLIC HEARING
18 IF, AFTER NOTICE IS MAILED TO THE MILITARY AIRPORT PURSUANT TO SUBSECTION D
19 OF THIS SECTION AND BEFORE THE PUBLIC HEARING, THE MILITARY AIRPORT PROVIDES
20 COMMENTS OR ANALYSIS CONCERNING THE COMPATIBILITY OF THE PROPOSED REZONING
21 WITH THE HIGH NOISE OR ACCIDENT POTENTIAL GENERATED BY MILITARY AIRPORT OR
22 ANCILLARY MILITARY FACILITY OPERATIONS THAT MAY HAVE AN ADVERSE IMPACT ON
23 PUBLIC HEALTH AND SAFETY, AND THE BOARD SHALL CONSIDER AND ANALYZE THE
24 COMMENTS OR ANALYSIS BEFORE MAKING A FINAL DETERMINATION. AFTER HOLDING THE
25 HEARING THE BOARD MAY ADOPT THE REZONING, BUT IF TWENTY PER CENT OF THE
26 OWNERS OF PROPERTY BY AREA AND NUMBER WITHIN THE ZONING AREA FILE A PROTEST
27 TO THE PROPOSED REZONING, THE CHANGE SHALL NOT BE MADE EXCEPT BY A
28 THREE-FOURTHS VOTE OF ALL MEMBERS OF THE BOARD. IF ANY MEMBERS OF THE BOARD
29 ARE UNABLE TO VOTE ON THE QUESTION BECAUSE OF A CONFLICT OF INTEREST, THE
30 REQUIRED NUMBER OF VOTES FOR THE PASSAGE OF THE QUESTION IS THREE-FOURTHS OF
31 THE REMAINING MEMBERSHIP OF THE BOARD, EXCEPT THAT THE REQUIRED NUMBER OF
32 VOTES IN NO EVENT SHALL BE LESS THAN A MAJORITY OF THE FULL MEMBERSHIP OF THE
33 BOARD. IN CALCULATING THE OWNERS BY AREA, ONLY THAT PORTION OF A LOT OR
34 PARCEL OF RECORD SITUATED WITHIN THREE HUNDRED FEET OF THE PROPERTY TO BE
35 REZONED SHALL BE INCLUDED. IN CALCULATING THE OWNERS BY NUMBER OR AREA,
36 COUNTY PROPERTY AND PUBLIC RIGHTS-OF-WAY SHALL NOT BE INCLUDED.

37 F. THE BOARD OF SUPERVISORS SHALL ADOPT BY ORDINANCE A CITIZEN REVIEW
38 PROCESS THAT APPLIES TO ALL REZONING AND SPECIFIC ZONING PLAN APPLICATIONS
39 THAT REQUIRE A PUBLIC HEARING. THE CITIZEN REVIEW PROCESS SHALL INCLUDE AT
40 LEAST THE FOLLOWING REQUIREMENTS:

- 41 1. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE
42 NOTIFIED OF THE APPLICATION.
- 43 2. THE COUNTY WILL INFORM ADJACENT LANDOWNERS AND OTHER POTENTIALLY
44 AFFECTED CITIZENS OF THE SUBSTANCE OF THE PROPOSED REZONING.

1 3. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE
2 PROVIDED AN OPPORTUNITY TO EXPRESS ANY ISSUES OR CONCERNS THAT THEY MAY HAVE
3 WITH THE PROPOSED REZONING BEFORE THE PUBLIC HEARING.

4 G. THE REZONING OR SUBDIVISION PLAT OF ANY UNINCORPORATED AREA
5 COMPLETELY SURROUNDED BY A CITY OR TOWN SHALL USE AS A GUIDELINE THE ADOPTED
6 GENERAL PLAN AND STANDARDS AS PRESCRIBED IN THE SUBDIVISION AND ZONING
7 ORDINANCES OF THE CITY OR TOWN AFTER APRIL 10, 1986.

8 H. THE BOARD OR COMMISSION, BEFORE TAKING ANY ACTION ON A REZONING OR
9 SUBDIVISION PLAT IN AN AREA AS PRESCRIBED IN SUBSECTION G OF THIS SECTION,
10 MAY REQUIRE THE AFFECTED CITY OR TOWN TO SUPPLY INFORMATION TO ALLOW THE
11 COUNTY TO MEET THE GUIDELINE. IF AN AFFECTED CITY OR TOWN OBJECTS TO ANY
12 SUCH PROPOSED ACTION THE BOARD OR COMMISSION SHALL PRESCRIBE IN THE MINUTES
13 OF THE MEETING SPECIFIC REASONS WHY IN ITS OPINION THE GUIDELINE IS ACTUALLY
14 BEING FOLLOWED OR WHY IT IS NOT PRACTICABLE TO FOLLOW THE GUIDELINE OF THE
15 GENERAL PLAN.

16 I. THE BOARD MAY APPROVE A CHANGE OF ZONE CONDITIONED ON A SCHEDULE
17 FOR DEVELOPMENT OF THE SPECIFIC USE OR USES FOR WHICH REZONING IS REQUESTED.
18 IF AT THE EXPIRATION OF THIS PERIOD THE PROPERTY HAS NOT BEEN IMPROVED FOR
19 THE USE FOR WHICH IT WAS CONDITIONALLY APPROVED, THE BOARD AFTER NOTIFICATION
20 BY CERTIFIED MAIL TO THE OWNER AND APPLICANT WHO REQUESTED THE REZONING SHALL
21 SCHEDULE A PUBLIC HEARING TO GRANT AN EXTENSION, DETERMINE COMPLIANCE WITH
22 THE SCHEDULE FOR DEVELOPMENT OR CAUSE THE PROPERTY TO REVERT TO ITS FORMER
23 ZONING CLASSIFICATION.

24 J. THE LEGISLATURE FINDS THAT A REZONING OF LAND THAT CHANGES THE
25 ZONING CLASSIFICATION OF THE LAND OR THAT RESTRICTS THE USE OR REDUCES THE
26 VALUE OF THE LAND IS A MATTER OF STATEWIDE CONCERN. SUCH A CHANGE IN ZONING
27 THAT IS INITIATED BY THE GOVERNING BODY OR ZONING BODY SHALL NOT BE MADE
28 WITHOUT THE EXPRESS WRITTEN CONSENT OF THE PROPERTY OWNER. IN APPLYING AN
29 OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A COMPREHENSIVE PLAN, A PARCEL OF
30 LAND SHALL NOT BE REZONED FOR OPEN SPACE, RECREATION, CONSERVATION OR
31 AGRICULTURE UNLESS THE OWNER OF THE LAND CONSENTS TO THE REZONING IN WRITING.
32 FOR THE PURPOSES OF THIS SUBSECTION, REZONING DOES NOT INCLUDE THE CREATION
33 OR EXPANSION OF OVERLAY ZONES SOLELY FOR THE PURPOSE OF IMPLEMENTING AIRPORT
34 SAFETY AND PROTECTION. REZONING ALSO DOES NOT INCLUDE THE REDESIGNATION OF
35 AREAS OF THE COUNTY TO WHICH THE RESIDENTIAL PROVISIONS OF THE COUNTY
36 BUILDING CODES APPLY OR DO NOT APPLY. THE COUNTY SHALL NOT ADOPT ANY CHANGE
37 IN A ZONING CLASSIFICATION TO CIRCUMVENT THE PURPOSE OF THIS SUBSECTION.

38 K. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE
39 GOVERNING BODY INVOLVING REZONING OF LAND THAT IS NOT OWNED BY THE COUNTY AND
40 THAT CHANGES THE ZONING CLASSIFICATION OF THE LAND MAY NOT BE ENACTED AS AN
41 EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE FOR AT LEAST
42 THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION BY THE
43 BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF
44 SUPERVISORS, THE REZONING MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES
45 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE

1 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE
2 BOARD FOR THOSE COUNTIES WITH LESS THAN FIVE SUPERVISORS.

3 L. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS THE AREA
4 WITHIN THREE HUNDRED FEET OF THE PROPOSED AMENDMENT OR CHANGE.

5 11-815. Enforcement; county zoning inspector; deputies;
6 building permits; violations; classification; civil
7 penalties; hearing officers and procedures

8 A. THE COUNTY ZONING ORDINANCE SHALL PROVIDE FOR ITS ENFORCEMENT
9 WITHIN A ZONED TERRITORY BY MEANS OF WITHHOLDING BUILDING PERMITS, AND FOR
10 SUCH PURPOSES MAY ESTABLISH THE POSITION OF COUNTY ZONING INSPECTOR, AND SUCH
11 DEPUTY INSPECTORS AS MAY BE REQUIRED, WHO SHALL BE APPOINTED BY THE BOARD.

12 B. AFTER THE ESTABLISHMENT AND FILLING OF THE POSITION, IT IS UNLAWFUL
13 TO ERECT, CONSTRUCT, RECONSTRUCT, ALTER OR USE ANY BUILDING OR OTHER
14 STRUCTURE WITHIN A ZONING DISTRICT COVERED BY THE ORDINANCE WITHOUT FIRST
15 OBTAINING A BUILDING PERMIT FROM THE INSPECTOR AND FOR THAT PURPOSE THE
16 APPLICANT SHALL PROVIDE THE ZONING INSPECTOR WITH A SKETCH OF THE PROPOSED
17 CONSTRUCTION CONTAINING SUFFICIENT INFORMATION FOR THE ENFORCEMENT OF THE
18 ZONING ORDINANCE. A PERMIT IS NOT REQUIRED FOR REPAIRS OR IMPROVEMENTS OF A
19 VALUE NOT EXCEEDING FIVE HUNDRED DOLLARS. REASONABLE FEES MAY BE CHARGED FOR
20 THE ISSUANCE OF A PERMIT. THE INSPECTOR SHALL RECOGNIZE THE LIMITATIONS
21 PLACED ON THE INSPECTOR'S AUTHORITY BY SECTIONS 11-804 AND 11-811, AND SHALL
22 ISSUE THE PERMIT WHEN IT APPEARS THAT THE PROPOSED ERECTION, CONSTRUCTION,
23 RECONSTRUCTION, ALTERATION OR USE FULLY CONFORMS TO THE ZONING ORDINANCE. IN
24 ANY OTHER CASE THE INSPECTOR SHALL WITHHOLD THE PERMIT.

25 C. IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT, MAINTAIN OR USE
26 ANY LAND IN ANY ZONING DISTRICT IN VIOLATION OF ANY REGULATION OR ANY
27 PROVISION OF ANY ORDINANCE PERTAINING THERETO AND ANY VIOLATION CONSTITUTES A
28 PUBLIC NUISANCE. ANY PERSON, FIRM OR CORPORATION VIOLATING AN ORDINANCE, OR
29 ANY PART OF THE ORDINANCE, IS GUILTY OF A CLASS 2 MISDEMEANOR. EACH DAY
30 DURING WHICH THE ILLEGAL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION,
31 MAINTENANCE OR USE CONTINUES IS A SEPARATE OFFENSE.

32 D. A COUNTY MAY ESTABLISH CIVIL PENALTIES FOR A VIOLATION OF ANY
33 ZONING REGULATION OR ORDINANCE. CIVIL PENALTIES SHALL NOT EXCEED THE AMOUNT
34 OF THE MAXIMUM FINE FOR A CLASS 2 MISDEMEANOR. EACH DAY OF CONTINUANCE OF
35 THE VIOLATION CONSTITUTES A SEPARATE VIOLATION. IF AN ALLEGED VIOLATOR IS
36 SERVED WITH A NOTICE OF VIOLATION PURSUANT TO SUBSECTION E OF THIS SECTION,
37 THE ALLEGED VIOLATOR IS NOT SUBJECT TO A CRIMINAL CHARGE ARISING OUT OF THE
38 SAME FACTS.

39 E. A COUNTY THAT ESTABLISHES A CIVIL PENALTY FOR VIOLATION OF A ZONING
40 REGULATION OR ORDINANCE MAY APPOINT HEARING OFFICERS TO HEAR AND DETERMINE
41 ZONING VIOLATIONS. IF THE ZONING INSPECTOR REPORTS A ZONING VIOLATION TO THE
42 HEARING OFFICER, THE HEARING OFFICER SHALL HOLD A HEARING AFTER SERVING
43 NOTICE OF THE HEARING ON THE ALLEGED VIOLATOR. THE NOTICE SHALL BE
44 PERSONALLY SERVED ON THE ALLEGED VIOLATOR BY THE ZONING INSPECTOR AT LEAST
45 FIVE DAYS BEFORE THE HEARING. IF THE ZONING INSPECTOR IS UNABLE TO

1 PERSONALLY SERVE THE NOTICE, THE NOTICE MAY BE SERVED IN THE SAME MANNER
2 PRESCRIBED FOR ALTERNATIVE METHODS OF SERVICE BY THE ARIZONA RULES OF CIVIL
3 PROCEDURE. A NOTICE SERVED ON THE ALLEGED VIOLATOR OTHER THAN BY PERSONAL
4 SERVICE SHALL BE SERVED AT LEAST THIRTY DAYS BEFORE THE HEARING.

5 F. AT THE HEARING, THE ZONING INSPECTOR SHALL PRESENT EVIDENCE SHOWING
6 THE EXISTENCE OF A ZONING VIOLATION AND THE ALLEGED VIOLATOR OR THE ALLEGED
7 VIOLATOR'S ATTORNEY OR OTHER DESIGNATED REPRESENTATIVE SHALL BE GIVEN A
8 REASONABLE OPPORTUNITY TO PRESENT EVIDENCE. THE COUNTY ATTORNEY MAY PRESENT
9 EVIDENCE ON BEHALF OF THE ZONING INSPECTOR. AT THE CONCLUSION OF THE
10 HEARING, THE HEARING OFFICER SHALL DETERMINE WHETHER A ZONING VIOLATION
11 EXISTS AND, IF A VIOLATION IS FOUND TO EXIST, MAY IMPOSE CIVIL PENALTIES
12 PURSUANT TO SUBSECTION D OF THIS SECTION.

13 G. A HEARING OFFICER MAY BE AN EMPLOYEE OF THE COUNTY AND SHALL BE
14 APPOINTED BY THE BOARD OF SUPERVISORS. A REVIEW OF DECISIONS OF THE HEARING
15 OFFICER BY THE BOARD OF SUPERVISORS SHALL BE AVAILABLE TO ANY PARTY TO THE
16 HEARING. THE BOARD OF SUPERVISORS SHALL ADOPT WRITTEN RULES OF PROCEDURE FOR
17 THE HEARING AND REVIEW OF HEARINGS, WHICH SHALL BE ADOPTED IN THE SAME MANNER
18 AS ZONING ORDINANCES. JUDICIAL REVIEW OF THE FINAL DECISIONS OF THE BOARD OF
19 SUPERVISORS SHALL BE PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. A COUNTY
20 THAT ESTABLISHES CIVIL PENALTIES FOR A VIOLATION OF A ZONING REGULATION OR
21 ORDINANCE IS NOT PRECLUDED FROM PURSUING THE REMEDIES AS PROVIDED FOR IN
22 SUBSECTION H OF THIS SECTION.

23 H. IF ANY BUILDING OR STRUCTURE IS OR IS PROPOSED TO BE ERECTED,
24 CONSTRUCTED, RECONSTRUCTED, ALTERED, MAINTAINED OR USED OR ANY LAND IS OR IS
25 PROPOSED TO BE USED IN VIOLATION OF THIS CHAPTER OR ANY ORDINANCE, REGULATION
26 OR PROVISION ENACTED OR ADOPTED BY THE BOARD UNDER THE AUTHORITY GRANTED BY
27 THIS CHAPTER, THE BOARD, THE COUNTY ATTORNEY, THE INSPECTOR OR ANY ADJACENT
28 OR NEIGHBORING PROPERTY OWNER WHO IS SPECIALLY DAMAGED BY THE VIOLATION, IN
29 ADDITION TO THE OTHER REMEDIES PROVIDED BY LAW, MAY INSTITUTE INJUNCTION,
30 MANDAMUS, ABATEMENT OR ANY OTHER APPROPRIATE ACTION OR PROCEEDINGS TO PREVENT
31 OR ABATE OR REMOVE THE UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION,
32 ALTERATION, MAINTENANCE OR USE.

33 11-816. Boards of adjustment; powers; appeals

34 A. THERE SHALL BE ONE OR MORE BOARDS OF ADJUSTMENT COMPOSED OF NOT
35 LESS THAN THREE NOR MORE THAN FIVE MEMBERS EACH, ONE OF WHICH SHALL BE
36 APPOINTED IN AND SHALL HAVE JURISDICTION IN EACH SUPERVISORIAL DISTRICT IN
37 WHICH THE ZONING ORDINANCE HAS BEEN APPLIED. THE MEMBERS OF EACH BOARD SHALL
38 BE APPOINTED FOR STAGGERED TERMS OF FOUR YEARS EACH. THEY SHALL BE RESIDENTS
39 AND TAXPAYERS OF THE DISTRICT FROM WHICH THEY ARE APPOINTED.

40 B. THE BOARD OF ADJUSTMENT MAY:

41 1. INTERPRET THE ZONING ORDINANCE IF THE MEANING OF ANY WORD, PHRASE
42 OR SECTION IS IN DOUBT, IF THERE IS DISPUTE BETWEEN THE APPELLANT AND
43 ENFORCING OFFICER OR IF THE LOCATION OF A DISTRICT BOUNDARY IS IN DOUBT.

1 2. ALLOW A VARIANCE FROM THE TERMS OF THE ORDINANCE IF, OWING TO
2 PECULIAR CONDITIONS, A STRICT INTERPRETATION WOULD WORK AN UNNECESSARY
3 HARDSHIP AND IF IN GRANTING THE VARIANCE THE GENERAL INTENT AND PURPOSES OF
4 THE ZONING ORDINANCE WILL BE PRESERVED.

5 C. APPEALS TO A BOARD OF ADJUSTMENT MAY BE TAKEN BY ANY PERSON WHO
6 FEELS THAT THERE IS ERROR OR DOUBT IN THE INTERPRETATION OF THE ORDINANCE OR
7 THAT DUE TO UNUSUAL CIRCUMSTANCES ATTACHING TO THE PERSON'S PROPERTY AN
8 UNNECESSARY HARDSHIP IS BEING INFLICTED ON THE PERSON. THE APPEAL SHALL
9 STATE WHETHER IT IS A PLEA FOR AN INTERPRETATION OR A VARIANCE AND THE
10 GROUNDS FOR THE APPEAL.

11 D. ANY PERSON AGGRIEVED IN ANY MANNER BY AN ACTION OF A BOARD OF
12 ADJUSTMENT MAY APPEAL WITHIN THIRTY DAYS TO THE SUPERIOR COURT, AND THE
13 MATTER SHALL BE HEARD DE NOVO.

14 11-817. Transfer of development rights; definitions

15 A. THE BOARD OF SUPERVISORS MAY ESTABLISH PROCEDURES, METHODS AND
16 STANDARDS FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN ITS JURISDICTION.
17 ANY PROPOSED TRANSFER OF ALL OR ANY PORTION OF THE DEVELOPMENT RIGHTS OF A
18 SENDING PROPERTY TO A RECEIVING PROPERTY IS SUBJECT TO THE WRITTEN APPROVAL
19 AND CONSENT OF THE PROPERTY OWNERS OF BOTH THE SENDING PROPERTY AND THE
20 RECEIVING PROPERTY. A COUNTY MAY NOT CONDITION A CHANGE OF ZONE ON A
21 PROPERTY OWNER'S CONSENT TO OR OTHER PARTICIPATION IN A PROPOSED TRANSFER OF
22 DEVELOPMENT RIGHTS, EXCEPT THAT A CHANGE OF ZONE MAY BE REQUIRED TO IMPLEMENT
23 A DEVELOPMENT AGREEMENT IF IT IS VOLUNTARILY ENTERED INTO BY A PROPERTY OWNER
24 OR OWNERS WITH A COUNTY FOR THE TRANSFER OF DEVELOPMENT RIGHTS CONCURRENTLY
25 WITH THE COUNTY'S APPROVAL OF THE CHANGE OF ZONE. BEFORE ANY TRANSFER OF
26 DEVELOPMENT RIGHTS, A COUNTY SHALL ADOPT AN ORDINANCE PROVIDING FOR:

27 1. THE ESTABLISHMENT, EXECUTION AND RECORDATION OF INSTRUMENTS TO
28 SEVER DEVELOPMENT RIGHTS TRANSFERRED FROM THE SENDING PROPERTY AND TO AFFIX
29 THE DEVELOPMENT RIGHTS TO THE RECEIVING PROPERTY. THE INSTRUMENTS SHALL BE
30 EXECUTED BY THE PROPERTY OWNERS OF THE SENDING AND RECEIVING PROPERTY AND ANY
31 LIENHOLDERS.

32 2. THE PRESERVATION OF THE CHARACTERISTICS OF THE SENDING PROPERTY
33 LENDING TO THE TRANSFER OF DEVELOPMENT RIGHTS AND ASSURANCE THAT ANY OF THE
34 PROHIBITIONS AGAINST PARTICULAR USES OR DEVELOPMENT OF THE SENDING PROPERTY
35 DETERMINED TO BE NECESSARY TO PRESERVE THE CHARACTERISTICS SHALL BIND THE
36 PROPERTY OWNER AND EVERY SUCCESSOR IN INTEREST TO THE PROPERTY.

37 3. A DELAY BEFORE TRANSFER OF DEVELOPMENT RIGHTS TO A RECEIVING
38 PROPERTY AFTER THE SEVERANCE OF TRANSFERABLE DEVELOPMENT RIGHTS FROM A
39 SENDING PROPERTY.

40 4. THE PURCHASE, SALE, EXCHANGE OR OTHER CONVEYANCE OF TRANSFERABLE
41 DEVELOPMENT RIGHTS BEFORE THE RIGHTS ARE AFFIXED TO A RECEIVING PROPERTY.

42 5. PROCEDURES FOR MONITORING THE SEVERANCE, OWNERSHIP AND TRANSFER OF
43 TRANSFERABLE DEVELOPMENT RIGHTS.

44 6. APPROPRIATE PUBLIC PARTICIPATION PROCEDURES FOR EACH TYPE OF
45 TRANSACTION.

1 7. USE OF DEVELOPMENT AGREEMENTS AS AN OPTION FOR IMPLEMENTATION.
2 B. THE RESULTING DENSITY OR INTENSITY OF LAND USE OF THE RECEIVING
3 PROPERTY SHALL CONFORM TO THE ADOPTED COMPREHENSIVE PLAN, AS AMENDED, IF
4 APPLICABLE. IF A PLAN AMENDMENT IS REQUIRED BEFORE THE TRANSFER, THE PLAN
5 AMENDMENT SHALL NOT BE CONSIDERED A MAJOR PLAN AMENDMENT.
6 C. A COUNTY'S AREA OF JURISDICTION INCLUDES LAND IN A HIGH NOISE OR
7 ACCIDENT POTENTIAL ZONE, IN ORDER TO FACILITATE DEVELOPMENT IN THE HIGH NOISE
8 OR ACCIDENT POTENTIAL ZONE THAT CONFORMS TO THE COMPATIBLE USES PRESCRIBED IN
9 SECTION 28-8481, SUBSECTION J, THE COUNTY MAY APPROVE THE TRANSFER OF
10 DEVELOPMENT RIGHTS AND ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH ANY CITY
11 OR TOWN OR OTHER COUNTY.
12 D. THE BOARD OF SUPERVISORS MAY AUTHORIZE THE TRANSFER OF DEVELOPMENT
13 RIGHTS FROM UNINCORPORATED AREAS OF A COUNTY TO A MUNICIPALITY PURSUANT TO AN
14 INTERGOVERNMENTAL AGREEMENT.
15 E. FOR THE PURPOSES OF THIS SECTION:
16 1. "ANCILLARY MILITARY FACILITY" HAS THE SAME MEANING PRESCRIBED IN
17 SECTION 28-8461.
18 2. "DEVELOPMENT RIGHTS" MEANS THE MAXIMUM DEVELOPMENT THAT WOULD BE
19 ALLOWED ON THE SENDING PROPERTY UNDER THE ADOPTED COMPREHENSIVE PLAN, THE
20 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER
21 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT ON THE DATE
22 THE COUNTY ADOPTS AN ORDINANCE PURSUANT TO SUBSECTION A OF THIS SECTION,
23 RESPECTING THE PERMISSIBLE USE, AREA, BULK OR HEIGHT OF IMPROVEMENTS MADE TO
24 ONE OR MORE LOTS OR PARCELS. DEVELOPMENT RIGHTS MAY BE CALCULATED AND
25 ALLOCATED PURSUANT TO FACTORS INCLUDING DWELLING UNITS, AREA, FLOOR AREA,
26 FLOOR AREA RATIO, HEIGHT LIMITATIONS, TRAFFIC GENERATION OR ANY OTHER
27 CRITERIA THAT WILL QUANTIFY A VALUE FOR THE DEVELOPMENT RIGHTS IN A MANNER
28 THAT WILL CARRY OUT THE OBJECTIVES OF THIS SECTION.
29 3. "HIGH NOISE OR ACCIDENT POTENTIAL ZONE" HAS THE SAME MEANING
30 PRESCRIBED IN SECTION 28-8461.
31 4. "MILITARY AIRPORT" HAS THE SAME MEANING PRESCRIBED IN SECTION
32 28-8461.
33 5. "RECEIVING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS WITHIN WHICH
34 DEVELOPMENT RIGHTS ARE INCREASED UNDER THE ADOPTED COMPREHENSIVE PLAN, THE
35 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER
36 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT BEFORE A
37 TRANSFER OF DEVELOPMENT RIGHTS AND AN AMENDMENT TO THE ADOPTED COMPREHENSIVE
38 PLAN, SPECIFIC PLAN OR ZONING ORDINANCE, OR A REZONE OF THE PROPERTY,
39 WHICHEVER IS REQUIRED TO IMPLEMENT THE INCREASE IN DEVELOPMENT RIGHTS. THE
40 RECEIVING PROPERTY SHALL BE SUITABLE FOR DEVELOPMENT THAT INCLUDES THE
41 TRANSFERRED DEVELOPMENT RIGHTS CONSISTENT WITH THE ADOPTED COMPREHENSIVE
42 PLAN, AS AMENDED, IF APPLICABLE. RECEIVING PROPERTY DOES NOT INCLUDE LOTS OR
43 PARCELS THAT ARE PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH
44 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY
45 MILITARY FACILITY.

1 6. "SENDING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS THAT ARE
2 PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH NOISE OR ACCIDENT
3 POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY MILITARY FACILITY, A
4 FLOODPLAIN, NATURAL HABITAT, GEOLOGIC FEATURES, RECREATION AREA OR PARKLAND,
5 OR LAND THAT HAS UNIQUE AESTHETIC, ARCHITECTURAL OR HISTORIC VALUE, THAT A
6 COUNTY DETERMINES IS APPROPRIATE AND NECESSARY TO RESTRICT AGAINST PARTICULAR
7 USES OR FUTURE DEVELOPMENT THAT WOULD IMPAIR OR PRECLUDE PRESERVATION OF THE
8 CHARACTERISTIC OR CHARACTERISTICS OF THE PROPERTY OR TO PROTECT THE PUBLIC
9 BECAUSE OF HEALTH OR SAFETY CONCERNS.

10 7. "TRANSFER OF DEVELOPMENT RIGHTS" MEANS THE PROCESS BY WHICH
11 DEVELOPMENT RIGHTS FROM ONE OR MORE SENDING PROPERTIES ARE AFFIXED TO ONE OR
12 MORE RECEIVING PROPERTIES.

13 11-818. Disclosure of filings; military electronics range;
14 definition

15 A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE
16 AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE
17 LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE
18 INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY
19 TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS
20 RANGE:

21 1. REZONE THE PROPERTY.

22 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN
23 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY
24 OPERATED UTILITY, FOR THE PROPERTY.

25 3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING
26 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,
27 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

28 B. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN SUBSECTION A OF THIS
29 SECTION DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE
30 CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE COUNTY ON WRITTEN
31 COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL
32 COMMENTS ON THE PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN
33 WRITING AND RECEIVED BY THE COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING
34 ON THE PROPOSED LAND USE CHANGE. IF THE INSTALLATION CHOOSES NOT TO SUBMIT
35 OFFICIAL COMMENTS, AND IF THERE IS A HEARING, THE COUNTY SHALL NOTE AT THE
36 PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT
37 INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

38 C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION
39 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND
40 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE
41 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE
42 INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE
43 PROCEDURES THE COUNTY USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND
44 DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

1 D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO
2 DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY
3 OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE
4 MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

5 E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A COUNTY TO MEET THE
6 NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS
7 NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

8 F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"
9 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,
10 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY
11 MISSION OF A MILITARY INSTALLATION.

12 ARTICLE 3. COUNTY SUBDIVISION REGULATION

13 11-821. Subdivision regulations; subdivision reservation for
14 public facilities and services; conditions;
15 procedures; time limitation

16 A. THE COUNTY BOARD OF SUPERVISORS SHALL REGULATE THE SUBDIVISION OF
17 ALL LANDS WITHIN ITS CORPORATE LIMITS, EXCEPT SUBDIVISIONS THAT ARE REGULATED
18 BY MUNICIPALITIES.

19 B. THE COMMISSION SHALL RECOMMEND TO THE BOARD AND THE BOARD SHALL
20 ADOPT GENERAL REGULATIONS OF UNIFORM APPLICATION GOVERNING PLATS AND
21 SUBDIVISIONS OF LAND WITHIN ITS AREA OF JURISDICTION. THE REGULATIONS
22 ADOPTED SHALL SECURE AND PROVIDE FOR THE PROPER ARRANGEMENT OF STREETS OR
23 OTHER HIGHWAYS IN RELATION TO EXISTING OR PLANNED STREETS, HIGHWAYS OR
24 BICYCLE FACILITIES OR TO THE OFFICIAL MAP FOR ADEQUATE AND CONVENIENT OPEN
25 SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF FIREFIGHTING APPARATUS,
26 RECREATION, LIGHT AND AIR. THE BOARD MAY ADOPT GENERAL REGULATIONS TO
27 PROVIDE FOR THE PROPER ARRANGEMENT OF HIKING AND EQUESTRIAN TRAILS IN
28 RELATION TO EXISTING OR PLANNED STREETS OR HIGHWAYS, AND IF ADOPTED, THE
29 HIKING AND EQUESTRIAN TRAILS SHALL CONFORM TO THE OFFICIAL MAP FOR ADEQUATE
30 AND CONVENIENT OPEN SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF
31 FIREFIGHTING APPARATUS, RECREATION, LIGHT AND AIR. THE GENERAL REGULATIONS
32 MAY PROVIDE FOR MODIFICATION BY THE COMMISSION IN PLANNED AREA DEVELOPMENT OR
33 SPECIFIC CASES WHERE UNUSUAL TOPOGRAPHICAL OR OTHER EXCEPTIONAL CONDITIONS
34 MAY REQUIRE SUCH ACTION. THE REGULATIONS SHALL INCLUDE PROVISIONS AS TO THE
35 EXTENT TO WHICH STREETS AND OTHER HIGHWAYS SHALL BE GRADED AND IMPROVED AND
36 TO WHICH WATER, SEWER OR OTHER UTILITY MAINS, PIPING OR OTHER FACILITIES
37 SHALL BE INSTALLED OR PROVIDED FOR ON THE PLAT AS A CONDITION PRECEDENT TO
38 THE APPROVAL OF THE FINAL PLAT.

39 C. BOARDS OF SUPERVISORS OF COUNTIES SHALL PREPARE SPECIFICATIONS AND
40 MAKE ORDERS, INSPECTIONS, EXAMINATIONS AND CERTIFICATES AS MAY BE NECESSARY
41 TO PROTECT AND COMPLETE THE PROVISIONS AND MAKE THEM EFFECTIVE. THE
42 REGULATIONS SHALL REQUIRE THE POSTING OF PERFORMANCE BONDS, ASSURANCES OR
43 SUCH OTHER SECURITY AS MAY BE APPROPRIATE AND NECESSARY TO ENSURE THE
44 INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC AND WATER UTILITIES,

1 DRAINAGE, FLOOD CONTROL AND IMPROVEMENTS MEETING ESTABLISHED MINIMUM
2 STANDARDS OF DESIGN AND CONSTRUCTION.

3 D. BEFORE ADOPTION OF REGULATIONS BY THE BOARD OR ANY AMENDMENT AS
4 PROVIDED IN THIS ARTICLE, THE COMMISSION SHALL HOLD A PUBLIC HEARING. THE
5 COMMISSION SHALL CERTIFY A COPY OF THE REGULATIONS TO THE COUNTY BOARD OF
6 SUPERVISORS, WHICH SHALL HOLD A PUBLIC HEARING AFTER NOTICE OF THE TIME AND
7 PLACE HAS BEEN GIVEN BY ONE PUBLICATION FIFTEEN DAYS BEFORE THE PUBLIC
8 HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

9 E. A BOARD OF SUPERVISORS MAY REQUIRE BY ORDINANCE THAT LAND AREAS
10 WITHIN A SUBDIVISION BE RESERVED FOR PARKS, RECREATIONAL FACILITIES, SCHOOL
11 SITES AND FIRE STATIONS SUBJECT TO THE FOLLOWING CONDITIONS:

12 1. THE REQUIREMENT MAY ONLY BE MADE ON PRELIMINARY PLATS FILED AT
13 LEAST THIRTY DAYS AFTER THE ADOPTION OF A COMPREHENSIVE PLAN OR AMENDMENT OF
14 THE PLAN AFFECTING THE LAND AREA TO BE RESERVED.

15 2. THE REQUIRED RESERVATIONS ARE IN ACCORDANCE WITH DEFINITE
16 PRINCIPLES AND STANDARDS ADOPTED BY THE BOARD OR COMMISSION.

17 3. THE LAND AREA RESERVED IS OF SUCH A SIZE AND SHAPE AS TO PERMIT THE
18 REMAINDER OF THE LAND AREA OF THE SUBDIVISION WITHIN WHICH THE RESERVATION IS
19 LOCATED TO DEVELOP IN AN ORDERLY AND EFFICIENT MANNER.

20 4. THE LAND AREA RESERVED IS IN SUCH MULTIPLES OF STREETS AND PARCELS
21 AS TO PERMIT AN EFFICIENT DIVISION OF THE RESERVED AREA IF IT IS NOT ACQUIRED
22 WITHIN THE PRESCRIBED PERIOD.

23 F. THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED HAS
24 ONE YEAR AFTER RECORDING THE FINAL SUBDIVISION PLAT TO ENTER INTO AN
25 AGREEMENT TO ACQUIRE THE RESERVED LAND AREA. THE PURCHASE PRICE IS THE FAIR
26 MARKET VALUE OF THE LAND AT THE TIME OF THE FILING OF THE PRELIMINARY
27 SUBDIVISION PLAT PLUS THE TAXES AGAINST THE RESERVED AREA FROM THE DATE OF
28 THE RESERVATION AND ANY OTHER COSTS INCURRED BY THE SUBDIVIDER IN THE
29 MAINTENANCE OF THE RESERVED AREA, INCLUDING INTEREST COST INCURRED ON ANY
30 LOAN COVERING THE RESERVED AREA.

31 G. IF THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED
32 DOES NOT EXERCISE THE RESERVATION AGREEMENT WITHIN THE ONE YEAR PERIOD OR AN
33 EXTENDED PERIOD MUTUALLY AGREED ON BY THE PUBLIC AGENCY AND THE SUBDIVIDER,
34 THE RESERVATION OF THE AREA TERMINATES.

35 11-822. Subdivision approval; platting regulations; violation;
36 classification; easement vesting

37 A. NO PLAT OF A SUBDIVISION OF LAND WITHIN THE AREA OF JURISDICTION OF
38 THE COUNTY SHALL BE ACCEPTED FOR RECORDING OR RECORDED UNTIL IT HAS BEEN
39 APPROVED BY THE BOARD. THE APPROVAL OF THE BOARD SHALL BE ENDORSED IN
40 WRITING ON THE PLAT AND SHALL ALSO INCLUDE SPECIFIC IDENTIFICATION AND
41 APPROVAL OF THE ASSURANCES, EXCEPT THOSE FOR HIKING AND EQUESTRIAN TRAILS
42 REQUIRED BY THIS SECTION. IF A COUNTY PLANNING AND ZONING COMMISSION EXISTS,
43 THE PLAT MAY BE REFERRED TO THE COMMISSION FOR ITS CONSIDERATION AND THE
44 BOARD MAY RECEIVE THE RECOMMENDATION OF THE COMMISSION. IF THE SUBDIVISION
45 IS COMPRISED OF SUBDIVIDED LAND, AS DEFINED IN SECTION 32-2101, AND IS WITHIN

1 AN ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE PLAT SHALL NOT
2 BE APPROVED UNLESS IT IS ACCOMPANIED BY A CERTIFICATE OF ASSURED WATER SUPPLY
3 ISSUED BY THE DIRECTOR OF WATER RESOURCES, OR UNLESS THE SUBDIVIDER HAS
4 OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A
5 CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER
6 SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576 OR IS
7 EXEMPT FROM SUCH A REQUIREMENT PURSUANT TO SECTION 45-576. THE BOARD SHALL
8 NOTE ON THE FACE OF THE PLAT THAT A CERTIFICATE OF ASSURED WATER SUPPLY HAS
9 BEEN SUBMITTED WITH THE PLAT OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
10 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
11 WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO
12 SECTION 45-576.

13 B. THE GROUND OF REFUSAL OR APPROVAL OF ANY PLAT SUBMITTED, INCLUDING
14 CITATION OF OR REFERENCE TO THE RULE OR REGULATION VIOLATED BY THE PLAT,
15 SHALL BE STATED ON THE RECORD OF THE BOARD.

16 C. APPROVAL OF A PLAT SHALL NOT BE DEEMED TO CONSTITUTE OR EFFECT AN
17 ACCEPTANCE BY THE COUNTY FOR DESIGNATION OF ANY STREET, HIGHWAY, BICYCLE
18 FACILITY OR OTHER WAY OR OPEN SPACE SHOWN ON THE PLAT INTO THE COUNTY
19 MAINTENANCE SYSTEM EXCEPT FOR HIKING AND EQUESTRIAN TRAILS THAT ARE
20 CONSTRUCTED AND MAINTAINED BY THE COUNTY. HOWEVER, AT THE TIME THE STREETS,
21 HIGHWAYS, BICYCLE FACILITIES OR OTHER WAYS ARE FULLY COMPLETED IN ACCORDANCE
22 WITH THE APPROVED PLAT AND WRITTEN SPECIFICATIONS MADE BY THE COUNTY BOARD,
23 THE COUNTY SHALL ACCEPT THE STREETS, HIGHWAYS, BICYCLE FACILITIES AND OTHER
24 WAYS INTO THE COUNTY MAINTENANCE SYSTEM WITHIN ONE YEAR OF COMPLETION.

25 D. ANY PERSON CAUSING A FINAL PLAT TO BE RECORDED WITHOUT FIRST
26 SUBMITTING THE PLAT AND OBTAINING APPROVAL OF THE BOARD IS GUILTY OF A CLASS
27 2 MISDEMEANOR. A COUNTY RECORDER SHALL NOT ACCEPT FOR RECORDING OR RECORD
28 ANY PLAT THAT HAS NOT BEEN APPROVED AS PROVIDED BY THIS ARTICLE.

29 E. ON RECORDING OF A PLAT, THE FEE OF THE STREETS, ALLEYS, AVENUES,
30 HIGHWAYS, EASEMENTS, PARKS AND OTHER PARCELS OF GROUND RESERVED TO THE USE OF
31 THE PUBLIC VESTS IN TRUST IN THE COUNTY FOR THE USES AND TO THE EXTENT
32 DEPICTED ON THE PLAT, INCLUDING INGRESS AND EGRESS EASEMENTS DEPICTED ON THE
33 PLAT. ON ANNEXATION BY ANY CITY OR TOWN THE FEE AUTOMATICALLY VESTS IN THE
34 CITY OR TOWN.

35 F. FOR ANY SUBDIVISION THAT CONSISTS OF LOTS, TRACTS OR PARCELS, EACH
36 OF WHICH IS OF A SIZE AS PRESCRIBED BY THE BOARD OF SUPERVISORS, THE BOARD
37 MAY WAIVE THE REQUIREMENT TO PREPARE, SUBMIT AND RECEIVE APPROVAL OF A
38 PRELIMINARY PLAT AS A CONDITION PRECEDENT TO SUBMITTING A FINAL PLAT AND MAY
39 WAIVE OR REDUCE INFRASTRUCTURE STANDARDS OR REQUIREMENTS EXCEPT FOR IMPROVED
40 DUST-CONTROLLED ACCESS AND MINIMUM DRAINAGE IMPROVEMENTS.

41 11-823. Water supply; adequacy; exemptions

42 A. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS
43 ADOPTED BY THE BOARD PURSUANT TO SECTION 11-821, SUBSECTION B, IF APPROVED BY
44 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT, EXCEPT AS
45 PROVIDED IN SUBSECTION C AND SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, THE

1 BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED
2 LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT
3 AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:

4 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
5 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE
6 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

7 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE
8 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS
9 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT
10 TO SECTION 45-108.

11 B. IF THE BOARD UNANIMOUSLY ADOPTS THE PROVISION AUTHORIZED BY
12 SUBSECTION A OF THIS SECTION:

13 1. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM
14 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
15 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL
16 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE
17 FOLLOWING APPLY:

18 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER
19 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE
20 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY
21 OF THE RESIDENTS OF THE SUBDIVISION.

22 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE
23 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED
24 IN SECTION 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR
25 DIVERSION.

26 (c) IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION
27 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN
28 TITLE 45, CHAPTER 2, ARTICLE 8.

29 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY
30 ADDITIONAL CONDITIONS IMPOSED BY THE COUNTY.

31 2. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE
32 PROVISION TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL
33 QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE SHALL INCLUDE A
34 CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS ADOPTED PURSUANT TO
35 PARAGRAPH 1 OF THIS SUBSECTION. WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE
36 MONIES IN A WATER SUPPLY DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

37 3. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER
38 THAT IS INCONSISTENT WITH SUBSECTION A OF THIS SECTION. IF THE BOARD AMENDS
39 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR
40 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL
41 ESTATE COMMISSIONER. THE BOARD MAY RESCIND AN EXEMPTION ADOPTED PURSUANT TO
42 PARAGRAPH 1 OF THIS SUBSECTION. IF THE BOARD RESCINDS THE EXEMPTION, IT
43 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER
44 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE

1 COMMISSIONER, AND THE BOARD SHALL NOT READOPT THE EXEMPTION FOR AT LEAST FIVE
2 YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

3 4. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION A,
4 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE
5 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION
6 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT
7 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE
8 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO
9 SECTION 45-108.

10 5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION
11 AUTHORIZED BY PARAGRAPH 1 OF THIS SUBSECTION OR GRANTED BY THE DIRECTOR OF
12 WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR 45-108.03:

13 (a) THE BOARD SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE
14 DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

15 (b) THE BOARD SHALL INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT
16 THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE
17 SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER
18 WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE BOARD OR THE
19 DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS DETERMINED THAT THE
20 SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR OF WATER
21 RESOURCES SUBSEQUENTLY INFORMS THE BOARD THAT THE SUBDIVISION IS BEING SERVED
22 BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN
23 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE BOARD SHALL RECORD IN
24 THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

25 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

26 1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS
27 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF
28 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION
29 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN
30 EXEMPTION PURSUANT TO SECTION 45-108.03.

31 2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE
32 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE
33 IN THE COUNTY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED
34 THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT
35 RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL
36 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY
37 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE COUNTY APPROVES A PLAT
38 PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
39 THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO
40 SECTION 45-108, THE COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

41 D. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN
42 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE BOARD HAS NOT
43 ADOPTED A PROVISION PURSUANT TO SUBSECTION A OF THIS SECTION:

1 1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
2 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF
3 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE
4 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING
5 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO
6 SECTION 45-108, THE BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT
7 IS APPROVED.

8 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
9 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE
10 BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

11 ARTICLE 4. LAND DIVISIONS; APPEALS; MORATORIUMS

12 11-831. Review of land divisions; definitions

13 A. THE BOARD OF SUPERVISORS OF EACH COUNTY MAY ADOPT ORDINANCES AND
14 REGULATIONS PURSUANT TO THIS SECTION FOR STAFF REVIEW AND APPROVAL OF LAND
15 DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL INTERESTS, ANY OF
16 WHICH IS TEN ACRES OR SMALLER IN SIZE. THE COUNTY MAY NOT DENY APPROVAL OF
17 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION. IF REVIEW OF
18 THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS AFTER RECEIVING THE REQUEST,
19 THE LAND DIVISION IS CONSIDERED TO BE APPROVED. AT ITS OPTION, THE BOARD OF
20 SUPERVISORS MAY SUBMIT A BALLOT QUESTION TO THE VOTERS OF THE COUNTY TO ALLOW
21 THE VOTERS TO DETERMINE THE APPLICATION OF SUBSECTIONS B AND C TO QUALIFYING
22 LAND DIVISIONS IN THAT COUNTY.

23 B. AN APPLICATION TO SPLIT A PARCEL OF LAND SHALL BE APPROVED IF:

24 1. THE LOTS, PARCELS OR FRACTIONAL INTERESTS EACH MEET THE MINIMUM
25 APPLICABLE COUNTY ZONING REQUIREMENTS OF THE APPLICABLE ZONING DESIGNATION.

26 2. THE APPLICANT PROVIDES A STANDARD PRELIMINARY TITLE REPORT OR OTHER
27 ACCEPTABLE DOCUMENT THAT DEMONSTRATES LEGAL ACCESS TO THE LOTS, PARCELS OR
28 FRACTIONAL INTERESTS.

29 3. THE APPLICANT PROVIDES A STATEMENT FROM A LICENSED SURVEYOR OR
30 ENGINEER, OR OTHER EVIDENCE ACCEPTABLE TO THE COUNTY, STATING WHETHER EACH
31 LOT, PARCEL OR FRACTIONAL INTEREST HAS PHYSICAL ACCESS THAT IS TRAVERSABLE BY
32 A TWO-WHEEL DRIVE PASSENGER MOTOR VEHICLE.

33 4. THE APPLICANT RESERVES THE NECESSARY AND APPROPRIATE UTILITY
34 EASEMENTS TO SERVE EACH LOT, PARCEL OR FRACTIONAL INTEREST CREATED BY THE
35 LAND DIVISION.

36 C. AN APPLICATION TO SPLIT A PARCEL OF LAND THAT DOES NOT COMPLY WITH
37 ONE OR MORE OF THE ITEMS LISTED IN SUBSECTION B SHALL STILL BE APPROVED IF
38 THE APPLICANT PROVIDES AN ACKNOWLEDGMENT THAT IS SIGNED BY THE APPLICANT AND
39 THAT CONFIRMS THAT NO BUILDING OR USE PERMIT WILL BE ISSUED BY THE COUNTY
40 UNTIL THE LOT, PARCEL OR FRACTIONAL INTEREST HAS MET THE REQUIREMENTS OF
41 SUBSECTION B. THE COUNTY MAY GRANT A VARIANCE FROM ONE OR MORE OF THE ITEMS
42 LISTED IN SUBSECTION B.

43 D. ANY APPROVAL OF A LAND DIVISION UNDER THIS SECTION MAY:

1 1. INCLUDE THE MINIMUM STATUTORY REQUIREMENTS FOR LEGAL AND PHYSICAL
2 ON-SITE ACCESS THAT MUST BE MET AS A CONDITION TO THE ISSUANCE OF A BUILDING
3 OR USE PERMIT FOR THE LOTS, PARCELS OR FRACTIONAL INTERESTS.

4 2. IDENTIFY TOPOGRAPHIC, HYDROLOGIC OR OTHER SITE CONSTRAINTS,
5 REQUIREMENTS OR LIMITATIONS THAT MUST BE ADDRESSED AS CONDITIONS TO THE
6 EVENTUAL ISSUANCE OF A BUILDING OR USE PERMIT. THESE CONSTRAINTS,
7 REQUIREMENTS OR LIMITATIONS MAY BE AS NOTED BY THE APPLICANT OR THROUGH
8 COUNTY STAFF REVIEW, BUT THERE SHALL BE NO REQUIREMENT FOR INDEPENDENT
9 STUDIES.

10 E. IF THE REQUIREMENTS OF SUBSECTIONS A THROUGH D DO NOT APPLY, A
11 COUNTY MAY ADOPT ORDINANCES AND REGULATIONS PURSUANT TO THIS CHAPTER FOR
12 STAFF REVIEW OF LAND DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL
13 INTERESTS BUT ONLY TO DETERMINE COMPLIANCE WITH MINIMUM APPLICABLE COUNTY
14 ZONING REQUIREMENTS AND LEGAL ACCESS AND MAY GRANT WAIVERS FROM THE COUNTY
15 ZONING AND LEGAL ACCESS REQUIREMENTS. THE COUNTY MAY NOT DENY APPROVAL OF
16 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION OR WHERE THE
17 DEFICIENCIES ARE NOTICED IN THE DEED. A COUNTY MAY NOT REQUIRE A PUBLIC
18 HEARING ON A REQUEST TO DIVIDE FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL
19 INTERESTS. IF REVIEW OF THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS FROM
20 RECEIPT OF THE REQUEST, THE LAND DIVISION SHALL BE DEEMED APPROVED. IF NO
21 LEGAL ACCESS IS AVAILABLE, THE LEGAL ACCESS DOES NOT ALLOW ACCESS BY
22 EMERGENCY VEHICLES OR THE COUNTY ZONING REQUIREMENTS ARE NOT MET, THE ACCESS
23 OR ZONING DEFICIENCIES SHALL BE NOTICED IN THE DEED. IF A COUNTY BY
24 ORDINANCE REQUIRES A LEGAL ACCESS OF MORE THAN TWENTY-FOUR FEET ROADWAY
25 WIDTH, THE COUNTY IS RESPONSIBLE FOR THE IMPROVEMENT AND MAINTENANCE OF THE
26 IMPROVEMENT. IF THE LEGAL ACCESS DOES NOT ALLOW ACCESS TO THE LOTS, PARCELS
27 OR FRACTIONAL INTERESTS BY EMERGENCY VEHICLES, NEITHER THE COUNTY NOR ITS
28 AGENTS OR EMPLOYEES ARE LIABLE FOR DAMAGES RESULTING FROM THE FAILURE OF
29 EMERGENCY VEHICLES TO REACH THE LOT, PARCEL OR FRACTIONAL INTEREST.

30 F. IT IS UNLAWFUL FOR A PERSON OR GROUP OF PERSONS ACTING IN CONCERT
31 TO ATTEMPT TO AVOID THIS SECTION OR THE SUBDIVISION LAWS OF THIS STATE BY
32 ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR SELL OR
33 LEASE SIX OR MORE LOTS BY USING A SERIES OF OWNERS OR CONVEYANCES. ANY
34 COUNTY WHERE THE DIVISION OCCURRED OR THE STATE REAL ESTATE DEPARTMENT
35 PURSUANT TO TITLE 32, CHAPTER 20 MAY ENFORCE THIS PROHIBITION.

36 G. FOR THE PURPOSES OF THIS SECTION:

37 1. "LEGAL ACCESS" MEANS A PUBLIC RIGHT OF VEHICULAR INGRESS AND EGRESS
38 BETWEEN THE LOTS, PARCELS OR FRACTIONAL INTERESTS BEING CREATED.

39 2. "MINIMUM APPLICABLE COUNTY ZONING REQUIREMENTS" MEANS THE MINIMUM
40 ACREAGE AND DIMENSIONS OF THE RESULTING LOT, PARCEL OR FRACTIONAL INTEREST AS
41 REQUIRED BY THE COUNTY'S ZONING ORDINANCE.

42 3. "UTILITY EASEMENT" MEANS AN EASEMENT OF EIGHT FEET IN WIDTH
43 DEDICATED TO THE GENERAL PUBLIC TO INSTALL, MAINTAIN AND ACCESS SEWER,
44 ELECTRIC, GAS AND WATER UTILITIES.

1 11-832. Appeals of county actions; dedication or exaction;
2 excessive reduction in property value; burden of
3 proof; attorney fees; compliance with court decisions

4 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A PROPERTY
5 OWNER MAY APPEAL THE FOLLOWING ACTIONS RELATING TO THE OWNER'S PROPERTY BY A
6 COUNTY, OR AN ADMINISTRATIVE AGENCY OR OFFICIAL OF A COUNTY, IN THE MANNER
7 PRESCRIBED BY THIS SECTION:

8 1. THE REQUIREMENT BY A COUNTY OF A DEDICATION OR EXACTION AS A
9 CONDITION OF GRANTING APPROVAL FOR THE USE, IMPROVEMENT OR DEVELOPMENT OF
10 REAL PROPERTY. THIS SECTION DOES NOT APPLY TO A DEDICATION OR EXACTION THAT
11 IS REQUIRED IN A LEGISLATIVE ACT OF THE BOARD OF SUPERVISORS AND THAT DOES
12 NOT GIVE DISCRETION TO AN ADMINISTRATIVE AGENCY OR OFFICIAL TO DETERMINE THE
13 NATURE OR EXTENT OF THE DEDICATION OR EXACTION.

14 2. THE ADOPTION OR AMENDMENT OF A ZONING REGULATION BY A COUNTY THAT
15 CREATES A TAKING IN VIOLATION OF SUBSECTION I.

16 B. THE COUNTY SHALL NOTIFY THE PROPERTY OWNER THAT THE PROPERTY OWNER
17 HAS THE RIGHT TO APPEAL THE COUNTY'S ACTION PURSUANT TO THIS SECTION AND
18 SHALL PROVIDE A DESCRIPTION OF THE APPEAL PROCEDURE. THE COUNTY SHALL NOT
19 REQUEST THE PROPERTY OWNER TO WAIVE THE RIGHT OF APPEAL OR TRIAL DE NOVO AT
20 ANY TIME DURING THE CONSIDERATION OF THE PROPERTY OWNER'S REQUEST.

21 C. THE APPEAL SHALL BE IN WRITING AND FILED WITH OR MAILED TO A
22 HEARING OFFICER DESIGNATED BY THE BOARD OF SUPERVISORS WITHIN THIRTY DAYS
23 AFTER THE FINAL ACTION IS TAKEN. THE COUNTY SHALL SUBMIT A TAKINGS IMPACT
24 REPORT TO THE HEARING OFFICER. A FEE SHALL NOT BE CHARGED FOR FILING THE
25 APPEAL.

26 D. AFTER RECEIPT OF AN APPEAL, THE HEARING OFFICER SHALL SCHEDULE A
27 TIME FOR THE APPEAL TO BE HEARD NOT LATER THAN THIRTY DAYS AFTER RECEIPT.
28 THE PROPERTY OWNER SHALL BE GIVEN AT LEAST TEN DAYS' NOTICE OF THE TIME WHEN
29 THE APPEAL WILL BE HEARD UNLESS THE PROPERTY OWNER AGREES TO A SHORTER TIME
30 PERIOD.

31 E. IN ALL PROCEEDINGS UNDER THIS SECTION THE COUNTY HAS THE BURDEN TO
32 ESTABLISH THAT THERE IS AN ESSENTIAL NEXUS BETWEEN THE DEDICATION OR EXACTION
33 AND A LEGITIMATE GOVERNMENTAL INTEREST AND THAT THE PROPOSED DEDICATION,
34 EXACTION OR ZONING REGULATION IS ROUGHLY PROPORTIONAL TO THE IMPACT OF THE
35 PROPOSED USE, IMPROVEMENT OR DEVELOPMENT OR, IN THE CASE OF A ZONING
36 REGULATION, THAT THE ZONING REGULATION DOES NOT CREATE A TAKING OF PROPERTY
37 IN VIOLATION OF SUBSECTION I. IF MORE THAN A SINGLE PARCEL IS INVOLVED, THIS
38 REQUIREMENT APPLIES TO THE ENTIRE PROPERTY.

39 F. THE HEARING OFFICER SHALL DECIDE THE APPEAL WITHIN FIVE WORKING
40 DAYS AFTER THE APPEAL IS HEARD. IF THE COUNTY DOES NOT MEET ITS BURDEN UNDER
41 SUBSECTION E, THE HEARING OFFICER SHALL:

42 1. MODIFY OR DELETE THE REQUIREMENT OF THE DEDICATION OR EXACTION
43 APPEALED UNDER SUBSECTION A, PARAGRAPH 1.

1 2. IN THE CASE OF A ZONING REGULATION APPEALED UNDER SUBSECTION A,
2 PARAGRAPH 2, THE HEARING OFFICER SHALL TRANSMIT A RECOMMENDATION TO THE BOARD
3 OF SUPERVISORS.

4 G. IF THE HEARING OFFICER MODIFIES OR AFFIRMS THE REQUIREMENT OF THE
5 DEDICATION, EXACTION OR ZONING REGULATION, A PROPERTY OWNER AGGRIEVED BY A
6 DECISION OF THE HEARING OFFICER, AT ANY TIME WITHIN THIRTY DAYS AFTER THE
7 HEARING OFFICER HAS RENDERED A DECISION, MAY FILE A COMPLAINT FOR A TRIAL DE
8 NOVO IN THE SUPERIOR COURT ON THE FACTS AND THE LAW REGARDING THE ISSUES OF
9 THE CONDITION OR REQUIREMENT OF THE DEDICATION, EXACTION OR ZONING
10 REGULATION. PURSUANT TO THE STANDARDS FOR GRANTING PRELIMINARY INJUNCTIONS,
11 THE COURT MAY EXERCISE ANY LEGAL OR EQUITABLE INTERIM REMEDIES THAT WILL
12 PERMIT THE PROPERTY OWNER TO PROCEED WITH THE USE, ENJOYMENT AND DEVELOPMENT
13 OF THE REAL PROPERTY BUT THAT WILL NOT RENDER MOOT ANY DECISION UPHOLDING THE
14 DEDICATION, EXACTION OR ZONING REGULATION.

15 H. ALL MATTERS PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS
16 SECTION HAVE PREFERENCE ON THE COURT CALENDAR ON THE SAME BASIS AS
17 CONDEMNATION MATTERS, AND THE COURT MAY AWARD REASONABLE ATTORNEY FEES
18 INCURRED IN THE APPEAL AND TRIAL PURSUANT TO THIS SECTION TO THE PREVAILING
19 PARTY. THE COURT MAY FURTHER AWARD DAMAGES THAT ARE DEEMED APPROPRIATE TO
20 COMPENSATE THE PROPERTY OWNER FOR DIRECT AND ACTUAL DELAY DAMAGES ON A
21 FINDING THAT THE COUNTY ACTED IN BAD FAITH.

22 I. A COUNTY OR AN AGENCY OR INSTRUMENTALITY OF A COUNTY SHALL COMPLY
23 WITH THE UNITED STATES SUPREME COURT CASES OF DOLAN V. CITY OF TIGARD, 512
24 U.S. 374 (1994), NOLLAN V. CALIFORNIA COASTAL COMMISSION, 483 U.S. 825
25 (1987), LUCAS V. SOUTH CAROLINA COASTAL COUNCIL, 505 U.S. 1003 (1992), FIRST
26 ENGLISH EVANGELICAL LUTHERAN CHURCH V. COUNTY OF LOS ANGELES, 482 U.S. 304
27 (1987), PALAZZOLO V. RHODE ISLAND, 533 U.S. 606 (2001), TAHOE-SIERRA
28 PRESERVATION COUNCIL, INC. V. TAHOE REGIONAL PLANNING AGENCY, 535 U.S. 320
29 (2002) AND ARIZONA AND FEDERAL APPELLATE COURT DECISIONS THAT ARE BINDING ON
30 ARIZONA COUNTIES INTERPRETING OR APPLYING THOSE CASES.

31 11-833. Standards for enactment of moratorium: land
32 development; limitations; definitions

33 A. A COUNTY SHALL NOT ADOPT A MORATORIUM ON CONSTRUCTION OR LAND
34 DEVELOPMENT UNLESS IT FIRST:

35 1. PROVIDES NOTICE TO THE PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF
36 GENERAL CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL
37 PUBLIC HEARING TO BE HELD TO CONSIDER THE ADOPTION OF THE MORATORIUM.

38 2. MAKES WRITTEN FINDINGS JUSTIFYING THE NEED FOR THE MORATORIUM IN
39 THE MANNER PROVIDED FOR IN THIS SECTION.

40 3. HOLDS A PUBLIC HEARING ON THE ADOPTION OF THE MORATORIUM AND THE
41 FINDINGS THAT SUPPORT THE MORATORIUM.

42 B. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION, A
43 MORATORIUM MAY BE JUSTIFIED BY DEMONSTRATION OF A NEED TO PREVENT A SHORTAGE
44 OF ESSENTIAL PUBLIC FACILITIES THAT WOULD OTHERWISE OCCUR DURING THE
45 EFFECTIVE PERIOD OF THE MORATORIUM. THIS DEMONSTRATION SHALL BE BASED ON

1 REASONABLY AVAILABLE INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING
2 FINDINGS:

3 1. A SHOWING OF THE EXTENT OF NEED BEYOND THE ESTIMATED CAPACITY OF
4 EXISTING ESSENTIAL PUBLIC FACILITIES EXPECTED TO RESULT FROM NEW LAND
5 DEVELOPMENT, INCLUDING IDENTIFICATION OF ANY ESSENTIAL PUBLIC FACILITIES
6 CURRENTLY OPERATING BEYOND CAPACITY AND THE PORTION OF THIS CAPACITY ALREADY
7 COMMITTED TO DEVELOPMENT, OR IN THE CASE OF WATER RESOURCES, A SHOWING THAT,
8 IN AN ACTIVE MANAGEMENT AREA AS DEFINED IN SECTION 45-402, AN ASSURED WATER
9 SUPPLY CANNOT BE PROVIDED, OR OUTSIDE AN ACTIVE MANAGEMENT AREA, A SUFFICIENT
10 WATER SUPPLY CANNOT BE PROVIDED, TO THE NEW LAND DEVELOPMENT, INCLUDING
11 IDENTIFICATION OF CURRENT WATER RESOURCES AND THE PORTION ALREADY COMMITTED
12 TO DEVELOPMENT.

13 2. THAT THE MORATORIUM IS REASONABLY LIMITED TO THOSE AREAS OF THE
14 COUNTY WHERE A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES WOULD OTHERWISE OCCUR
15 AND ON PROPERTY THAT HAS NOT RECEIVED DEVELOPMENT APPROVALS BASED ON THE
16 SUFFICIENCY OF EXISTING ESSENTIAL PUBLIC FACILITIES.

17 3. THAT THE HOUSING AND ECONOMIC DEVELOPMENT NEEDS OF THE AREA
18 AFFECTED HAVE BEEN ACCOMMODATED AS MUCH AS POSSIBLE IN ANY PROGRAM FOR
19 ALLOCATING ANY REMAINING ESSENTIAL PUBLIC FACILITY CAPACITY.

20 C. A MORATORIUM NOT BASED ON A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES
21 UNDER SUBSECTION B OF THIS SECTION MAY BE JUSTIFIED ONLY BY A DEMONSTRATION
22 OF COMPELLING NEED FOR OTHER PUBLIC FACILITIES, INCLUDING POLICE AND FIRE
23 FACILITIES. THIS DEMONSTRATION SHALL BE BASED ON REASONABLY AVAILABLE
24 INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING FINDINGS:

25 1. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION:

26 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS
27 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM
28 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

29 (b) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT A
30 NEEDED SUPPLY OF AFFECTED HOUSING TYPES AND THE SUPPLY OF COMMERCIAL AND
31 INDUSTRIAL FACILITIES WITHIN OR IN PROXIMITY TO THE COUNTY ARE NOT
32 UNREASONABLY RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

33 (c) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES
34 OF THE MORATORIUM ARE UNSATISFACTORY.

35 (d) THAT THE COUNTY HAS DETERMINED THAT THE PUBLIC HARM THAT WOULD BE
36 CAUSED BY FAILURE TO IMPOSE A MORATORIUM OUTWEIGHS THE ADVERSE EFFECTS ON
37 OTHER AFFECTED LOCAL GOVERNMENTS, INCLUDING SHIFTS IN DEMAND FOR HOUSING OR
38 ECONOMIC DEVELOPMENT, PUBLIC FACILITIES AND SERVICES AND BUILDABLE LANDS AND
39 THE OVERALL IMPACT OF THE MORATORIUM ON POPULATION DISTRIBUTION.

40 (e) THAT THE CITY OR TOWN PROPOSING THE MORATORIUM HAS DEVELOPED A
41 WORK PLAN AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

42 2. FOR RURAL LAND:

43 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS
44 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM
45 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

1 (b) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES
2 OF THE MORATORIUM ARE UNSATISFACTORY.

3 (c) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT LOTS OR
4 PARCELS OUTSIDE THE AFFECTED GEOGRAPHICAL AREAS ARE NOT UNREASONABLY
5 RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

6 (d) THAT THE COUNTY PROPOSING THE MORATORIUM HAS DEVELOPED A WORK PLAN
7 AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

8 D. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION DOES NOT AFFECT ANY
9 EXPRESS PROVISION IN A DEVELOPMENT AGREEMENT ENTERED INTO PURSUANT TO SECTION
10 9-500.05 OR AS DEFINED IN SECTION 11-1101 GOVERNING THE RATE, TIMING AND
11 SEQUENCING OF DEVELOPMENT, NOR DOES IT AFFECT RIGHTS ACQUIRED PURSUANT TO A
12 PROTECTED DEVELOPMENT RIGHT GRANTED ACCORDING TO CHAPTER 9 OF THIS TITLE OR
13 TITLE 9, CHAPTER 11. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION SHALL
14 PROVIDE A PROCEDURE PURSUANT TO WHICH AN INDIVIDUAL LANDOWNER MAY APPLY FOR A
15 WAIVER OF THE MORATORIUM'S APPLICABILITY TO ITS PROPERTY BY CLAIMING RIGHTS
16 OBTAINED PURSUANT TO A DEVELOPMENT AGREEMENT, A PROTECTED DEVELOPMENT RIGHT
17 OR ANY VESTED RIGHT OR BY PROVIDING THE PUBLIC FACILITIES THAT ARE THE
18 SUBJECT OF THE MORATORIUM AT THE LANDOWNER'S COST.

19 E. A MORATORIUM ADOPTED UNDER SUBSECTION C, PARAGRAPH 1 OF THIS
20 SECTION SHALL NOT REMAIN IN EFFECT FOR MORE THAN ONE HUNDRED TWENTY DAYS, BUT
21 SUCH A MORATORIUM MAY BE EXTENDED FOR ADDITIONAL PERIODS OF TIME OF UP TO ONE
22 HUNDRED TWENTY DAYS IF THE COUNTY ADOPTING THE MORATORIUM HOLDS A PUBLIC
23 HEARING ON THE PROPOSED EXTENSION AND ADOPTS WRITTEN FINDINGS THAT:

24 1. VERIFY THE PROBLEM REQUIRING THE NEED FOR THE MORATORIUM TO BE
25 EXTENDED.

26 2. DEMONSTRATE THAT REASONABLE PROGRESS IS BEING MADE TO ALLEVIATE THE
27 PROBLEM RESULTING IN THE MORATORIUM.

28 3. SET A SPECIFIC DURATION FOR THE RENEWAL OF THE MORATORIUM.

29 F. A COUNTY CONSIDERING AN EXTENSION OF A MORATORIUM SHALL PROVIDE
30 NOTICE TO THE GENERAL PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF GENERAL
31 CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL HEARING IS
32 HELD TO CONSIDER AN EXTENSION OF A MORATORIUM.

33 G. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM COMPLYING WITH
34 ANY STATE OR FEDERAL LAW, REGULATION OR ORDER ISSUED IN WRITING BY A LEGALLY
35 AUTHORIZED GOVERNMENTAL ENTITY.

36 H. A LANDOWNER AGGRIEVED BY A COUNTY'S ADOPTION OF A MORATORIUM
37 PURSUANT TO THIS SECTION, AT ANY TIME WITHIN THIRTY DAYS AFTER THE MORATORIUM
38 HAS BEEN ADOPTED, MAY FILE A COMPLAINT FOR A TRIAL DE NOVO IN THE SUPERIOR
39 COURT ON THE FACTS AND THE LAW REGARDING THE MORATORIUM. ALL MATTERS
40 PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS SECTION HAVE PREFERENCE ON
41 THE COURT CALENDAR ON THE SAME BASIS AS CONDEMNATION MATTERS. THE COURT MAY
42 AWARD REASONABLE ATTORNEY FEES INCURRED IN THE APPEAL AND TRIAL PURSUANT TO
43 THIS SECTION TO THE PREVAILING PARTY.

44 I. FOR THE PURPOSES OF THIS SECTION:

1 1. "COMPELLING NEED" MEANS A CLEAR AND IMMINENT DANGER TO THE HEALTH
2 AND SAFETY OF THE PUBLIC.

3 2. "ESSENTIAL PUBLIC FACILITIES" MEANS WATER, SEWER AND STREET
4 IMPROVEMENTS AND WATER RESOURCES TO THE EXTENT THAT THESE IMPROVEMENTS AND
5 WATER RESOURCES ARE PROVIDED BY THE COUNTY OR PRIVATE UTILITY.

6 3. "MORATORIUM ON CONSTRUCTION OR LAND DEVELOPMENT" MEANS ENGAGING IN
7 A PATTERN OR PRACTICE OF DELAYING OR STOPPING ISSUANCE OF PERMITS,
8 AUTHORIZATIONS OR APPROVALS NECESSARY FOR THE SUBDIVISION AND PARTITIONING
9 OF, OR CONSTRUCTION ON, ANY LAND. IT DOES NOT INCLUDE DENIAL OR DELAY OF
10 PERMITS OR AUTHORIZATIONS BECAUSE THEY ARE INCONSISTENT WITH APPLICABLE
11 STATUTES, RULES, ZONING OR OTHER ORDINANCES.

12 4. "RURAL LAND" MEANS ALL PROPERTY IN THE UNINCORPORATED AREA OF A
13 COUNTY OR IN THE INCORPORATED AREA OF THE CITY OR TOWN WITH A POPULATION OF
14 TWO THOUSAND NINE HUNDRED OR LESS PERSONS.

15 5. "URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION" MEANS ALL
16 PROPERTY IN THE INCORPORATED AREA OF A CITY OR TOWN WITH A POPULATION OF MORE
17 THAN TWO THOUSAND NINE HUNDRED PERSONS.

18 6. "VESTED RIGHT" MEANS A RIGHT TO DEVELOP PROPERTY ESTABLISHED BY THE
19 EXPENDITURE OF SUBSTANTIAL SUMS OF MONEY PURSUANT TO A PERMIT OR APPROVAL
20 GRANTED BY THE CITY, TOWN OR COUNTY.

21 Sec. 7. Section 11-866, Arizona Revised Statutes, is amended to read:

22 11-866. Penalties

23 A penalty clause contained in a code adopted by reference shall not be
24 adopted by reference but shall be set forth in full in the adopting
25 ordinance. The penalty provisions of section ~~11-808~~ 11-815 may be applied by
26 the county in enforcing ~~the provisions of~~ this article.

27 Sec. 8. Section 11-1101, Arizona Revised Statutes, is amended to read:

28 11-1101. Development agreements

29 A. A county, by resolution or ordinance, may enter into development
30 agreements relating to property located outside the incorporated area of a
31 city or town.

32 B. The development agreement shall be between the county and a
33 landowner or any other person having an interest in real property and may
34 specify or otherwise relate to any of the following:

35 1. The duration of the agreement.

36 2. The permitted uses of property subject to the agreement.

37 3. The density and intensity of uses and the maximum height and size
38 of proposed buildings within the property.

39 4. Provisions for reservation or dedication of land for public
40 purposes and provisions to protect environmentally sensitive lands.

41 5. Provisions for preservation and restoration of historic structures.

42 6. The phasing or time of construction or development on the property.

43 7. Conditions, terms, restrictions, financing and requirements for
44 public infrastructure and subsequent reimbursements over time.

1 8. Conditions, terms, restrictions and requirements relating to the
2 county's intent to form a special taxing district pursuant to title 48.

3 9. Conditions of sewer services.

4 10. Any other matters relating to the development of the property.

5 C. A development agreement shall be consistent with the county
6 comprehensive plan adopted pursuant to chapter 6, article ~~2~~-1 of this title
7 and applies to the property on the date the development agreement is
8 executed.

9 D. A development agreement may be amended, or cancelled in whole or in
10 part, by mutual consent of the parties to the development agreement or by
11 their successors in interest or assigns.

12 E. Within ten days after a development agreement is executed, the
13 county shall record a copy of the agreement with the county recorder, and the
14 recordation constitutes notice of the development agreement to all persons.
15 The burdens of the development agreement are binding on, and the benefits of
16 the development agreement inure to, the parties to the agreement and to all
17 of their successors in interest and assigns.

18 F. Section 32-2181, subsection I does not apply to development
19 agreements under this section.

20 G. Notwithstanding any other law, a county may provide by resolution
21 or ordinance for public safety purposes, and with the written consent of an
22 owner of property that has entered into a development agreement pursuant to
23 this section, for the application and enforcement of speed limits, vehicle
24 weight restrictions or other safety measures on a private road that is
25 located in any development outside the corporate boundaries of a city or town
26 and that is open to and used by the public. The county may require payment
27 from the property owner of the actual cost of signs for speed limits or other
28 restrictions applicable on the private road before their installation.

29 Sec. 9. Section 13-1422, Arizona Revised Statutes, is amended to read:
30 13-1422. Adult oriented businesses; location; hours of
31 operation; injunction; classification; definitions

32 A. An adult oriented business shall not be located within one-fourth
33 mile of a child care facility, a private, public or charter school, a public
34 playground, a public recreational facility, a residence or a place of
35 worship. For the purposes of this subsection, measurements shall be made in
36 a straight line in all directions, without regard to intervening structures
37 or objects, from the nearest point on the property line of a parcel
38 containing an adult oriented business to the nearest point on the property
39 line of a parcel containing a child care facility, a private, public or
40 charter school, a public playground, a public recreational facility, a
41 residence or a place of worship. An adult oriented business lawfully
42 operating in conformity with this section does not violate this section if a
43 child care facility, a private, public or charter school, a public
44 playground, a public recreational facility, a residence or a place of worship
45 subsequently locates within one-fourth mile of the adult oriented business.

1 B. An adult arcade, adult bookstore or video store, adult cabaret,
2 adult motion picture theater, adult theater, escort agency or nude model
3 studio shall not remain open at any time between the hours of 1:00 a.m. and
4 8:00 a.m. on Monday through Saturday and between the hours of 1:00 a.m. and
5 12:00 noon on Sunday.

6 C. Subsection A of this section does not prohibit counties or
7 municipalities from enacting and enforcing ordinances that regulate the
8 location of adult oriented businesses.

9 D. Subsection B of this section does not prohibit counties or
10 municipalities from enacting and enforcing ordinances that regulate an adult
11 arcade, adult bookstore or video store, adult cabaret, adult motion picture
12 theater, adult theater, escort agency or nude model studio in a manner that
13 is at least as restrictive as subsection B of this section.

14 E. If there is reason to believe that a violation of subsection A of
15 this section is being committed in any county or city, the county attorney of
16 the county shall, or a citizen of this state who resides in the county or
17 city in the citizen's own name may, maintain an action to abate and prevent
18 the violation and to enjoin perpetually any person who is committing the
19 violation and the owner, lessee or agent of the building or place in or on
20 which the violation is occurring from directly or indirectly committing or
21 permitting the violation.

22 F. A violation of subsection A or B of this section is a class 1
23 misdemeanor. Each day of violation constitutes a separate offense.

24 G. For the purposes of this section:

25 1. "Adult arcade" has the same meaning prescribed in section ~~11-821~~
26 11-811.

27 2. "Adult bookstore or video store" has the same meaning prescribed in
28 section ~~11-821~~ 11-811.

29 3. "Adult cabaret" excludes any establishment licensed under title 4
30 and includes any nightclub, bar, restaurant or other similar commercial
31 establishment that regularly features:

32 (a) Persons who appear in a state of nudity or who are seminude.

33 (b) Live performances that are characterized by the exposure of
34 specific anatomical areas or specific sexual activities.

35 (c) Films, motion pictures, videocassettes, slides or other
36 photographic reproductions that are characterized by the depiction or
37 description of specific sexual activities or specific anatomical areas.

38 4. "Adult motion picture theater" has the same meaning prescribed in
39 section ~~11-821~~ 11-811.

40 5. "Adult oriented business" has the same meaning prescribed in
41 section ~~11-821~~ 11-811.

42 6. "Adult theater" has the same meaning prescribed in section ~~11-821~~
43 11-811.

44 7. "Escort" means a person who for consideration agrees or offers to
45 act as a companion, guide or date for another person or who agrees or offers

1 to privately model lingerie or to privately perform a striptease for another
2 person.

3 8. "Escort agency" means a person or business association that
4 furnishes, offers to furnish or advertises the furnishing of escorts as one
5 of its primary business purposes for any fee, tip or other consideration.

6 9. "Nude model studio" has the same meaning prescribed in section
7 ~~11-821~~ 11-811.

8 10. "Nude", "nudity" or "state of nudity" has the same meaning
9 prescribed in section ~~11-821~~ 11-811.

10 11. "Place of worship" means a structure where persons regularly
11 assemble for worship, ceremonies, rituals and education relating to a
12 particular form of religious belief and which a reasonable person would
13 conclude is a place of worship by reason of design, signs or architectural or
14 other features.

15 12. "Residence" means a permanent dwelling place.

16 13. "Seminude" has the same meaning prescribed in section ~~11-821~~
17 11-811.

18 14. "Specific anatomical areas" has the same meaning prescribed in
19 section ~~11-821~~ 11-811.

20 15. "Specific sexual activities" has the same meaning prescribed in
21 section ~~11-821~~ 11-811.

22 Sec. 10. Section 27-441, Arizona Revised Statutes, is amended to read:
23 27-441. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Aggregate" means cinders, crushed rock or stone, decomposed
26 granite, gravel, pumice, pumicite and sand.

27 2. "Aggregate mining" means clearing, covering or moving land using
28 mechanized earth-moving equipment on privately owned property for aggregate
29 development and production purposes, including ancillary aggregate finished
30 product activities. Aggregate mining includes an operation that mixes or
31 recycles rock, sand, gravel or similar aggregate materials with water and
32 cement or with asphalt. Aggregate mining does not include surveying, seismic
33 work, exploration or maintenance activities that create a de minimis land
34 disturbance.

35 3. "Aggregate mining operation" or "operation" means property that is
36 owned, operated or managed by the same person for mining aggregate and is
37 located in an aggregate mining operations zoning district established
38 pursuant to section ~~11-830~~ 11-812. Property that is not contiguous but is in
39 the same zoning district, that is owned, operated or managed by the same
40 person and that is operated as a single aggregate mining complex is
41 considered to be a single aggregate mining operation.

42 4. "Existing aggregate mining operation" means an aggregate mining
43 operation that was in operation on or before the date the aggregate mining
44 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

1 5. "Major modification" means a change in an approved community notice
2 that is one or more of the following:

3 (a) An increase of more than twenty acres from that stated in the
4 currently approved community notice for the aggregate mining operation.

5 (b) A new and significant type of aggregate mining that has never been
6 conducted at the aggregate mining operation site.

7 (c) Substantive changes to the provisions of an approved community
8 notice required by section 27-442, subsection C, paragraphs 4, 6, 8, 9 and
9 10.

10 6. "Minor modification" means a change in a community notice that is
11 not a major modification.

12 7. "New aggregate mining operation" means an aggregate mining
13 operation that begins operations after the date the aggregate mining
14 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

15 Sec. 11. Section 27-442, Arizona Revised Statutes, is amended to read:

16 27-442. Aggregate mining operations; community notice;
17 application

18 A. An owner or operator of an aggregate mining operation shall not
19 conduct any aggregate mining until it has an approved community notice
20 pursuant to section 27-445, except that an owner or operator of an existing
21 aggregate mining operation may continue the operation if a community notice
22 is filed as provided by subsection H of this section.

23 B. An owner or operator of an aggregate mining operation shall not
24 undertake a major modification of an approved community notice until a major
25 modification application is approved by the state mine inspector pursuant to
26 section 27-445.

27 C. The owner or operator of a new aggregate mining operation shall
28 file an application for a community notice with the inspector containing:

29 1. The name and mailing address of the aggregate mining operation.

30 2. The name and mailing address of the owner or operator of the
31 operation.

32 3. The name, mailing address and telephone number of the designated
33 community representative or representatives for the operation.

34 4. A statement describing the mining activities to be conducted at the
35 operation.

36 5. The amount of acreage of the operation and a map showing the
37 location of the major process facilities.

38 6. Each type of major equipment to be used in the operation.

39 7. The approximate date when the operation will start.

40 8. A description and location of access routes to be used to and from
41 the operation site during normal hours and nonemergency conditions.

42 9. The normal operating hours of the operation to be maintained during
43 nonemergency conditions, unless the inspector authorizes a temporary variance
44 from normal operating hours.

1 10. A description of measures the owner or operator will use to
2 moderate, to the extent economically practicable at the site, any adverse
3 physical effects on the residential property owners who are notified pursuant
4 to section 27-444.

5 D. An owner or operator who owns or leases the land of the operation
6 may submit a joint application for a community notice with one or more
7 lessees or sublessees who are also operating an aggregate mining operation on
8 the same property. A joint application for a community notice must
9 separately list the information required pursuant to subsection C of this
10 section by each owner or operator of an aggregate mining operation. Owners
11 or operators of aggregate mining operations who received approval for a joint
12 application for a community notice may also file a joint application on that
13 approved community notice for major and minor modifications.

14 E. The owner or operator may propose a major or minor modification by
15 filing an application with the inspector containing the text of the community
16 notice with the proposed changes noted in the text.

17 F. Within fourteen days after receiving an application for a community
18 notice for a new aggregate mining operation or major modification, the
19 inspector shall notify the applicant if the community notice application
20 contains the information required by subsection C of this section or if the
21 major modification application is complete pursuant to subsection E of this
22 section. If the inspector fails to notify the applicant within fourteen
23 days, the application is considered to be complete.

24 G. The owner or operator must file an application for a minor
25 modification to an approved community notice with the state mine
26 inspector. Minor modifications take effect on filing, unless a later
27 effective date is designated in the application. Applications for minor
28 modifications are not subject to sections 27-443, 27-444 and 27-445.

29 H. For purposes of having an approved community notice, within ninety
30 days after an aggregate mining operations zoning district is established
31 pursuant to section ~~11-830~~ 11-812, the owner or operator of an existing
32 aggregate mining operation must file with the state mine inspector a
33 community notice, which is not subject to sections 27-443 and 27-444. The
34 community notice shall contain all the information required by subsection C
35 of this section, except paragraph 7, for its aggregate mining operation.
36 Owners or operators of existing aggregate mining operations may submit a
37 joint application for a community notice pursuant to subsection D of this
38 section.

39 Sec. 12. Section 27-446, Arizona Revised Statutes, is amended to read:
40 27-446. Claims of deviation from an approved community notice

41 A. After a community notice is approved by the state mine inspector, a
42 residential property owner who resides within one-half mile of the boundaries
43 of the aggregate mining operation may submit a written complaint to the
44 designated community representative that the operation has materially

1 deviated from the approved community notice, specifying the community notice
2 provision that is in question and the nature of the material deviation.

3 B. If the aggregate mining operation does not address the complaint to
4 the satisfaction of the residential property owner within thirty days after
5 receiving the complaint, the notified residential property owner may file the
6 same complaint with the inspector with a statement that the aggregate mining
7 operation has not addressed the complaint to the property owner's
8 satisfaction.

9 C. In counties that have established an aggregate mining operations
10 recommendation committee pursuant to section ~~11-830~~ 11-812, the inspector
11 shall request the committee to hear the complaint. The committee shall
12 advise the inspector within thirty days in writing of its findings and
13 recommendations regarding the complaint. The inspector shall render a
14 decision on the complaint within thirty days after receiving the committee's
15 recommendation. The inspector shall notify, in writing, the owner or
16 operator of the aggregate mining operation, the complainant and the committee
17 of the decision.

18 Sec. 13. Section 27-447, Arizona Revised Statutes, is amended to read:
19 27-447. Inspection and enforcement

20 A. The state mine inspector may enter and inspect any aggregate mining
21 operation to determine compliance with an approved community notice.

22 B. If the inspector determines that a person is violating this
23 article, an approved community notice or aggregate mining operations zoning
24 district standards regulation adopted by a county and approved by the state
25 mining inspector pursuant to section ~~11-830~~ 11-812, the inspector may issue
26 an order requiring compliance either immediately if the violation is causing
27 an imminent and substantial danger to the public or within a stated period of
28 time. A compliance order must state with reasonable specificity the nature
29 of the community notice violation, a reasonable amount of time for
30 compliance, if applicable, and the right to a hearing. The inspector shall
31 transmit the compliance order to the alleged violator either by certified
32 mail, return receipt requested, or by hand delivery. At the inspector's
33 request, the attorney general may file an action to enforce orders issued
34 under this section after the order becomes final. The action must be filed
35 in the superior court in the county in which the alleged violation occurred
36 or in which the inspector maintains an office.

37 C. The inspector may suspend, withdraw or revoke a community notice
38 approval if the inspector determines that the aggregate mining operation is
39 in violation of an approved community notice. Any action taken under this
40 subsection must comply with the requirements of title 41, chapter 6, article
41 10 and section 41-1009, subsection E.

42 D. If the inspector has reason to believe that a person is violating
43 this article or an approved community notice or aggregate mining operations
44 zoning district standards regulation adopted by a county and approved by the
45 inspector pursuant to section ~~11-830~~ 11-812 or that a person is causing an

1 imminent and substantial danger to the public safety, the inspector, through
2 the attorney general, may request a temporary restraining order, a
3 preliminary injunction or any other relief necessary to protect the public
4 safety without regard to whether the person has requested a hearing. An
5 action filed pursuant to this subsection must be brought in the superior
6 court in the county in which the alleged violation occurred or in which the
7 inspector maintains an office.

8 Sec. 14. Section 28-6705, Arizona Revised Statutes, is amended to
9 read:

10 28-6705. Public road and street maintenance

11 A. The board of supervisors may spend public monies for maintenance of
12 public roads and streets other than legally designated state and county
13 highways located without the limits of an incorporated city or town. Before
14 spending public monies under this section, the roads or streets shall be
15 both:

- 16 1. Laid out, opened and constructed without cost to the county.
- 17 2. Completed pursuant to a plat approved pursuant to sections 11-802
18 and ~~11-806.01~~ 11-822 and in accordance with standard engineering road
19 specifications adopted by the board of supervisors to ensure uniform
20 compliance.

21 B. The board of supervisors may spend public monies for maintenance of
22 public roads and streets laid out, constructed and opened before June 13,
23 1975 even if the roads and streets were not constructed in accordance with
24 subsection A of this section.

25 C. Maintenance of a public road or street does not include purchasing
26 or laying cement. To reduce long-term maintenance costs for maintenance
27 authorized by this section, the board of supervisors may spend monies to add
28 rock products, gravel and processed materials to the base of the roads and
29 streets. Petroleum based or nonpetroleum based products may be used in the
30 maintenance and repair of unpaved roads, alleys and shoulders identified
31 pursuant to section 9-500.04 or 49-474.01 or unpaved roads, alleys and
32 shoulders in any county where the control officer as defined in section
33 49-471 certifies to the board of supervisors that emissions from such roads,
34 alleys or shoulders may endanger compliance with the national ambient air
35 quality standard as defined in section 49-401.01.

36 Sec. 15. Section 28-6713, Arizona Revised Statutes, is amended to
37 read:

38 28-6713. Bids for construction, reconstruction, equipment or
39 supplies; procedure; bond; exceptions

40 A. Except as provided in subsection G of this section, in a county
41 with a population of two hundred fifty thousand persons or more as determined
42 by the most recent United States decennial census or the most recent special
43 census as provided in section 28-6532, bids for all items of construction or
44 reconstruction involving an expenditure equal to or greater than the amount
45 determined pursuant to subsection B of this section, all purchases or other

1 acquisition of equipment involving an expenditure of more than five thousand
2 dollars and all purchases of supplies and materials involving an expenditure
3 of two thousand five hundred dollars or more shall be called for by
4 advertising in a newspaper of general circulation in the county for two
5 consecutive publications if it is a weekly newspaper, or for two publications
6 of at least six but not more than ten days apart if it is a daily
7 newspaper. The advertisement shall state specifically the character of the
8 work to be done and the kind and quality of materials or supplies to be
9 furnished.

10 B. Bids shall be called pursuant to subsection A of this section for
11 all items of construction or reconstruction involving an expenditure of:

12 1. In fiscal year 1985-1986, thirty-five thousand dollars.

13 2. In fiscal year 1986-1987 and each fiscal year thereafter, the
14 amount provided in paragraph 1 of this subsection adjusted by the annual
15 percentage change in the GDP price deflator as defined in section 41-563.

16 C. If the board of supervisors receives a satisfactory bid, it shall
17 contract with the lowest responsible bidder after the contractor or supplier
18 gives any bond required by title 34, chapter 2, article 2, except that in
19 counties with a population of more than one million persons according to the
20 most recent United States decennial census, in determining the lowest
21 responsible bidder under this section, the board may consider, for no more
22 than five projects, the time of completion proposed by the bidder, the value
23 over time of completed services and facilities and the value over time of
24 interrupted services, if the board determines that this procedure will serve
25 the public interest by providing a substantial fiscal benefit or that the use
26 of the traditional awarding of contracts is not practicable for meeting
27 desired construction standards or delivery schedules and if the formula for
28 considering the time of completion is specifically stated in the bidding
29 information. The board may reject any or all bids and readvertise.

30 D. The board of supervisors, a member of the board of supervisors or
31 any other official or agent of a county affected by this section shall not
32 segregate or divide into separate units a contiguous or continuous portion of
33 highway construction or reconstruction or divide into separate portions an
34 item of equipment or generally recognized unit of supplies or material to
35 avoid the restrictions imposed by subsection A of this section.

36 E. The board of supervisors, a member of the board of supervisors or
37 any other official or agent of a county affected by this section shall make
38 every effort to combine the following:

39 1. Separate portions of highway construction or reconstruction
40 projects.

41 2. Items of equipment, supplies and materials.

42 F. After a contract has been awarded, the board of supervisors'
43 authorized representative may authorize change orders to the contract if
44 necessary pursuant to guidelines set by the board of supervisors. This

1 authority does not permit the board of supervisors' authorized representative
2 to act independently to award new contracts.

3 G. A building, structure, addition or alteration may be constructed
4 without complying with the bidding requirements of this section if the
5 construction, including construction of buildings or structures on public or
6 private property, is required as a condition of development of private
7 property and is authorized by section 9-463.01 or ~~11-806.01~~ 11-821 OR 11-822.
8 For the purposes of this subsection, building does not include any police,
9 fire, school, library or other public building.

10 H. Subsections A, B and C of this section do not apply to procurement
11 of construction-manager-at-risk, design-build and job-order-contracting
12 construction services pursuant to title 34, chapter 6.

13 Sec. 16. Section 28-8481, Arizona Revised Statutes, is amended to
14 read:

15 28-8481. Planning and zoning; military airport and ancillary
16 military facility's operation compatibility;
17 compliance review; penalty; definitions

18 A. A political subdivision that has territory in the vicinity of a
19 military airport or ancillary military facility that includes property in a
20 high noise or accident potential zone shall adopt comprehensive and general
21 plans and school district development plans, if applicable, for property in
22 the high noise or accident potential zone to assure development compatible
23 with the high noise and accident potential generated by military airport and
24 ancillary military facility operations that have or may have an adverse
25 effect on public health and safety. Each political subdivision, excluding
26 school districts, shall adopt and enforce zoning regulations for property in
27 the high noise or accident potential zone to assure development compatible
28 with the high noise and accident potential generated by military airport and
29 ancillary military facility operations that have or may have an adverse
30 effect on public health and safety.

31 B. A political subdivision that has territory in the vicinity of a
32 military airport or ancillary military facility shall incorporate sound
33 attenuation standards pursuant to section 28-8482 into any building code in
34 existence on or adopted after July 1, 2001 or after July 1 of the year in
35 which the land becomes territory in the vicinity of a military airport or
36 ancillary military facility. This section does not affect or require the
37 modification of any building permit issued before July 1, 2001 or before July
38 1 of the year in which the land becomes territory in the vicinity of a
39 military airport or ancillary military facility.

40 C. A political subdivision that has territory in the vicinity of a
41 military airport or ancillary military facility that includes property in a
42 high noise or accident potential zone shall adopt, administer and enforce the
43 zoning regulations or school district development plans authorized by
44 subsection A of this section in the same manner as the comprehensive zoning
45 ordinance or school district development plans of the political subdivision

1 as provided by law, except that a variance shall not be granted without a
2 specific finding that the purpose of military airport or ancillary military
3 facility compatibility is preserved.

4 D. This section does not affect the existing authority of a political
5 subdivision to plan and zone on the basis of noise or accident potential in
6 the vicinity of an airport owned or controlled by the political subdivision
7 or to adopt restrictions or limitations in addition to those required by this
8 section applicable to territory in the vicinity of a military airport or
9 ancillary military facility.

10 E. This section does not restrict, limit or modify, or authorize or
11 require any political subdivision to restrict, limit or modify, the right of
12 a landowner to undertake and complete development and use of any property
13 under the terms and conditions of a development plan or school district
14 development plan approved on or before December 31, 2000, or on or before
15 December 31 of the year in which the development's property becomes territory
16 in the vicinity of a military airport or ancillary military facility or
17 pursuant to a written determination of compatibility issued by the military
18 airport or ancillary military facility on or before December 31, 2004, by the
19 political subdivision in whose territory or area of jurisdiction the property
20 is located, except that the development must comply with the sound
21 attenuation standards and specifications incorporated into any building code
22 adopted pursuant to section 28-8482 by the political subdivision in whose
23 territory or area of jurisdiction the development is located.

24 F. This section does not restrict, limit or modify, or authorize or
25 require any political subdivision to restrict, limit or modify, the right of
26 a landowner to undertake and complete development and use of any property
27 located in a high noise or accident potential zone that is appurtenant to an
28 ancillary military facility under the terms and conditions of a development
29 plan or school district development plan approved on or before December 31,
30 2004 by the political subdivision in whose territory or area of jurisdiction
31 the property is located or pursuant to a written determination of
32 compatibility issued by the military airport or ancillary military facility
33 on or before December 31, 2004, except that the development shall comply with
34 the sound attenuation standards and specifications incorporated into any
35 building code adopted pursuant to section 28-8482 by the political
36 subdivision in whose territory or area of jurisdiction the development is
37 located.

38 G. On or after July 1, 2001 or on or after December 31 of the year in
39 which the property becomes territory in a high noise or accident potential
40 zone, a political subdivision that has property in a high noise or accident
41 potential zone shall notify the owner or owners of property in the high noise
42 and accident potential zone of any additions or changes under this section to
43 the general plan, comprehensive plan, zoning regulations or school district
44 development plan of the political subdivision applicable to property in the
45 high noise or accident potential zone. The political subdivision shall

1 provide a notice of such additions or changes by publication as provided in
2 section 9-462.04, subsection A or section 11-829, subsection C, including a
3 statement that the property is located in a high noise or accident potential
4 zone, at least thirty days before final approval of the addition to or change
5 in the general plan, permitted land uses, zoning regulation or school
6 district development plan and within thirty days following the final approval
7 of such an addition to or change in the general plan, permitted land uses,
8 zoning regulation or school district development plan.

9 H. Any property owner described in subsection G of this section shall
10 notify potential purchasers of the property and any potential lessees or
11 renters that the property is located in a high noise and accident potential
12 zone and is subject to the requirements of this section.

13 I. If a political subdivision includes property in the high noise or
14 accident potential zone of a military airport or ancillary military facility,
15 the political subdivision shall send notice to the attorney general of any
16 approval, adoption or readoption of, or major amendment to, the general or
17 comprehensive plan that impacts property in the high noise or accident
18 potential zone of a military airport or ancillary military facility within
19 three business days after the approval, adoption or readoption. If the
20 attorney general determines the approval, adoption or readoption of the
21 general or comprehensive plan or the major amendment to the general or
22 comprehensive plan is not in compliance with subsection J of this section,
23 the attorney general shall notify the political subdivision by certified
24 mail, return receipt requested, of the determination of noncompliance.
25 Within thirty days after the receipt of a determination of noncompliance by
26 the attorney general as prescribed by this section, the governing body of the
27 political subdivision shall reconsider any approval, adoption or readoption
28 of, or major amendment to, the general or comprehensive plan that impacts
29 property in the high noise or accident potential zone of a military airport
30 or ancillary military facility. If the governing body reaffirms a prior
31 action subject to an attorney general's determination of noncompliance
32 pursuant to this section, the attorney general may institute a civil action
33 pursuant to subsection L of this section. If a political subdivision timely
34 sends notice pursuant to this subsection and the attorney general fails to
35 timely notify the political subdivision of a determination of noncompliance,
36 the general or comprehensive plan or major amendment to the general or
37 comprehensive plan shall be deemed to comply with subsection J of this
38 section.

39 J. The attorney general shall determine compliance with this section
40 in accordance with the following requirements applicable to zoning and
41 development in a high noise or accident potential zone and to zoning and
42 development in accident potential zone one and accident potential zone
43 two. Compliance with respect to territory located in the arrival and
44 departure corridor but outside the accident potential zone one, two and noise
45 contour lines as described in section 28-8461, paragraph 9, subdivision (c)

1 shall be determined in accordance with the requirements applicable to
 2 territory located in the 65-69 day-night sound level as listed below.
 3 Compliance with respect to the property described in section 28-8461,
 4 paragraph 9, subdivision (b) shall be determined in accordance with the
 5 compatible land use plan in the joint land use study completed in February
 6 2004. If the political subdivision and the military airport mutually agree
 7 that an individual use is compatible and consistent with the high noise or
 8 accident potential of the military airport or ancillary military facility, as
 9 applicable, the use shall be deemed to comply with this subsection.
 10 Alternatively, for an individual use or a plan for development submitted to a
 11 military airport or ancillary military facility before December 31, 2004,
 12 this subsection does not preclude the military airport from determining that
 13 the individual use or plan for development is compatible and consistent with
 14 the high noise or accident potential zone of the military airport or
 15 ancillary military facility.

		Day-night sound level in decibels high noise or accident potential zone (18)						
19 Zoning and development in high 20 noise or accident potential 21 zone		65-69	70-74	75-79	80-84	85 or over	APZ one	APZ two
22 <u>Residential</u>								
24 Residential uses other than 25 the residential uses 26 listed below		No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No	No	No
27 Single family residential 28 that is the subject of 29 zoning approved on or 30 before December 31, 2000, 31 or on or before December 31 32 of the year in which the 33 property becomes territory 34 in the vicinity of a 35 military airport, 36 that permits one dwelling 37 unit per acre or less		Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	No ⁽¹³⁾	No ⁽¹³⁾	No	No ⁽¹³⁾
38 Single family residential 39 that is the primary residence 40 for persons engaging in 41 agricultural use and 42 ancillary residential 43 buildings incident to the 44 primary agricultural use		Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	No ⁽¹³⁾	No	No ⁽¹³⁾

1	<u>Transportation, communications</u>							
2	<u>and utilities</u>							
3	Railroad and rapid rail transit	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁵⁾
4	Highway and street right-of-way	Yes	Yes	Yes	Yes	Yes	Yes	Yes
5	Motor vehicle parking	Yes	Yes	Yes	Yes	Yes	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
6	Communications	Yes	Yes ⁽²⁾	Yes ⁽³⁾	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
7	(noise sensitive)							
8	Utilities	Yes	Yes	Yes	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
9	Other transportation,	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	Yes ⁽⁸⁾	Yes ⁽¹⁵⁾	Yes ⁽¹⁶⁾
10	communications and utilities							
11	<u>Commercial/retail trade</u>							
12	Wholesale trade	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
13	Building materials-retail	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
14	General merchandise-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
15	Food-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
16	Automotive and marine	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No/Yes ⁽¹⁷⁾
17	Apparel and accessories-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
18	Eating and drinking places	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
19	Furniture and home	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No/Yes ⁽¹⁷⁾
20	furnishings-retail							
21	Other retail trade	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
22	<u>Personal and business services</u>							
23	Finance, insurance and real estate	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
24	Personal services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
25	Business services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
26	Repair services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
27	Contract construction services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
28	Indoor recreation services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
29	Other services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
30	<u>Industrial/manufacturing</u>							
31	Food and kindred products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
32	Textile mill products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
33	Apparel	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
34	Lumber and wood products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
35	Furniture and fixtures	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
36	Paper and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
37	Printing and publishing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
38	Chemicals and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
39	Petroleum refining and	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
40	related industries							
41	Rubber and miscellaneous plastic	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
42	Stone, clay and glass products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
43	Primary metal industries	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
44	Fabricated metal products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾

1	Professional, scientific and	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
2	controlling instruments							
3	Miscellaneous manufacturing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
4	<u>Public and quasi-public</u>							
5	<u>services</u>							
6	Government services	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽²⁾	No	No	No	Yes ⁽¹⁶⁾
7	Cultural activities,	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
8	including churches							
9	Medical and other health							
10	services	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
11	Cemeteries	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	Yes
12	Nonprofit organizations	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes
13	Correctional facilities	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽³⁾	Yes ⁽⁴⁾	No	No	Yes
14	Other public and quasi-public	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes ⁽¹⁶⁾
15	services							
16	<u>Outdoor recreation</u>							
17	Playgrounds and neighborhood							
18	parks	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
19	Community and regional	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
20	Nature exhibits	Yes	No	No	No	No	No	No
21	Spectator sports, including							
22	arenas	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No	No
23	Golf courses and riding stables	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	Yes ⁽¹⁵⁾	Yes
24	Water based recreational areas	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No
25	Resort and group camps	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
26	Auditoriums and concert halls	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	No	No
27	Outdoor amphitheaters and	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
28	music shells							
29	Other outdoor recreation	Yes	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
30	<u>Resource production,</u>							
31	<u>extraction and open space</u>							
32	Agriculture (except livestock)	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
33	Livestock farming and animal	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
34	breeding							
35	Forestry activities	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	No	Yes
36	Fishing activities and	Yes	Yes	No	No	No	No	No
37	related services							
38	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes ⁽¹⁶⁾
39	Permanent open space	Yes	Yes	Yes	Yes	Yes	Yes	Yes
40	Water areas (not incidental to	Yes	Yes	No	No	No	No	No
41	farming)							

42 (1) Measures to achieve an outdoor to indoor noise reduction level of
 43 twenty-five decibels pursuant to an ordinance adopted under section 28-8482
 44 must be incorporated into the design and construction of all buildings and

1 the political subdivision must make an express finding, as part of approval,
2 that use of noise reduction level criteria will not alleviate outdoor noise.

3 (2) Measures to achieve an outdoor to indoor noise reduction level of
4 thirty decibels pursuant to an ordinance adopted under section 28-8482 must
5 be incorporated into the design and construction of all buildings and the
6 political subdivision must make an express finding, as part of approval, that
7 use of noise reduction level criteria will not alleviate outdoor noise.

8 (3) Measures to achieve an outdoor to indoor noise reduction level of
9 thirty-five decibels pursuant to an ordinance adopted under section 28-8482
10 must be incorporated into the design and construction of all buildings and
11 the political subdivision must make an express finding, as part of the
12 approval, that use of noise reduction level criteria will not alleviate
13 outdoor noise.

14 (4) Measures to achieve an outdoor to indoor noise reduction level of
15 forty decibels pursuant to an ordinance adopted under section 28-8482 must be
16 incorporated into the design and construction of all buildings and the
17 political subdivision must make an express finding, as part of the approval,
18 that use of noise reduction level criteria will not alleviate outdoor noise.

19 (5) Measures to achieve an outdoor to indoor noise reduction level of
20 twenty-five decibels must be incorporated into the design and construction of
21 portions of buildings where the public is received, office areas, noise
22 sensitive areas or where normal noise level is low.

23 (6) Measures to achieve an outdoor to indoor noise reduction level of
24 thirty decibels must be incorporated into the design and construction of
25 portions of buildings where the public is received, office areas, noise
26 sensitive areas or where normal noise level is low.

27 (7) Measures to achieve an outdoor to indoor noise reduction level of
28 thirty-five decibels must be incorporated into the design and construction of
29 portions of buildings where the public is received, office areas, noise
30 sensitive areas or where normal noise level is low.

31 (8) Measures to achieve an outdoor to indoor noise reduction level of
32 forty decibels must be incorporated into the design and construction of
33 portions of buildings where the public is received, office areas, noise
34 sensitive areas or where normal noise level is low.

35 (9) Measures to achieve an outdoor to indoor noise reduction level of
36 twenty-five decibels must be incorporated into the design and construction of
37 new residential buildings or expansions of existing residential buildings.

38 (10) Measures to achieve an outdoor to indoor noise reduction level of
39 thirty decibels must be incorporated into the design and construction of new
40 residential buildings or expansions of existing residential buildings.

41 (11) Measures to achieve an outdoor to indoor noise reduction level of
42 thirty-five decibels must be incorporated into the design and construction of
43 new residential buildings or expansions of existing residential buildings.

1 (12) Measures to achieve an outdoor to indoor noise reduction level of
2 forty decibels must be incorporated into the design and construction of new
3 residential buildings or expansions of existing residential buildings.

4 (13) No new residential buildings or expansions of existing residential
5 buildings are permitted.

6 (14) Compatible if special sound reinforcement systems are installed.

7 (15) No aboveground buildings or structures.

8 (16) No new buildings or improvements or expansion of nonagriculture
9 buildings or improvements for uses that result in the release of any
10 substance into the air that would impair visibility or otherwise interfere
11 with operating aircraft, such as any of the following:

12 (a) Steam, dust and smoke.

13 (b) Direct or indirect reflective light emissions.

14 (c) Electrical emissions that would interfere with aircraft and air
15 force communications or navigational aid systems or aircraft navigational
16 equipment.

17 (d) The attraction of birds or waterfowl such as operation of sanitary
18 landfills or maintenance of feeding stations.

19 (e) Explosives facilities or similar activities.

20 (17) If located in the extended portion of accident potential zone two
21 in territory of a political subdivision described in section 28-8461,
22 paragraph 9, subdivision (a).

23 (18) Uses not listed are presumed to not be compatible. If the
24 political subdivision and the military airport mutually agree that an
25 individual use is compatible and consistent with the high noise or accident
26 potential of the military airport or ancillary military facility, the use
27 shall be presumed to be compatible.

28 K. Pursuant to subsection I of this section, the attorney general
29 shall notify a political subdivision by certified mail, return receipt
30 requested, if the attorney general has probable cause to believe that the
31 political subdivision has not complied with the requirements set forth in
32 subsection J of this section. Nothing in this section shall authorize or
33 permit a finding of probable cause of noncompliance with respect to property
34 that is the subject of a development plan.

35 L. The following apply to enforcement actions brought under this
36 section:

37 1. The attorney general may institute a civil action in the name of
38 this state in the superior court in the county of the alleged violation
39 against a political subdivision that is required to notify the attorney
40 general pursuant to subsection I of this section to restrain, enjoin, correct
41 or abate a violation of this section, to collect a civil penalty ordered
42 pursuant to this section and to collect attorney fees and costs ordered
43 pursuant to this section if the attorney general has probable cause to
44 believe that an action to reaffirm an approval, adoption or readoption of, or

1 major amendment to, the general or comprehensive plan made by a political
2 subdivision is not in compliance with subsection J of this section.

3 2. If the attorney general institutes a civil action pursuant to
4 subsection I of this section, the civil action shall be filed within thirty
5 days after the action to reaffirm an approval, adoption or readoption of, or
6 major amendment to, the general plan or comprehensive plan.

7 3. The court shall award reasonable attorney fees and other costs in
8 favor of the prevailing party for any civil enforcement action brought under
9 this section. If the attorney general prevails, monies awarded pursuant to
10 this paragraph shall be retained by the attorney general and are continuously
11 appropriated.

12 4. The court may assess civil penalties in favor of this state to be
13 deposited in the state general fund. The political subdivision may be liable
14 for a civil penalty of up to five hundred dollars for each day for the first
15 ten days and up to five thousand dollars for each subsequent day up to a
16 maximum of fifty thousand dollars.

17 M. A political subdivision that has territory in the vicinity of a
18 military airport or ancillary military facility that includes property in a
19 high noise or accident potential zone shall submit any proposed comprehensive
20 or general plan amendments that are applicable to property within the high
21 noise or accident potential zone to the attorney general at least fifteen
22 days before the first public hearing required pursuant to section 9-461.06 or
23 ~~11-806~~ 11-805.

24 N. A political subdivision shall not permit or approve a division of
25 land zoned for residential use that is in a high noise or accident potential
26 zone of an ancillary military facility if the division would result in a lot,
27 parcel or fractional interest being four acres or less unless the land
28 division is part of a development plan or a development agreement approved
29 before July 30, 2004 or is determined by the military airport or ancillary
30 military facility to be compatible with its operations before December 31,
31 2004. A political subdivision may grant a waiver from this subsection.

32 O. For purposes of determining the fair market value of property
33 located in a high noise or accident potential zone, or the development rights
34 appurtenant to the property, for acquisition by an agency or instrumentality
35 of the United States, this state or a political subdivision of this state,
36 property located in a high noise or accident potential zone that is not the
37 subject of a development plan under subsection E or F of this section shall
38 be deemed to have zoning allowing at least one residential dwelling per acre.

39 P. For the purposes of this section:

40 1. "Development plan":

41 (a) Means a plan that is submitted to and approved by the governing
42 body of the political subdivision pursuant to a zoning ordinance or
43 regulation adopted pursuant to title 9, chapter 4, article 6.1 or title 11,
44 chapter 6 and that describes with reasonable certainty the density and
45 intensity of use for a specific parcel or parcels of property.

1 (b) Includes a planned community development plan, a planned area
2 development plan, a planned unit development plan, a development plan that is
3 the subject of a development agreement adopted pursuant to section 9-500.05
4 or 11-1101, a site plan, a subdivision plat or any other land use approval
5 designation that is the subject of a zoning ordinance adopted pursuant to
6 title 9, chapter 4, article 6.1 or title 11, chapter 6.

7 (c) Means a conceptual plan for development that generally depicts
8 densities on a particular property that a military airport, as described in
9 [SECTION 28-8461](#), paragraph 9, subdivision (a), deems is compatible with the
10 operation of the ancillary military facility.

11 2. "Major amendment" means a substantial alteration of a political
12 subdivision's land use mixture or balance as established in the political
13 subdivision's existing general or comprehensive plan land use element.

14 Sec. 17. Section 32-2181, Arizona Revised Statutes, is amended to
15 read:

16 [32-2181. Notice to commissioner of intention to subdivide](#)
17 [lands; unlawful acting in concert; exceptions; deed](#)
18 [restrictions; definition](#)

19 A. Before offering subdivided lands for sale or lease, the subdivider
20 shall notify the commissioner in writing of the subdivider's intention. The
21 notice shall contain:

22 1. The name and address of the owner. If the holder of any ownership
23 interest in the land is other than an individual, such as a corporation,
24 partnership or trust, a statement naming the type of legal entity and listing
25 the interest and the extent of any interest of each principal in the entity.
26 For the purposes of this section, "principal" means any person or entity
27 having a ten per cent or more financial interest or, if the legal entity is a
28 trust, each beneficiary of the trust holding a ten per cent or more
29 beneficial interest.

30 2. The name and address of the subdivider.

31 3. The legal description and area of the land.

32 4. A true statement of the condition of the title to the land,
33 including all encumbrances on the land, and a statement of the provisions
34 agreed to by the holder of any blanket encumbrance enabling a purchaser to
35 acquire title to a lot or parcel free of the lien of the blanket encumbrance
36 on completion of all payments and performance of all of the terms and
37 provisions required to be made or performed by the purchaser under the real
38 estate sales contract by which the purchaser has acquired the lot or
39 parcel. The subdivider shall file copies of documents acceptable to the
40 department containing these provisions with the commissioner before the sale
41 of any subdivision lot or parcel subject to a blanket encumbrance.

42 5. The terms and conditions on which it is intended to dispose of the
43 land, together with copies of any real estate sales contract, conveyance,
44 lease, assignment or other instrument intended to be used, and any other
45 information the owner or the owner's agent or subdivider desires to present.

- 1 6. A map of the subdivision that has been filed in the office of the
2 county recorder in the county in which the subdivision is located.
- 3 7. A brief but comprehensive statement describing the land on and the
4 locality in which the subdivision is located.
- 5 8. A statement of the provisions that have been made for permanent
6 access and provisions, if any, for health department approved sewage and
7 solid waste collection and disposal and public utilities in the proposed
8 subdivision, including water, electricity, gas and telephone facilities.
- 9 9. A statement as to the location of the nearest public common and
10 high schools available for the attendance of school age pupils residing on
11 the subdivision property.
- 12 10. A statement of the use or uses for which the proposed subdivision
13 will be offered.
- 14 11. A statement of the provisions, if any, limiting the use or
15 occupancy of the parcels in the subdivision, together with copies of any
16 restrictive covenants affecting all or part of the subdivision.
- 17 12. The name and business address of the principal broker selling or
18 leasing, within this state, lots or parcels in the subdivision.
- 19 13. A true statement of the approximate amount of indebtedness that is
20 a lien on the subdivision or any part of the subdivision and that was
21 incurred to pay for the construction of any on-site or off-site improvement,
22 or any community or recreational facility.
- 23 14. A true statement or reasonable estimate, if applicable, of the
24 amount of any indebtedness that has been or is proposed to be incurred by an
25 existing or proposed special district, entity, taxing area or assessment
26 district, within the boundaries of which the subdivision, or any part of the
27 subdivision, is located, and that is to pay for the construction or
28 installation of any improvement or to furnish community or recreational
29 facilities to the subdivision, and which amounts are to be obtained by ad
30 valorem tax or assessment, or by a special assessment or tax upon the
31 subdivision or any part of the subdivision.
- 32 15. A true statement as to the approximate amount of annual taxes,
33 special assessments or fees to be paid by the buyer for the proposed annual
34 maintenance of common facilities in the subdivision.
- 35 16. A statement of the provisions for easements for permanent access
36 for irrigation water where applicable.
- 37 17. A true statement of assurances for the completion of off-site
38 improvements, such as roads, utilities, community or recreational facilities
39 and other improvements to be included in the offering or represented as being
40 in the offering, and approval of the offering by the political subdivision
41 with authority. This statement shall include a trust agreement or any other
42 evidence of assurances for delivery of the improvements and a statement of
43 the provisions, if any, for the continued maintenance of the improvements.
- 44 18. A true statement of the nature of any improvements to be installed
45 by the subdivider, the estimated schedule for completion and the estimated

1 costs related to the improvements that will be borne by purchasers of lots in
2 the subdivision.

3 19. A true statement of the availability of sewage disposal facilities
4 and other public utilities, including water, electricity, gas and telephone
5 facilities in the subdivision, the estimated schedule for their installation,
6 and the estimated costs related to the facilities and utilities that will be
7 borne by purchasers of lots in the subdivision.

8 20. A true statement as to whether all or any portion of the
9 subdivision is located in an open range or area in which livestock may roam
10 at large under the laws of this state and what provisions, if any, have been
11 made for the fencing of the subdivision to preclude livestock from roaming
12 within the subdivided lands.

13 21. If the subdivider is a subsidiary corporation, a true statement
14 identifying the parent corporation and any of the following in which the
15 parent or any of its subsidiaries is or has been involved within the past
16 five years:

17 (a) Any subdivision in this state.

18 (b) Any subdivision, wherever located, for which registration is
19 required pursuant to the federal interstate land sales full disclosure act.

20 (c) Any subdivision, wherever located, for which registration would
21 have been required pursuant to the federal interstate land sales full
22 disclosure act but for the exemption for subdivisions whose lots are all
23 twenty acres or more in size.

24 22. A true statement identifying all other subdivisions, designated in
25 paragraph 21 of this subsection, in which any of the following is or, within
26 the last five years, has been directly or indirectly involved:

27 (a) The holder of any ownership interest in the land.

28 (b) The subdivider.

29 (c) Any principal or officer in the holder or subdivider.

30 23. A true statement as to whether all or any portion of the
31 subdivision is located in territory in the vicinity of a military airport or
32 ancillary military facility as defined in section 28-8461, in territory in
33 the vicinity of a public airport as defined in section 28-8486, on or after
34 July 1, 2001, in a high noise or accident potential zone as defined in
35 section 28-8461 or on or after July 1 of the year in which the subdivision
36 becomes located in a high noise or accident potential zone. The statement
37 required pursuant to this paragraph does not require the amendment or
38 refileing of any notice filed before July 1, 2001 or before July 1 of the year
39 in which the subdivision becomes located in a high noise or accident
40 potential zone.

41 24. If the subdivision is a conversion from multifamily rental to
42 condominiums as defined in section 33-1202, a true statement as to the
43 following:

44 (a) That the property is a conversion from multifamily rental to
45 condominiums.

1 (b) The date original construction was completed.

2 25. Other information and documents and certifications as the
3 commissioner may reasonably require provided that the subdivider shall not be
4 required to disclose any critical infrastructure information as defined in
5 section 41-1801 or any information contained in a report issued pursuant to
6 section 41-4273.

7 B. The commissioner, on application, may grant a subdivider of lots or
8 parcels within a subdivision for which a public report was previously issued
9 by the commissioner an exemption from all or part of the notification
10 requirements of subsection A of this section. The subdivider shall file a
11 statement with the commissioner indicating the change of ownership in the
12 lots or parcels together with any material changes occurring subsequent to
13 the original approval of the subdivision within which the lots or parcels are
14 located. The statement shall further refer to the original approval by the
15 commissioner.

16 C. If the subdivision is within an active management area, as defined
17 in section 45-402, the subdivider shall accompany the notice with a
18 certificate of assured water supply issued by the director of water resources
19 along with proof that all applicable fees have been paid pursuant to sections
20 48-3772 and 48-3774.01, unless the subdivider has obtained a written
21 commitment of water service for the subdivision from a city, town or private
22 water company designated as having an assured water supply by the director of
23 water resources pursuant to section 45-576 or is exempt from the requirement
24 pursuant to section 45-576. If the subdivider has submitted a certificate of
25 assured water supply to a city, town or county prior to approval of the plat
26 by the city, town or county and this has been noted on the face of the plat,
27 the submission constitutes compliance with this subsection if the subdivider
28 provides proof to the commissioner that all applicable fees have been paid
29 pursuant to sections 48-3772 and 48-3774.01.

30 D. It is unlawful for a person or group of persons acting in concert
31 to attempt to avoid this article by acting in concert to divide a parcel of
32 land or sell subdivision lots by using a series of owners or conveyances or
33 by any other method that ultimately results in the division of the lands into
34 a subdivision or the sale of subdivided land. The plan or offering is
35 subject to this article. Unlawful acting in concert pursuant to this
36 subsection with respect to the sale or lease of subdivision lots requires
37 proof that the real estate licensee or other licensed professional knew or
38 with the exercise of reasonable diligence should have known that property
39 which the licensee listed or for which the licensee acted in any capacity as
40 agent was subdivided land subject to this article.

41 E. A creation of six or more lots, parcels or fractional interests in
42 improved or unimproved land, lots or parcels of any size is subject to this
43 article except when:

44 1. Each of the lots, parcels or fractional interests represents, on a
45 partition basis, thirty-six acres or more in area of land located in this

1 state, including to the centerline of dedicated roads or easements, if any,
2 contiguous to the land in which the interests are held.

3 2. The lots, parcels or fractional interests are the result of a
4 foreclosure sale, the exercise by a trustee under a deed of trust of a power
5 of sale or the grant of a deed in lieu of foreclosure. This paragraph does
6 not allow circumvention of the requirements of this article.

7 3. The lots, parcels or fractional interests are created by a valid
8 order or decree of a court pursuant to and through compliance with title 12,
9 chapter 8, article 7 or by operation of law. This paragraph does not allow
10 circumvention of the requirements of this article.

11 4. The lots, parcels or fractional interests consist of interests in
12 any oil, gas or mineral lease, permit, claim or right therein and such
13 interests are regulated as securities by the United States or by this state.

14 5. The lots, parcels or fractional interests are registered as
15 securities under the laws of the United States or the laws of this state or
16 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

17 6. The commissioner by special order exempts offerings or dispositions
18 of any lots, parcels or fractional interests from compliance with this
19 article on written petition and on a showing satisfactory to the commissioner
20 that compliance is not essential to the public interest or for the protection
21 of buyers.

22 F. In areas outside of active management areas established pursuant to
23 title 45, chapter 2, article 2:

24 1. If the subdivision is located in a county that has adopted the
25 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A,
26 or in a city or town that has enacted an ordinance pursuant to section
27 9-463.01, subsection 0, the subdivider shall accompany the notice with a
28 report issued by the director of water resources pursuant to section 45-108
29 stating that the subdivision has an adequate water supply, unless one of the
30 following applies:

31 (a) The subdivider submitted the report to a city, town or county
32 before approval of the plat by the city, town or county and this has been
33 noted on the face of the plat.

34 (b) The subdivider has obtained a written commitment of water service
35 for the subdivision from a city, town or private water company designated as
36 having an adequate water supply by the director of water resources pursuant
37 to section 45-108.

38 (c) The plat was approved pursuant to an exemption authorized by
39 section 9-463.01, subsection K, pursuant to an exemption authorized by
40 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant
41 to an exemption granted by the director of water resources under section
42 45-108.02 and the exemption has not expired or pursuant to an exemption
43 granted by the director under section 45-108.03. If the plat was approved
44 pursuant to an authorized exemption, the state real estate commissioner shall

1 require that all promotional material and contracts for the sale of lots in
2 the subdivision adequately display the following:

3 (i) The director of water resources' report or the developer's brief
4 summary of the report as approved by the commissioner on the proposed water
5 supply for the subdivision.

6 (ii) A statement describing the exemption under which the subdivision
7 was approved, including the specific conditions of the exemption that were
8 met. If the plat was approved by the legislative body of a city or town
9 pursuant to an exemption authorized by section 9-463.01, subsection K or by
10 the board of supervisors of a county pursuant to an exemption authorized by
11 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, the
12 subdivider shall record the document required by section 33-406.

13 (d) The subdivision received final plat approval from the city, town
14 or county before the requirement for an adequate water supply became
15 effective in the city, town or county, and there have been no material
16 changes to the plat since the final plat approval. If changes were made to
17 the plat after the final plat approval, the director of water resources shall
18 determine whether the changes are material pursuant to the rules adopted by
19 the director to implement section 45-108. If this subdivision applies, the
20 state real estate commissioner shall require that all promotional materials
21 and contracts for the sale of lots in the subdivision adequately display the
22 director of water resources' report or the developer's brief summary of the
23 report as approved by the commissioner on the proposed water supply for the
24 subdivision.

25 2. If the subdivision is not located in a county that has adopted the
26 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A
27 or in a city or town that has enacted an ordinance pursuant to section
28 9-463.01, subsection O, and if the director of water resources, pursuant to
29 section 45-108, reports an inadequate on-site supply of water to meet the
30 needs projected by the developer or if no water is available, the state real
31 estate commissioner shall require that all promotional material and contracts
32 for the sale of lots in subdivisions approved by the commissioner adequately
33 display the director of water resources' report or the developer's brief
34 summary of the report as approved by the commissioner on the proposed water
35 supply for the subdivision.

36 G. The commissioner may require the subdivider to supplement the
37 notice of intention to subdivide lands and may require the filing of periodic
38 reports to update the information contained in the original notice of
39 intention to subdivide lands.

40 H. The commissioner may authorize the subdivider to file as the notice
41 of intention to subdivide lands, in lieu of some or all of the requirements
42 of subsection A of this section, a copy of the statement of record filed with
43 respect to the subdivision pursuant to the federal interstate land sales full
44 disclosure act if the statement complies with the requirements of the act and
45 the regulations pertinent to the act.

1 I. Neither a real estate sales contract, conveyance, lease, assignment
2 or other instrument to transfer any interest in subdivided land nor any
3 covenant or restriction affecting real property shall contain any provision
4 limiting the right of any party to appear or testify in support of or
5 opposition to zoning changes, building permits or any other official acts
6 affecting real property before a governmental body or official considering
7 zoning changes, building permits or any other official acts affecting real
8 property, whether the property is located within or outside of the boundaries
9 of the subdivision. All contractual provisions that conflict with this
10 subsection are declared to be contrary to public policy. Nothing contained
11 in this subsection shall prohibit private restrictions on the use of any real
12 property.

13 J. Before offering subdivided lands for lease or sale, the subdivider
14 who makes any promises through any form of advertising media that the
15 subdivided lands will be exclusively a retirement community or one that is
16 limited to the residency of adults or senior citizens shall include the
17 promises in the deed restrictions affecting any interest in real property
18 within the subdivided lands.

19 Sec. 18. Section 32-2183, Arizona Revised Statutes, is amended to
20 read:

21 32-2183. Subdivision public reports; denial of issuance;
22 unlawful sales; voidable sale or lease; order
23 prohibiting sale or lease; investigations; hearings;
24 summary orders

25 A. Upon examination of a subdivision, the commissioner, unless there
26 are grounds for denial, shall issue to the subdivider a public report
27 authorizing the sale or lease in this state of the lots, parcels or
28 fractional interests within the subdivision. The report shall contain the
29 data obtained in accordance with section 32-2181 and any other information
30 which the commissioner determines is necessary to implement the purposes of
31 this article. If any of the lots, parcels or fractional interests within the
32 subdivision are located within territory in the vicinity of a military
33 airport or ancillary military facility as defined in section 28-8461, under a
34 military training route as delineated in the military training route map
35 prepared pursuant to section 37-102, under restricted air space as delineated
36 in the restricted air space map prepared pursuant to section 37-102 or
37 contained in the military electronics range as delineated in the military
38 electronics range map prepared pursuant to section 37-102, the report shall
39 include, in bold twelve point font block letters on the first page of the
40 report, the statements required pursuant to section 28-8484, subsection A,
41 section 32-2183.05 or section 32-2183.06 and, if the department has been
42 provided a map prepared pursuant to section 28-8484, subsection B or section
43 37-102, the report shall include a copy of the map. The military airport
44 report requirements do not require the amendment or reissuance of any public
45 report issued on or before December 31, 2001 or on or before December 31 of

1 the year in which the lots, parcels or fractional interests within a
2 subdivision become territory in the vicinity of a military airport or
3 ancillary military facility. The military training route report requirements
4 do not require the amendment or reissuance of any public report issued on or
5 before December 31, 2004. The restricted air space report requirements do
6 not require the amendment or reissuance of any public report issued on or
7 before December 31, 2006. The military electronics range report requirements
8 do not require the amendment or reissuance of any public report issued on or
9 before December 31, 2008. The commissioner shall require the subdivider to
10 reproduce the report, make the report available to each prospective customer
11 and furnish each buyer or lessee with a copy before the buyer or lessee signs
12 any offer to purchase or lease, taking a receipt therefor.

13 B. This section shall not be construed to require a public report
14 issued sixty or fewer days prior to the filing of the military electronics
15 range map prepared pursuant to section 37-102 to meet the military
16 electronics range notification requirements of this section.

17 C. A public report issued sixty-one or more days after the filing of
18 the military electronics range map prepared pursuant to section 37-102 shall
19 meet all of the requirements of subsection A of this section.

20 D. Notwithstanding subsection A of this section, a subdivider may
21 elect to prepare a final public report for use in the sale of improved lots
22 as defined in section 32-2101, as follows:

23 1. The subdivider shall prepare the public report and provide a copy
24 of the report to the commissioner with the submission of the notification
25 required by sections 32-2181 and 32-2184 and shall comply with all other
26 requirements of this article.

27 2. An initial filing fee of five hundred dollars or an amended filing
28 fee of two hundred fifty dollars shall accompany the notification required by
29 paragraph 1 of this subsection.

30 3. The department shall assign a registration number to each
31 notification and public report submitted pursuant to this subsection and
32 shall maintain a database of all of these submissions. The subdivider shall
33 place the number on each public report.

34 4. The department shall determine within fifteen business days after
35 the receipt of the notification and public report whether the notification
36 and public report are administratively complete. The commissioner either may
37 issue a certification that the notification and public report are
38 administratively complete or may deny issuance of the certification if it
39 appears that the application or project is not in compliance with all legal
40 requirements, that the applicant has a background of violations of state or
41 federal law or that the applicant or project presents an unnecessary risk of
42 harm to the public.

43 5. A subdivider may commence sales or leasing activities as permitted
44 under this article after obtaining a certificate of administrative
45 completeness from the commissioner.

1 6. Before or after the commissioner issues a certificate of
2 administrative completeness, the department may examine any public report,
3 subdivision or applicant that has applied for or received the certificate.
4 If the commissioner determines that the subdivider or subdivision is not in
5 compliance with any requirement of state law or that grounds exist under this
6 chapter to suspend, deny or revoke a public report, the commissioner may
7 commence an administrative action under section 32-2154 or 32-2157. If the
8 subdivider immediately corrects the deficiency and comes into full compliance
9 with state law, the commissioner shall vacate any action that the
10 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

11 7. The department shall provide forms and guidelines for the
12 submission of the notification and public report pursuant to this section.

13 E. The commissioner may suspend, revoke or deny issuance of a public
14 report on any of the following grounds:

15 1. Failure to comply with this article or the rules of the
16 commissioner pertaining to this article.

17 2. The sale or lease would constitute misrepresentation to or deceit
18 or fraud of the purchasers or lessees.

19 3. Inability to deliver title or other interest contracted for.

20 4. Inability to demonstrate that adequate financial or other
21 arrangements acceptable to the commissioner have been made for completion of
22 all streets, sewers, electric, gas and water utilities, drainage and flood
23 control facilities, community and recreational facilities and other
24 improvements included in the offering.

25 5. Failure to make a showing that the lots, parcels or fractional
26 interests can be used for the purpose for which they are offered.

27 6. The owner, agent, subdivider, officer, director or partner,
28 subdivider trust beneficiary holding ten per cent or more direct or indirect
29 beneficial interest or, if a corporation, any stockholder owning ten per cent
30 or more of the stock in the corporation has:

31 (a) Been convicted of a felony or misdemeanor involving fraud or
32 dishonesty or involving conduct of any business or a transaction in real
33 estate, cemetery property, time-share intervals or membership camping
34 campgrounds or contracts.

35 (b) Been permanently or temporarily enjoined by order, judgment or
36 decree from engaging in or continuing any conduct or practice in connection
37 with the sale or purchase of real estate or cemetery property, time-share
38 intervals, membership camping contracts or campgrounds, or securities or
39 involving consumer fraud or the racketeering laws of this state.

40 (c) Had an administrative order entered against him by a real estate
41 regulatory agency or security regulatory agency.

42 (d) Had an adverse decision or judgment entered against him involving
43 fraud or dishonesty or involving the conduct of any business or transaction
44 in real estate, cemetery property, time-share intervals or membership camping
45 campgrounds or contracts.

1 (e) Disregarded or violated this chapter or the rules of the
2 commissioner pertaining to this chapter.

3 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
4 applies.

5 7. Procurement or an attempt to procure a public report by fraud,
6 misrepresentation or deceit or by filing an application for a public report
7 that is materially false or misleading.

8 8. Failure of the declaration for a condominium created pursuant to
9 title 33, chapter 9, article 2 to comply with the requirements of section
10 33-1215 or failure of the plat for the condominium to comply with the
11 requirements of section 33-1219. The commissioner may require an applicant
12 for a public report to submit a notarized statement signed by the subdivider
13 or an engineer or attorney licensed to practice in this state certifying that
14 the condominium plat and declaration of condominium are in compliance with
15 the requirements of sections 33-1215 and 33-1219. If the notarized statement
16 is provided, the commissioner is entitled to rely on this statement.

17 9. Failure of any blanket encumbrance or valid supplementary agreement
18 executed by the holder of the blanket encumbrance to contain provisions that
19 enable the purchaser to acquire title to a lot or parcel free of the lien of
20 the blanket encumbrance, on completion of all payments and performance of all
21 of the terms and provisions required to be made or performed by the purchaser
22 under the real estate sales contract by which the purchaser has acquired the
23 lot or parcel. The subdivider shall file copies of documents acceptable to
24 the commissioner containing these provisions with the commissioner before the
25 sale of any subdivision lot or parcel subject to a blanket encumbrance.

26 10. Failure to demonstrate permanent access to the subdivision lots or
27 parcels.

28 11. The use of the lots presents an unreasonable health risk.

29 F. It is unlawful for a subdivider to sell any lot in a subdivision
30 unless one of the following occurs:

31 1. All proposed or promised subdivision improvements are completed.

32 2. The completion of all proposed or promised subdivision improvements
33 is assured by financial arrangements acceptable to the commissioner. The
34 financial arrangements may be made in phases for common community and
35 recreation facilities required by a municipality or county as a stipulation
36 for approval of a plan for a master planned community.

37 3. The municipal or county government agrees to prohibit occupancy and
38 the subdivider agrees not to close escrow for lots in the subdivision until
39 all proposed or promised subdivision improvements are completed.

40 4. The municipal or county government enters into an assurance
41 agreement with any trustee not to convey lots until improvements are
42 completed within the portion of the subdivision containing these lots, if the
43 improvements can be used and maintained separately from the improvements
44 required for the entire subdivision plat. The agreement shall be recorded in
45 the county in which the subdivision is located.

1 G. If the subdivision is within an active management area, as defined
2 in section 45-402, the commissioner shall deny issuance of a public report or
3 the use of any exemption pursuant to section 32-2181.02, subsection B unless
4 the subdivider has been issued a certificate of assured water supply by the
5 director of water resources and has paid all applicable fees pursuant to
6 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a
7 written commitment of water service for the subdivision from a city, town or
8 private water company designated as having an assured water supply by the
9 director of water resources pursuant to section 45-576 or is exempt from the
10 requirement pursuant to section 45-576.

11 H. In areas outside of active management areas, if the subdivision is
12 located in a county that has adopted the provision authorized by section
13 ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town that has
14 enacted an ordinance pursuant to section 9-463.01, subsection O, the
15 commissioner shall deny issuance of a public report or the use of any
16 exemption pursuant to section 32-2181.02, subsection B unless one of the
17 following applies:

18 1. The director of water resources has reported pursuant to section
19 45-108 that the subdivision has an adequate water supply.

20 2. The subdivider has obtained a written commitment of water service
21 for the subdivision from a city, town or private water company designated as
22 having an adequate water supply by the director of water resources pursuant
23 to section 45-108.

24 3. The plat was approved pursuant to an exemption authorized by
25 section 9-463.01, subsection K, pursuant to an exemption authorized by
26 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant
27 to an exemption granted by the director of water resources under section
28 45-108.02 and the exemption has not expired or pursuant to an exemption
29 granted by the director of water resources under section 45-108.03.

30 4. The subdivision received final plat approval from the city, town or
31 county before the requirement for an adequate water supply became effective
32 in the city, town or county, and there have been no material changes to the
33 plat since the final plat approval. If changes were made to the plat after
34 the final plat approval, the director of water resources shall determine
35 whether the changes are material pursuant to the rules adopted by the
36 director to implement section 45-108.

37 I. A subdivider shall not sell or lease or offer for sale or lease in
38 this state any lots, parcels or fractional interests in a subdivision without
39 first obtaining a public report from the commissioner except as provided in
40 section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of
41 subdivided lands prior to issuance of the public report or failure to deliver
42 the public report to the purchaser or lessee shall render the sale or lease
43 rescindable by the purchaser or lessee. An action by the purchaser or lessee
44 to rescind the transaction shall be brought within three years of the date of
45 execution of the purchase or lease agreement by the purchaser or lessee. In

1 any rescission action, the prevailing party is entitled to reasonable
2 attorney fees as determined by the court.

3 J. Any applicant objecting to the denial of a public report, within
4 thirty days after receipt of the order of denial, may file a written request
5 for a hearing. The commissioner shall hold the hearing within twenty days
6 after receipt of the request for a hearing unless the party requesting the
7 hearing has requested a postponement. If the hearing is not held within
8 twenty days after a request for a hearing is received, plus the period of any
9 postponement, or if a proposed decision is not rendered within forty-five
10 days after submission, the order of denial shall be rescinded and a public
11 report issued.

12 K. On the commissioner's own motion, or when the commissioner has
13 received a complaint and has satisfactory evidence that the subdivider or the
14 subdivider's agent is violating this article or the rules of the commissioner
15 or has engaged in any unlawful practice as defined in section 44-1522 with
16 respect to the sale of subdivided lands or deviated from the provisions of
17 the public report, the commissioner may investigate the subdivision project
18 and examine the books and records of the subdivider. For the purpose of
19 examination, the subdivider shall keep and maintain records of all sales
20 transactions and funds received by the subdivider pursuant to the sales
21 transactions and shall make them accessible to the commissioner upon
22 reasonable notice and demand.

23 L. On the commissioner's own motion, or when the commissioner has
24 received a complaint and has satisfactory evidence that any person has
25 violated this article or the rules of the commissioner or has engaged in any
26 unlawful practice as defined in section 44-1522 with respect to the sale of
27 subdivided lands or deviated from the provisions of the public report or
28 special order of exemption, or has been indicted for fraud or against whom an
29 information for fraud has been filed or has been convicted of a felony,
30 before or after the commissioner issues the public report as provided in
31 subsection A of this section, the commissioner may conduct an investigation
32 of the matter, issue a summary order as provided in section 32-2157, or hold
33 a public hearing and, after the hearing, may issue the order or orders the
34 commissioner deems necessary to protect the public interest and ensure
35 compliance with the law, rules or public report or the commissioner may bring
36 action in any court of competent jurisdiction against the person to enjoin
37 the person from continuing the violation or engaging in or doing any act or
38 acts in furtherance of the violation. The court may make orders or
39 judgments, including the appointment of a receiver, necessary to prevent the
40 use or employment by a person of any unlawful practices, or which may be
41 necessary to restore to any person in interest any monies or property, real
42 or personal, that may have been acquired by means of any practice in this
43 article declared to be unlawful.

44 M. When it appears to the commissioner that a person has engaged in or
45 is engaging in a practice declared to be unlawful by this article and that

1 the person is concealing assets or self or has made arrangements to conceal
2 assets or is about to leave the state, the commissioner may apply to the
3 superior court, ex parte, for an order appointing a receiver of the assets of
4 the person or for a writ of ne exeat, or both.

5 N. The court, on receipt of an application for the appointment of a
6 receiver or for a writ of ne exeat, or both, shall examine the verified
7 application of the commissioner and other evidence that the commissioner may
8 present the court. If satisfied that the interests of the public require the
9 appointment of a receiver or the issuance of a writ of ne exeat without
10 notice, the court shall issue an order appointing the receiver or issue the
11 writ, or both. If the court determines that the interests of the public will
12 not be harmed by the giving of notice, the court shall set a time for a
13 hearing and require notice be given as the court deems satisfactory.

14 O. If the court appoints a receiver without notice, the court shall
15 further direct that a copy of the order appointing a receiver be served on
16 the person engaged in or engaging in a practice declared to be unlawful under
17 this article by delivering the order to the last address of the person that
18 is on file with the state real estate department. The order shall inform the
19 person that the person has the right to request a hearing within ten days of
20 the date of the order and, if requested, the hearing shall be held within
21 thirty days from the date of the order.

22 Sec. 19. Section 32-2197.08, Arizona Revised Statutes, is amended to
23 read:

24 32-2197.08. Issuance of public report by commissioner on
25 timeshare plan; denial of issuance; additional
26 information; use of another state's public report

27 A. On examination of a timeshare plan, the commissioner, unless there
28 are grounds for denial, shall approve for use by the developer a public
29 report authorizing the sale or lease of the timeshare interests within the
30 timeshare plan. For all timeshare interests sold in this state, the
31 commissioner shall require the developer to reproduce the public report and
32 furnish each prospective customer with a copy, taking a receipt for each
33 copy. The public report shall be made available to each prospective
34 purchaser in written format and may also be made available in CD-ROM or other
35 electronic format as approved by the commissioner. The public report shall
36 include the following:

- 37 1. The name and principal address of the owner and developer.
- 38 2. A description of the type of timeshare interests being offered.
- 39 3. A description of the existing and proposed accommodations and
40 amenities of the timeshare plan, including type and number, any use
41 restrictions and any required fees for use.

42 4. A description of any accommodations and amenities that are
43 committed to be built, including:

- 44 (a) The developer's schedule of commencement and completion of all
45 accommodations and amenities.

- 1 (b) The estimated number of accommodations per site that may become
2 subject to the timeshare plan.
- 3 5. A brief description of the duration, phases and operation of the
4 timeshare plan.
- 5 6. The current annual budget if available or the projected annual
6 budget for the timeshare plan. The budget shall include:
- 7 (a) A statement of the amount or a statement that there is no amount
8 included in the budget as a reserve for repairs and replacement.
- 9 (b) The projected common expense liability, if any, by category of
10 expenditures for the timeshare plan.
- 11 (c) A statement of any services or expenses that are not reflected in
12 the budget and that the developer provides or pays.
- 13 7. A description of any liens, defects or encumbrances on or affecting
14 the title to the timeshare interests.
- 15 8. A statement that by midnight of the seventh calendar day after
16 execution of the purchase agreement a purchaser may cancel any purchase
17 agreement for a timeshare interest from a developer together with a statement
18 providing the name and street address where the purchaser should mail any
19 notice of cancellation. However, if, by agreement of the parties through the
20 purchase agreement, the purchase agreement allows for cancellation of the
21 purchase agreement for a period of time exceeding seven calendar days, the
22 public report shall include a statement that the cancellation of the purchase
23 agreement is allowed for that period of time exceeding seven calendar days.
- 24 9. A description of any bankruptcies, pending suits, adjudications or
25 disciplinary actions material to the timeshare interests of which the
26 developer has knowledge.
- 27 10. Any restrictions on alienation of any number or portion of any
28 timeshare interests.
- 29 11. Any current or expected fees or charges to be paid by timeshare
30 purchasers for the use of any amenities related to the timeshare plan.
- 31 12. The extent to which financial arrangements have been provided for
32 completion of all promised improvements.
- 33 13. If the timeshare plan provides purchasers with the opportunity to
34 participate in any exchange programs, a description of the name and address
35 of the exchange companies and the method by which a purchaser accesses the
36 exchange programs.
- 37 14. Any other information that the developer, with the approval of the
38 commissioner, desires to include in the public report.
- 39 15. If the developer is offering a multisite timeshare plan, the
40 following information, which may be disclosed in a written, graphic or
41 tabular form:
- 42 (a) A description of each component site, including the name and
43 address of each component site.

1 (b) The number of accommodations and timeshare periods, expressed in
2 periods of use availability, committed to the multisite timeshare plan and
3 available for use by purchasers.

4 (c) Each type of accommodation in terms of the number of bedrooms,
5 bathrooms and sleeping capacity and a statement of whether or not the
6 accommodation contains a full kitchen. For the purposes of this subdivision,
7 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,
8 sink and refrigerator.

9 (d) A description of amenities available for use by the purchaser at
10 each component site.

11 (e) A description of the reservation system, including the following:

12 (i) The entity responsible for operating the reservation system.

13 (ii) A summary of the rules governing access to and use of the
14 reservation system.

15 (iii) The existence of and an explanation regarding any priority
16 reservation features that affect a purchaser's ability to make reservations
17 for the use of a given accommodation on a first reserved, first served basis.

18 (f) A description of any right to make any additions, substitutions or
19 deletions of accommodations or amenities and a description of the basis on
20 which accommodations and amenities may be added to, substituted in or deleted
21 from the multisite timeshare plan.

22 (g) A description of the purchaser's liability for any fees associated
23 with the multisite timeshare plan.

24 (h) The location and the anticipated relative use demand of each
25 component site in a multisite timeshare plan as well as any periodic
26 adjustment or amendment to the reservation system that may be needed in order
27 to respond to actual purchaser use patterns and changes in purchaser use
28 demand for the accommodations existing at the time within the multisite
29 timeshare plan.

30 (i) Any other information reasonably required by the commissioner or
31 established by rule necessary for the protection of purchasers of timeshare
32 interests in timeshare plans.

33 (j) Any other information that the developer, with the approval of the
34 commissioner, desires to include in the public report.

35 16. If a developer offers a nonspecific timeshare interest in a
36 multisite timeshare plan, the information set forth in paragraphs 1 through
37 14 of this subsection as to each component site.

38 17. Any other information that the commissioner determines or
39 establishes by rule is necessary to implement the purpose of this article.

40 B. In the event of denial, suspension or revocation, grounds shall be
41 set forth in writing at the time of denial, suspension or revocation. The
42 commissioner may deny, suspend or revoke the public report on any of the
43 following grounds:

44 1. Failure to comply with this article or the rules of the
45 commissioner pertaining to this article.

1 2. The sale or lease would constitute misrepresentation to or deceit
2 or fraud of the purchasers or lessees.

3 3. Inability to demonstrate that adequate financial or other
4 arrangements acceptable to the commissioner have been made for completion of
5 the timeshare property, installation of all streets, sewers, electric, gas
6 and water utilities, drainage, flood control and other similar improvements
7 included in the offering.

8 4. The developer, including if an entity, an officer, director,
9 member, manager, partner, owner, trust beneficiary holding ten per cent or
10 more beneficial interest, stockholder owning ten per cent or more of the
11 stock or other person exercising control of the entity, has:

12 (a) Been convicted of a felony or misdemeanor involving theft, fraud
13 or dishonesty or involving the conduct of any business or a transaction in
14 real estate, cemetery property, timeshare interests or membership camping
15 campgrounds or contracts.

16 (b) Been permanently or temporarily enjoined by order, judgment or
17 decree from engaging in or continuing any conduct or practice in connection
18 with the sale or purchase of real estate, cemetery property, timeshare
19 interests, membership camping campgrounds or contracts, or securities or
20 involving consumer fraud or the Arizona racketeering laws.

21 (c) Had an administrative order entered against him by a real estate
22 regulatory agency or securities regulatory agency.

23 (d) Had an adverse decision or judgment entered against him involving
24 fraud or dishonesty or involving the conduct of any business in or a
25 transaction in real estate, cemetery property, timeshare interests or
26 membership camping campgrounds or contracts.

27 (e) Disregarded or violated this chapter or the rules of the
28 commissioner pertaining to this chapter.

29 (f) Participated in, operated or held an interest in any entity to
30 which subdivision (b), (c), (d), or (e) of this paragraph applies.

31 5. If within this state, the timeshare property is incompatible with
32 the existing neighborhood and would introduce into a neighborhood a character
33 of property or use that would clearly be detrimental to property values in
34 that neighborhood.

35 C. If the timeshare property is within an active management area, as
36 defined in section 45-402, the commissioner shall deny issuance of a public
37 report unless the developer has been issued a certificate of assured water
38 supply by the director of water resources and has paid all applicable fees
39 pursuant to sections 48-3772 and 48-3774.01, or unless the developer has
40 obtained a written commitment of water service for the timeshare property
41 from a city, town or private water company designated as having an assured
42 water supply by the director of water resources pursuant to section 45-576.

43 D. In areas outside of active management areas, if the timeshare
44 property is located in a county that has adopted the provision authorized by
45 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town

1 that has enacted an ordinance pursuant to section 9-463.01, subsection 0, the
2 commissioner shall deny issuance of a public report unless one of the
3 following applies:

4 1. The director of water resources has reported pursuant to section
5 45-108 that the timeshare property has an adequate water supply.

6 2. The developer has obtained a written commitment of water service
7 for the timeshare property from a city, town or private water company
8 designated as having an adequate water supply by the director of water
9 resources pursuant to section 45-108.

10 3. The timeshare property was approved pursuant to an exemption
11 authorized by section 9-463.01, subsection K, pursuant to an exemption
12 authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph
13 1, pursuant to an exemption granted by the director of water resources under
14 section 45-108.02 and the exemption has not expired or pursuant to an
15 exemption granted by the director of water resources under section 45-108.03.

16 4. The subdivision received final plat approval from the city, town or
17 county before the requirement for an adequate water supply became effective
18 in the city, town or county, and there have been no material changes to the
19 plat since the final plat approval. If changes were made to the plat after
20 the final plat approval, the director of water resources shall determine
21 whether the changes are material pursuant to the rules adopted by the
22 director to implement section 45-108.

23 E. In addition to providing to each prospective customer a copy of the
24 public report as required in subsection A of this section, the developer
25 shall also provide to each customer before the close of any transaction
26 information and materials that identify any timeshare exchange companies
27 currently under contract and disclosure statements regarding the use of the
28 timeshare exchange companies, as well as any additional information the
29 commissioner deems appropriate.

30 F. The commissioner may authorize for use in this state by a developer
31 of a timeshare plan in which all accommodations are located outside of this
32 state a current public report that is issued by another jurisdiction or an
33 equivalent registration and disclosure document that is required before
34 offering a timeshare plan for sale, lease or use and that is issued by
35 another jurisdiction. This authorization does not constitute an exemption
36 from other applicable requirements of this article.

37 Sec. 20. Section 33-406, Arizona Revised Statutes, is amended to read:
38 33-406. Disclosure of transportation of water to property by
39 motor vehicle or train; definition

40 A. Notwithstanding section 33-411, subsection D, a subdivider who
41 sells a lot that was included in a plat approved by the legislative body of a
42 city or town pursuant to an exemption authorized by section 9-463.01,
43 subsection K or by the board of supervisors of a county pursuant to an
44 exemption authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B,
45 paragraph 1 shall record with the plat a document that contains a legal

1 description of the land that is subject to the subdivision plat and that
2 contains a statement that the lots are served by a water supply that has been
3 determined as inadequate and that the water must be hauled to the lot.

4 B. For the purposes of this section, "subdivider" has the same meaning
5 as prescribed in section 32-2101.

6 Sec. 21. Section 33-422, Arizona Revised Statutes, is amended to read:
7 33-422. Land divisions; recording; disclosure affidavit

8 A. A seller of five or fewer parcels of land, other than subdivided
9 land, in an unincorporated area of a county and any subsequent seller of such
10 a parcel shall furnish a written affidavit of disclosure to the buyer, at
11 least seven days before the transfer of the property, and the buyer shall
12 acknowledge receipt of the affidavit.

13 B. The affidavit must be written in twelve point type.

14 C. No release or waiver of a seller's liability arising out of any
15 omission or misrepresentation contained in an affidavit of disclosure is
16 valid or binding on the buyer.

17 D. The buyer has the right to rescind the sales transaction for a
18 period of five days after the affidavit of disclosure is furnished to the
19 buyer.

20 E. The seller shall record the executed affidavit of disclosure at the
21 same time that the deed is recorded. The county recorder is not required to
22 verify the accuracy of any statement in the affidavit of disclosure. A
23 subsequently recorded affidavit supersedes any previous affidavit.

24 F. The affidavit of disclosure shall meet the requirements of section
25 11-480 and follow substantially the following form:

26 When recorded mail to:

27 _____
28 _____
29 _____
30 _____

31 Affidavit of Disclosure
32 Pursuant to A.R.S. §33-422

33 I, _____ (seller(s))
34 being duly sworn, hereby make this affidavit of disclosure
35 relating to the real property situated in the unincorporated
36 area of:

37 _____, County, State of Arizona, located at:
38 _____

39 and legally described as:

40 (Legal description attached hereto as exhibit "A")
41 (property).

42 1. There is is not legal access to the property, as
43 defined in A.R.S. § ~~11-809~~ 11-831 unknown

44 Explain: _____
45 _____

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2. There is is not . . . physical access to the property.
 unknown

Explain: _____

3. There is is not . . . a statement from a licensed surveyor or engineer available stating whether the property has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property is is not . . . the same.... unknown not applicable.

Explain: _____

If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.

5. The road(s) is/are publicly maintained privately maintained not maintained not applicable. If applicable, there is is not . . . a recorded road maintenance agreement.

If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.

6. A portion or all of the property is is not . . . located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. The property is is not subject to fissures or expansive soils. unknown

Explain: _____

8. The following services are currently provided to the property:
 water sewer electric natural gas single party telephone cable television services.

9. The property is is not . . . served by a water supply that requires the transportation of water to the property.

10. The property is served by a private water company a municipal water provider a private well a shared well no well. If served by a shared well, the shared well is is not . . . a public water system, as defined by the safe

1 drinking water act (42 United States Code § 300f).

2 *Notice to buyer: If the property is served by a well, a private*
3 *water company or a municipal water provider the Arizona*
4 *department of water resources may not have made a water supply*
5 *determination. For more information about water supply, contact*
6 *the water provider.*

7 11. The property does have does not have an on-site
8 wastewater treatment facility (i.e., standard septic or
9 alternative system to treat and dispose of wastewater).
10 unknown. If applicable: a) The property will will not
11 require installation of an on-site wastewater treatment
12 facility; b) The on-site wastewater treatment facility has
13 has not been inspected.

14 12. The property has been has not been subject to a
15 percolation test. unknown.

16 13. The property does does not meet the minimum
17 applicable county zoning requirements of the applicable zoning
18 designation.

19 14. The sale of the property does does not . . . meet the
20 requirements of A.R.S. § ~~11-809~~ 11-831 regarding land divisions.
21 If those requirements are not met, the property owner may not be
22 able to obtain a building permit. The seller or property owner
23 shall disclose each of the deficiencies to the buyer.

24 Explain: _____
25 _____
26 _____

27 15. The property is is not located in the clear zone of a
28 military airport or ancillary military facility, as defined in
29 A.R.S. § 28-8461. (Maps are available at the state real estate
30 department's website.)

31 16. The property is is not located in the high noise or
32 accident potential zone of a military airport or ancillary
33 military facility, as defined in A.R.S. § 28-8461. (Maps are
34 available at the state real estate department's website.)

35 17. Notice: If the property is located within the territory in the
36 vicinity of a military airport or ancillary military facility, the
37 property is required to comply with sound attenuation standards as
38 prescribed by A.R.S. § 28-8482. (Maps are available at the state
39 real estate department's website.)

40 18. The property is is not located under military restricted
41 airspace. unknown. (Maps are available at the state real
42 estate department's website.)

43 19. The property is is not located in a military electronics
44 range as defined in A.R.S. sections 9-500.28 and ~~11-812~~ 11-818.

1 Sec. 22. Section 34-201, Arizona Revised Statutes, is amended to read:

2 34-201. Notice of intention to receive bids and enter contract:
3 procedure; doing work without advertising for bids:
4 county compliance

5 A. Except as provided in subsections B through G and L of this
6 section, every agent ~~shall~~, upon acceptance and approval of the working
7 drawings and specifications, **SHALL** publish a notice to contractors of
8 intention to receive bids and contract for the proposed work. This notice
9 shall be published by advertising in a newspaper of general circulation in
10 the county in which the agent is located for two consecutive publications if
11 it is a weekly newspaper or for two publications that are at least six but no
12 more than ten days apart if it is a daily newspaper. The notice shall state:

13 1. The nature of the work required, the type, purpose and location of
14 the proposed building, and where the plans, specifications and full
15 information as to the proposed work may be obtained.

16 2. That contractors desiring to submit proposals may obtain copies of
17 full or partial sets of plans and specifications for estimate on request or
18 by appointment. The return of such plans and specifications shall be
19 guaranteed by a deposit of a designated amount which shall be refunded on
20 return of the plans and specifications in good order.

21 3. That every proposal shall be accompanied by a certified check,
22 cashier's check or surety bond for ten per cent of the amount of the bid
23 included in the proposal as a guarantee that the contractor will enter into a
24 contract to perform the proposal in accordance with the plans and
25 specifications. Notwithstanding the provisions of any other statute, the
26 surety bond shall be executed solely by a surety company or companies holding
27 a certificate of authority to transact surety business in this state issued
28 by the director of the department of insurance pursuant to title 20, chapter
29 2, article 1. The surety bond shall not be executed by an individual surety
30 or sureties, even if the requirements of section 7-101 are satisfied. The
31 certified check, cashier's check or surety bond shall be returned to the
32 contractors whose proposals are not accepted, and to the successful
33 contractor upon the execution of a satisfactory bond and contract as provided
34 in this article. The conditions and provisions of the surety bid bond
35 regarding the surety's obligations shall follow the following form:

36 Now, therefore, if the obligee accepts the proposal of the
37 principal and the principal enters into a contract with the
38 obligee in accordance with the terms of the proposal and gives
39 the bonds and certificates of insurance as specified in the
40 standard specifications with good and sufficient surety for the
41 faithful performance of the contract and for the prompt payment
42 of labor and materials furnished in the prosecution of the
43 contract, or in the event of the failure of the principal to
44 enter into the contract and give the bonds and certificates of
45 insurance, if the principal pays to the obligee the difference

1 not to exceed the penalty of the bond between the amount
2 specified in the proposal and such larger amount for which the
3 obligee may in good faith contract with another party to perform
4 the work covered by the proposal then this obligation is void.
5 Otherwise it remains in full force and effect provided, however,
6 that this bond is executed pursuant to the provisions of section
7 34-201, Arizona Revised Statutes, and all liabilities on this
8 bond shall be determined in accordance with the provisions of
9 the section to the extent as if it were copied at length herein.

10 4. That the right is reserved to reject any or all proposals or to
11 withhold the award for any reason the agent determines.

12 B. If the agent believes that any construction, building addition or
13 alteration contemplated at a public institution can be advantageously done by
14 the inmates of the public institution and regularly employed help, the agent
15 may cause the work to be done without advertising for bids.

16 C. Any building, structure, addition or alteration may be constructed
17 either with or without the use of the agent's regularly employed personnel
18 without advertising for bids provided that the total cost of the work,
19 excluding materials and equipment previously acquired by bid, does not
20 exceed:

21 1. In fiscal year 1994-1995, fourteen thousand dollars.

22 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
23 amount provided in paragraph 1 of this subsection adjusted by the annual
24 percentage change in the GDP price deflator as defined in section 41-563.

25 D. Notwithstanding ~~the provisions of~~ subsection C of this section, any
26 street, road, bridge, water or sewer work, other than a water or sewer
27 treatment plant or building, may be constructed either with or without the
28 use of the agent's regularly employed personnel without advertising for bids
29 provided that the total cost of the work does not exceed:

30 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

31 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
32 amount provided in paragraph 1 of this subsection adjusted by the annual
33 percentage change in the GDP price deflator as defined in section 41-563.

34 E. For the purposes of subsection D of this section, the total cost of
35 water or sewer work does not include services provided by volunteers or
36 donations made for the water or sewer project.

37 F. Notwithstanding ~~the provisions of~~ this section, an agent may:

38 1. Construct, reconstruct, install or repair a natural gas or electric
39 utility and distribution system, owned or operated by such agent, with
40 regularly employed personnel of the agent without advertising for bids,
41 unless otherwise prohibited by charter or ordinance.

42 2. Construct recreational projects, including trails, playgrounds,
43 ballparks and other similar facilities and excluding buildings, structures,
44 building additions and alterations to buildings, structures and building
45 additions, with volunteer workers or workers provided by a nonprofit

1 organization without advertising for bids for labor and materials provided
2 that the total cost of the work does not exceed:

3 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

4 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
5 amount provided in subdivision (a) of this paragraph adjusted by the annual
6 percentage change in the GDP price deflator as defined in section 41-563.

7 G. A contribution by an agent for the financing of public
8 infrastructure made pursuant to a development agreement is exempt from the
9 provisions of this section if such contribution for any single development
10 does not exceed:

11 1. In fiscal year 1994-1995, one hundred thousand dollars.

12 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
13 amount provided in paragraph 1 of this subsection adjusted by the annual
14 percentage change in the GDP price deflator as defined in section 41-563.

15 H. In addition to other state or local requirements relating to the
16 publication of bids, each agent shall provide at least one set of all plans
17 and specifications to any construction news reporting service that files an
18 annual request with the agent. For the purposes of this subsection,
19 "construction news reporting service" means a service that researches,
20 gathers and disseminates news and reports either in print or electronically,
21 on at least a weekly basis for building projects, construction bids, the
22 purchasing of materials, supplies or services and other construction bidding
23 or planned activity to the allied construction industry. The allied
24 construction industry includes both general and specialty contractors,
25 builders, material and service suppliers, architects and engineers, owners,
26 developers and government agencies.

27 I. Any construction by a county under this section shall comply with
28 the uniform accounting system prescribed for counties by the auditor general
29 under section 41-1279.21. Any construction by a city or town under this
30 section shall comply with generally accepted accounting principles.

31 J. Any construction, building addition or alteration project which is
32 financed by monies of this state or its political subdivisions shall not use
33 endangered wood species unless an exemption is granted by the director of the
34 department of administration. The director shall only grant an exemption if
35 the use of endangered wood species is deemed necessary for historical
36 restoration or to repair existing facilities and the use of any substitute
37 material is not practical. Any lease-purchase agreement entered into by this
38 state or its political subdivisions for construction shall specify that no
39 endangered wood species may be used in the construction unless an exemption
40 is granted by the director. As used in this subsection, "endangered wood
41 species" includes those listed in appendix I of the convention on
42 international trade in endangered species of wild flora and fauna.

43 K. All bonds given by a contractor and surety pursuant to the
44 provisions of this article, regardless of their actual form, will be deemed
45 by law to be the form required and set forth in this article and no other.

1 L. Any building, structure, addition or alteration may be constructed
2 without complying with this article if the construction, including
3 construction of buildings or structures on public or private property, is
4 required as a condition of development of private property and is authorized
5 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this
6 subsection, building does not include police, fire, school, library, or other
7 public buildings.

8 M. Notwithstanding section 34-221, any agent may enter into a
9 guaranteed energy cost savings contract with a qualified provider, as those
10 terms are defined in section 15-213.01, for the purchase of energy cost
11 savings measures without complying with this article and may procure a
12 guaranteed energy cost savings contract through the competitive sealed
13 proposal process prescribed in title 41, chapter 23, article 3 or any similar
14 competitive proposal process adopted by the agent as long as the agent
15 follows any additional requirements set forth in section 15-213.01.

16 Sec. 23. Section 34-610, Arizona Revised Statutes, is amended to read:
17 34-610. Accounting standards; statutory applicability

18 A. Any construction by a county pursuant to this chapter shall comply
19 with the uniform accounting system prescribed for counties by the auditor
20 general pursuant to section 41-1279.21. Any construction by a city or a town
21 pursuant to this chapter shall comply with generally accepted accounting
22 principles.

23 B. Any building, structure, addition or alteration may be constructed
24 without complying with this chapter if the construction, including
25 construction of buildings or structures on public or private property, is
26 required as a condition of development of private property and is authorized
27 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this
28 subsection, building does not include police, fire, school, library or other
29 public buildings.

30 C. Section 34-104, section 34-201, subsections A through I, K and L
31 and sections 34-202, 34-203, 34-221, 34-222, 34-223 and 34-224 do not apply
32 to procurement by an agent of construction-manager-at-risk construction
33 services, design-build construction services and job-order-contracting
34 construction services.

35 D. Section 34-201, subsections J and M and sections 34-225 and 34-226
36 apply to procurement by an agent of construction-manager-at-risk construction
37 services, design-build construction services and job-order-contracting
38 construction services.

39 Sec. 24. Section 37-132, Arizona Revised Statutes, is amended to read:
40 37-132. Powers and duties

41 A. The commissioner shall:

42 1. Exercise and perform all powers and duties vested in or imposed
43 upon the department, and prescribe such rules as are necessary to discharge
44 those duties.

1 2. Exercise the powers of surveyor-general except for the powers of
2 the surveyor-general exercised by the treasurer as a member of the selection
3 board pursuant to section 37-202.

4 3. Make long-range plans for the future use of state lands in
5 cooperation with other state agencies, local planning authorities and
6 political subdivisions.

7 4. Promote the infill and orderly development of state lands in areas
8 beneficial to the trust and prevent urban sprawl or leapfrog development on
9 state lands.

10 5. Classify and appraise all state lands, together with the
11 improvements on state lands, for the purpose of sale, lease or grant of
12 rights-of-way. The commissioner may impose such conditions and covenants and
13 make such reservations in the sale of state lands as the commissioner deems
14 to be in the best interest of the state trust. The provisions of this
15 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
16 article 10 and, except as provided in section 41-1092.08, subsection H, are
17 subject to judicial review pursuant to title 12, chapter 7, article 6.

18 6. Have authority to lease for grazing, agricultural, homesite or
19 other purposes, except commercial, all land owned or held in trust by the
20 state.

21 7. Have authority to lease for commercial purposes and sell all land
22 owned or held in trust by the state, but any such lease for commercial
23 purposes or any such sale shall first be approved by the board of appeals.

24 8. Except as otherwise provided, determine all disputes, grievances or
25 other questions pertaining to the administration of state lands.

26 9. Appoint deputies and other assistants and employees necessary to
27 perform the duties of the department, assign their duties, ~~and~~ and require of
28 them such surety bonds as the commissioner deems proper. The compensation of
29 the deputy, assistants or employees shall be as determined pursuant to
30 section 38-611.

31 10. Make a written report to the governor annually, not later than
32 September 1, disclosing in detail the activities of the department for the
33 preceding fiscal year, and publish it for distribution. The report shall
34 include an evaluation of auctions of state land leases held during the
35 preceding fiscal year considering the advantages and disadvantages to the
36 state trust of the existence and exercise of preferred rights to lease
37 reclassified state land.

38 11. Withdraw state land from surface or subsurface sales or lease
39 applications if the commissioner deems it to be in the best interest of the
40 trust. This closure of state lands to new applications for sale or lease
41 does not affect the rights ~~which~~ THAT existing lessees have under law for
42 renewal of their leases and reimbursement for improvements.

43 B. The commissioner may:

1 1. Take evidence relating to, and may require of the various county
2 officers information on, any matter that the commissioner has the power
3 to investigate or determine.

4 2. Under such rules as the commissioner adopts, use private real
5 estate brokers to assist in any sale or long-term lease of state land and
6 pay, from fees collected under section 37-108, subsection A, paragraph 10,
7 subdivision (a), a commission to a broker that is licensed pursuant to title
8 32, chapter 20 and that provides the purchaser or lessee at auction. The
9 purchaser or lessee at auction is not eligible to receive a commission
10 pursuant to this subsection. A commission shall not be paid on a sale or a
11 long-term lease if the purchaser or lessee is another governmental agency.

12 3. Require a permittee, lessee or grantee to post a surety bond or any
13 form of collateral deemed sufficient by the commissioner for performance or
14 restoration purposes. The commissioner shall use the proceeds of a bond or
15 collateral only for the purposes determined at the time the bond or
16 collateral is posted. For agricultural lessees, the commissioner may require
17 collateral as follows:

18 (a) As security for payment of the annual assessments levied by the
19 irrigation district in which the state land is located if the lessee has a
20 history of late payments or defaults. The amount of the collateral required
21 shall not exceed the annual assessment levied by the irrigation district.

22 (b) As security for payment of rent, if an extension of time for
23 payment is requested or if the lessee has a history of late payments of rent.
24 The collateral shall be submitted at the time any extension of time for
25 payment is requested. The amount of the collateral required shall not exceed
26 the annual amount of rent for the land.

27 (c) A surety bond shall be required only if the commissioner
28 determines that other forms of collateral are insufficient.

29 4. Withhold market and economic analyses, preliminary engineering,
30 site and area studies and appraisals that are collected during the urban
31 planning process from public viewing before they are submitted to local
32 planning and zoning authorities.

33 5. Withhold from public inspection proprietary information received
34 during lease negotiations. The proprietary information shall be released to
35 public inspection unless the release may harm the competitive position of the
36 applicant and the information could not have been obtained by other
37 legitimate means.

38 6. Issue permits for short-term use of state land for specific
39 purposes as prescribed by rule.

40 7. Contract with a third party to sell recreational permits. A third
41 party under contract pursuant to this paragraph may assess a surcharge for
42 its services as provided in the contract, in addition to the fees prescribed
43 by section 37-108.

44 8. Close urban lands to specific uses as prescribed by rule if
45 necessary for dust abatement, to reduce a risk from hazardous environmental

1 conditions that pose a risk to human health or safety or for remediation
2 purposes.

3 9. Notwithstanding subsection A, paragraph 4 of this section,
4 authorize, in the best interest of the trust, the extension of public
5 services and facilities either:

6 (a) That are necessary to implement plans of the local governing body,
7 including plans adopted or amended pursuant to section 9-461.06 or ~~11-824~~
8 ~~11-805~~.

9 (b) Across state lands that are either:

10 (i) Classified as suitable for conservation pursuant to section
11 37-312.

12 (ii) Sold or leased at auction for conservation purposes.

13 C. The commissioner or any deputy or employee of the department shall
14 not have, own or acquire, directly or indirectly, any state lands or the
15 products on any state lands, any interest in or to such lands or products, or
16 improvements on leased state lands, or be interested in any state irrigation
17 project affecting state lands.

18 Sec. 25. Section 37-331.03, Arizona Revised Statutes, is amended to
19 read:

20 37-331.03. Conceptual urban state trust land use plans; five
21 year state trust land disposition plans;
22 definitions

23 A. The commissioner shall create conceptual land use plans for all
24 urban state trust land in this state and other state trust lands the
25 commissioner considers to be appropriate. The commissioner shall:

26 1. Prioritize the creation of conceptual plans to the extent possible
27 to:

28 (a) Correlate with the rate of population growth in the urban areas in
29 this state.

30 (b) Coincide with the production of municipal general plans under
31 title 9, chapter 4, article 6 and county plans under title 11, chapter 6,
32 article ~~2- 1~~.

33 2. Revise and update each plan at least every ten years.

34 3. Consult with the city, town or county in which the land is located
35 and with any regional planning organization regarding integrating the
36 conceptual plan into the general land use plan of the city, town or county.

37 4. Submit each plan, and revision of the plan, to the urban land
38 planning oversight committee for review.

39 B. On approval of the conceptual land use plan by the commissioner
40 under this section, the conceptual plan is considered to be a state general
41 plan for purposes of this article.

42 C. The commissioner may create the conceptual land use plans under
43 subsection A of this section by any of the following methods:

44 1. Using department staff or private consultants.

45 2. Entering into participation contracts pursuant to section 37-239.

1 3. Issuing planning permits for urban lands pursuant to section
2 37-338.

3 4. Entering into planning contracts for urban lands or other state
4 trust lands the commissioner considers to be appropriate, including
5 compensation as provided by section 37-338, subsection D.

6 D. The commissioner shall create five year disposition plans for all
7 state trust land in this state, based at a minimum on market demand,
8 anticipated transportation and infrastructure availability. The commissioner
9 shall:

10 1. Review and update each plan each year as may be necessary.

11 2. Consult with the city, town or county in which the land is located
12 and with any regional planning organization.

13 3. Submit each plan and revision to the urban land planning oversight
14 committee to ensure conformity with the conceptual plan under subsection A.

15 E. For the purposes of this section:

16 1. "Conceptual land use plan" means a plan that is developed for urban
17 state trust land and other state trust lands the commissioner considers to be
18 appropriate and that identifies:

19 (a) Appropriate land uses, including commercial, industrial,
20 residential and open space uses.

21 (b) Transportation corridors and infrastructure requirements.

22 (c) All natural and artificial constraints and opportunities
23 associated with the land.

24 2. "Five year disposition plan" means a plan that identifies the land
25 projected to be sold, leased, reclassified for conservation purposes, master
26 planned or zoned during the next five years.

27 Sec. 26. Section 40-360.53, Arizona Revised Statutes, is amended to
28 read:

29 40-360.53. Utility facilities included in municipal and county
30 plans

31 A. If a utility develops and delivers a ~~facilities~~ FACILITY plan to a
32 municipality or a county, the municipality or county, with respect to the
33 facilities located in its corporate limits or planning area, shall include
34 the location and nature of the planned facilities in the municipality general
35 plan under section 9-461.05 or the county comprehensive plan under section
36 ~~11-821~~ 11-804.

37 B. The utility shall update each facility plan provided to a
38 municipality or a county ~~on a periodic basis, but~~ at least every two years.

39 Sec. 27. Section 41-1512.02, Arizona Revised Statutes, is amended to
40 read:

41 41-1512.02. Appropriations; purposes; exemption

42 A. The sum of \$75,000 and 1 FTE is appropriated from the state general
43 fund in fiscal years 2004-2005 and 2005-2006 and each year thereafter to the
44 department of commerce.

1 B. The sum of \$100,000 is appropriated from the state general fund in
2 fiscal years 2004-2005 and 2005-2006 and each year thereafter to the attorney
3 general's office for implementation of ~~sections~~ SECTION 9-461.06, ~~11-806,~~
4 ~~11-824~~ TITLE 11, CHAPTER 6, ARTICLE 1 and SECTION 28-8481.

5 C. For fiscal years 2004-2005 and 2005-2006 and each year thereafter,
6 the sum of \$4,825,000 is appropriated from the state general fund to the
7 military installation fund established by, and for the purposes prescribed
8 by, section 41-1512.01.

9 D. The appropriations made in subsections A, B and C of this section
10 are exempt from the provisions of section 35-190 relating to lapsing of
11 appropriations.

12 Sec. 28. Section 41-1519, Arizona Revised Statutes, is amended to
13 read:

14 41-1519. Small community planning assistance program

15 Subject to legislative appropriation, the department shall establish a
16 small community planning assistance program. The department shall provide
17 grants and technical assistance to the following entities:

18 1. Any city or town with a population of more than two thousand five
19 hundred persons but less than fifteen thousand persons for the purpose of
20 complying with the requirements of section 9-461.05, subsection D.

21 2. Any county with a population of less than one hundred thousand
22 persons for the purpose of complying with planning ~~requirement~~ REQUIREMENTS
23 under title 11, chapter 6, article ~~2- 1~~.

24 Sec. 29. Section 45-108, Arizona Revised Statutes, is amended to read:

25 45-108. Evaluation of subdivision water supply; definition

26 A. In areas outside of active management areas established pursuant to
27 chapter 2, article 2 of this title, the developer of a proposed subdivision
28 including dry lot subdivisions, regardless of subdivided lot size, prior to
29 recordation of the plat, shall submit plans for the water supply for the
30 subdivision and demonstrate the adequacy of the water supply to meet the
31 needs projected by the developer to the director. The director shall
32 evaluate the plans and issue a report on the plans.

33 B. The director shall evaluate the proposed source of water for the
34 subdivision to determine whether there is an adequate water supply for the
35 subdivision, and shall forward a copy of the director's report to the state
36 real estate commissioner and the city, town or county responsible for
37 platting the subdivision.

38 C. The director may designate cities, towns and private water
39 companies as having an adequate water supply by reporting that designation to
40 the water department of the city or town or private water company and the
41 state real estate commissioner.

42 D. As an alternative to designation under subsection C OF THIS
43 SECTION, the director may designate a city or town that has entered into a
44 contract with the United States secretary of the interior or a county water
45 authority established pursuant to chapter 13 of this title for permanent

1 supplies of Colorado river water for municipal and industrial use as having
2 an adequate water supply if all of the following apply:

3 1. The city or town has entered into a contract with each private
4 water company that serves water within the city or town to provide Colorado
5 river water to those private water companies.

6 2. The Colorado river water for which the city or town has contracted
7 is sufficient together with other water supplies available to the city or
8 town and the private water companies that serve water within that city or
9 town to provide an adequate supply of water for the city or town.

10 3. The director finds that new subdivisions within the city or town
11 will be served primarily with Colorado river water by the city or town or one
12 of the private water companies that serve water within that city or town.

13 E. The director shall not require a developer to submit plans for the
14 water supply pursuant to subsection A **OF THIS SECTION** if either:

15 1. Both of the following apply:

16 (a) The developer has obtained a written commitment of water service
17 from cities, towns or private water companies that have been designated as
18 having an adequate water supply.

19 (b) That city, town or private water company has been designated as
20 having an adequate water supply pursuant to subsection C **OF THIS SECTION**.

21 2. All of the following apply:

22 (a) The city or town has been designated as having an adequate water
23 supply pursuant to subsection D **OF THIS SECTION**.

24 (b) The developer has obtained a written commitment of water service
25 from the city or town or a private water company that serves water within
26 that city or town.

27 (c) The developer has obtained the written concurrence of the city or
28 town that has been designated.

29 F. The director may revoke a designation made pursuant to this section
30 when the director finds that the water supply may become inadequate.

31 G. The state of Arizona and the director or department shall not be
32 liable for any report, designation or evaluation prepared in good faith
33 pursuant to this section.

34 H. If the director receives written notice from the board of
35 supervisors of a county that it has adopted the provision authorized by
36 section ~~11-806.01, subsection F~~ **11-823, SUBSECTION A**, the director shall give
37 written notice of the provision to the mayors of all cities and towns in the
38 county. A city or town that receives the notice shall comply with section
39 9-463.01, subsections J, K, L, M and N.

40 I. For the purposes of this section, "adequate water supply" means
41 both of the following:

42 1. Sufficient groundwater, surface water or effluent of adequate
43 quality will be continuously, legally and physically available to satisfy the
44 water needs of the proposed use for at least one hundred years.

1 2. The financial capability has been demonstrated to construct the
2 water facilities necessary to make the supply of water available for the
3 proposed use, including a delivery system and any storage facilities or
4 treatment works. The director may accept evidence of the construction
5 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
6 satisfy this requirement.

7 Sec. 30. Section 45-108.01, Arizona Revised Statutes, is amended to
8 read:

9 45-108.01. Application for water report or designation of
10 adequate water supply; notice; objections;
11 hearing; appeals

12 A. On receipt of an application for a water report or an application
13 by a city, town or private water company to be designated as having an
14 adequate water supply under section 45-108, if the proposed use is in a
15 county that has adopted the provision authorized by section ~~11-806.01,~~
16 ~~subsection F~~ 11-823, SUBSECTION A or in a city or town that has enacted an
17 ordinance pursuant to section 9-463.01, subsection 0, the director shall
18 publish notice of the application once each week for two consecutive weeks in
19 a newspaper of general circulation in the groundwater basin in which the
20 applicant proposes to use water. The first publication shall occur within
21 fifteen days after the application is determined or deemed to be
22 administratively complete. If the application is substantially modified
23 after notice of the application is given pursuant to this subsection, the
24 director shall give notice of the application as modified in the manner
25 prescribed by this subsection. The first publication of any subsequent
26 notice shall occur within fifteen days after the modified application is
27 determined or deemed to be administratively complete.

28 B. Notice pursuant to subsection a of this section shall state that
29 written objections to the application may be filed with the director by
30 residents and landowners within the groundwater basin within fifteen days
31 after the last publication of notice. An objection shall state the name and
32 mailing address of the objector and be signed by the objector, the objector's
33 agent or the objector's attorney. The grounds for objection are limited to
34 whether the application meets the criteria for determining an adequate water
35 supply set forth in section 45-108, subsection I. The objection shall
36 clearly set forth reasons why the application does not meet the criteria.

37 C. In appropriate cases, including cases in which a proper written
38 objection to the application has been filed, an administrative hearing may be
39 held before the director's decision on the application if the director deems
40 a hearing necessary. Thirty days before the date of the hearing, the
41 director shall give notice of the hearing to the applicant and to any person
42 who filed a proper written objection to the application. The hearing shall
43 be scheduled for at least sixty days but not more than ninety days after the
44 expiration of the time in which to file objections.

45 D. If the application is for a water report:

1 1. If the director determines that an adequate water supply exists for
2 the proposed use, the director shall issue a water report stating that the
3 water supply for the subdivision is adequate.

4 2. If the director determines that an adequate water supply does not
5 exist, the director shall issue a water report stating that the water supply
6 for the subdivision is inadequate.

7 E. If the application is for a designation of adequate water supply:

8 1. If the director determines that an adequate water supply exists for
9 the proposed use, the director shall approve the application.

10 2. If the director determines that an adequate water supply does not
11 exist, the director shall deny the application.

12 F. The applicant or a person who contested the application by filing a
13 proper objection pursuant to subsection B of this section may seek judicial
14 review of the final decision of the director as provided in section 45-114,
15 subsection B in the superior court.

16 G. Section 45-114, subsections A and B govern administrative
17 proceedings, rehearings or reviews and judicial reviews of final decisions of
18 the director under this section. If an administrative hearing is held, it
19 shall be conducted in the groundwater basin in which the use is located.

20 Sec. 31. Section 45-108.02, Arizona Revised Statutes, is amended to
21 read:

22 45-108.02. Exemption from adequate water supply requirements
23 for city, town or county based on substantial
24 capital investment; application; criteria;
25 expiration

26 A. If the director determines pursuant to section 45-108 that an
27 adequate water supply does not exist for a proposed subdivision and the
28 proposed subdivision is located in a city, town or county that requires a
29 determination of adequate water supply by the director as a condition of
30 approval of the plat pursuant to section 9-463.01, subsection J or O or
31 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider may
32 apply to the director for an exemption from the water adequacy requirement
33 pursuant to this section on a form prescribed by the director within one year
34 after the requirement first becomes effective. The director shall grant the
35 exemption if the subdivider demonstrates to the satisfaction of the director
36 that all of the following apply:

37 1. The subdivider has made substantial capital investment toward the
38 construction of the proposed subdivision before the date the water adequacy
39 requirement first became effective. For the purposes of this paragraph,
40 substantial capital investment may include construction costs, site
41 preparation costs, construction of off-site improvements and conversion or
42 remodeling costs for existing structures, as well as planning and design
43 costs associated with those items, but does not include the original cost of
44 acquiring the property.

1 2. The subdivider was not aware of the proposed water adequacy
2 requirement at the time the investment was made.

3 3. The proposed subdivision complied in all other respects with
4 existing state laws as of the date the water adequacy requirement became
5 effective.

6 B. If the director grants an exemption pursuant to subsection A of
7 this section:

8 1. The exemption expires five years after the date the exemption is
9 granted, unless before that date at least one parcel in the subdivision is
10 sold to a bona fide purchaser or the director extends the exemption pursuant
11 to paragraph 2 of this subsection.

12 2. The director may extend the period of the exemption for no more
13 than two successive five-year periods if the subdivider applies for an
14 extension before the exemption expires and demonstrates to the satisfaction
15 of the director that the subdivider has made material progress in developing
16 the subdivision, but that sales of parcels in the subdivision have been
17 delayed for reasons outside the control of the subdivider.

18 C. If an exemption granted under this section expires, any public
19 report issued for the subdivision by the state real estate commissioner
20 pursuant to section 32-2183 expires and the subdivider shall not sell any
21 lots in the subdivision unless both of the following apply:

22 1. The subdivider files with the state real estate commissioner a new
23 notice of intention to subdivide lands pursuant to section 32-2181 and
24 complies with section 32-2181, subsection F.

25 2. The state real estate commissioner issues a new public report for
26 the subdivision pursuant to section 32-2183.

27 D. Section 45-114, subsections A and B govern administrative
28 proceedings, rehearing or review and judicial review of final decisions of
29 the director under this section.

30 Sec. 32. Section 45-108.03, Arizona Revised Statutes, is amended to
31 read:

32 45-108.03. Exemption from adequate water supply requirements
33 for city, town or county based on an adequate
34 water supply within twenty years; criteria;
35 application

36 A. If a proposed subdivision is located in a city, town or county that
37 requires an adequate water supply determination by the director as a
38 condition of approval of the plat pursuant to section 9-463.01, subsection J
39 or 0 or section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider
40 may apply to the director for an exemption from the requirement pursuant to
41 this section on a form prescribed by the director. The director shall grant
42 the exemption if the subdivider demonstrates to the satisfaction of the
43 director that the subdivision will be served by a water supply project to
44 which both of the following apply:

1 1. The subdivider has demonstrated financial capability pursuant to
2 section 45-108, subsection I, but the water supply project will not be
3 capable of serving the subdivision with sufficient water to meet its demands
4 in a timely manner because of one of the following:
5 (a) The physical works for delivering water to the subdivision are not
6 complete but are under construction and will be completed within twenty
7 years.
8 (b) The subdivision will be served Colorado river water by a water
9 provider that does not currently have the legal right to serve the water to
10 the subdivision, but the water provider has an existing permanent contract
11 for the Colorado river water and will have the legal right to serve the water
12 to the subdivision within twenty years.

13 2. The subdivision will have an adequate water supply when the
14 construction of the physical works is completed or the water supply is
15 legally available to serve the subdivision, whichever applies, and the
16 interim water supply that will serve the subdivision meets all of the
17 criteria for an adequate water supply under section 45-108 except that the
18 interim water supply will not be available for one hundred years.

19 B. Section 45-114, subsections A and B govern administrative
20 proceedings, rehearing or review and judicial review of final decisions of
21 the director under this section.

22 Sec. 33. Section 45-108.04, Arizona Revised Statutes, is amended to
23 read:
24 45-108.04. Definition of adequate water supply; upper San Pedro
25 water district

26 For the purposes of section 45-108, if the upper San Pedro water
27 district is established under title 48, chapter 37 for proposed uses in the
28 district, "adequate water supply" means a water supply that complies with all
29 of the following:

30 1. Sufficient groundwater, surface water or effluent of adequate
31 quality will be continuously, legally and physically available to satisfy the
32 water needs of the proposed use for at least one hundred years.

33 2. The projected water use is consistent with the goal of the district
34 as set forth in section 48-6403, subsection B and the district's ability to
35 meet the measurable objectives for achieving the goal as included in the
36 district's most recent comprehensive plan, as determined by the director. If
37 the district is established, the director shall adopt rules containing
38 criteria for making determinations under this paragraph and shall consult
39 with the district board in developing the rules.

40 3. The financial capability has been demonstrated to construct the
41 water facilities necessary to make the supply of water available for the
42 proposed use, including a delivery system and any storage facilities or
43 treatment works. The director may accept evidence of the construction
44 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
45 satisfy this requirement.

1 Sec. 34. Section 45-576, Arizona Revised Statutes, is amended to read:
2 45-576. Certificate of assured water supply; designated cities,
3 towns and private water companies; exemptions;
4 definition

5 A. A person who proposes to offer subdivided lands, as defined in
6 section 32-2101, for sale or lease in an active management area shall apply
7 for and obtain a certificate of assured water supply from the director prior
8 to presenting the plat for approval to the city, town or county in which the
9 land is located, where such is required, and prior to filing with the state
10 real estate commissioner a notice of intention to offer such lands for sale
11 or lease, pursuant to section 32-2181, unless the subdivider has obtained a
12 written commitment of water service for the subdivision from a city, town or
13 private water company designated as having an assured water supply pursuant
14 to this section.

15 B. A city, town or county may approve a subdivision plat only if the
16 subdivider has obtained a certificate of assured water supply from the
17 director or the subdivider has obtained a written commitment of water service
18 for the subdivision from a city, town or private water company designated as
19 having an assured water supply pursuant to this section. The city, town or
20 county shall note on the face of the approved plat that a certificate of
21 assured water supply has been submitted with the plat or that the subdivider
22 has obtained a written commitment of water service for the proposed
23 subdivision from a city, town or private water company designated as having
24 an assured water supply pursuant to this section.

25 C. The state real estate commissioner may issue a public report
26 authorizing the sale or lease of subdivided lands only on compliance with
27 either of the following:

28 1. The subdivider, owner or agent has obtained a certificate of
29 assured water supply from the director and has paid any activation fee
30 required under section 48-3772, subsection A, paragraph 7 and any
31 replenishment reserve fee required under section 48-3774.01, subsection A,
32 paragraph 2.

33 2. If the subdivider has obtained a written commitment of water
34 service for the lands from a city, town or private water company designated
35 as having an assured water supply pursuant to this section and the
36 subdivider, owner or agent has paid any activation fee required under section
37 48-3772, subsection A, paragraph 7.

38 D. The director shall designate private water companies in active
39 management areas that have an assured water supply. If a city or town
40 acquires a private water company that has contracted for central Arizona
41 project water, the city or town shall assume the private water company's
42 contract for central Arizona project water.

43 E. The director shall designate cities and towns in active management
44 areas where an assured water supply exists. If a city or town has entered
45 into a contract for central Arizona project water, the city or town is deemed

1 to continue to have an assured water supply until December 31,
2 1997. Commencing on January 1, 1998, the determination that the city or town
3 has an assured water supply is subject to review by the director and the
4 director may determine that a city or town does not have an assured water
5 supply.

6 F. The director shall notify the mayors of all cities and towns in
7 active management areas and the chairmen of the boards of supervisors of
8 counties in which active management areas are located of the cities, towns
9 and private water companies designated as having an assured water supply and
10 any modification of that designation within thirty days of the designation or
11 modification. If the service area of the city, town or private water company
12 has qualified as a member service area pursuant to title 48, chapter 22,
13 article 4, the director shall also notify the conservation district of the
14 designation or modification and shall report the projected average annual
15 replenishment obligation for the member service area based on the projected
16 and committed average annual demand for water within the service area during
17 the effective term of the designation or modification subject to any
18 limitation in an agreement between the conservation district and the city,
19 town or private water company. For each city, town or private water company
20 that qualified as a member service area under title 48, chapter 22 and was
21 designated as having an assured water supply before January 1, 2004, the
22 director shall report to the conservation district on or before January 1,
23 2005 the projected average annual replenishment obligation based on the
24 projected and committed average annual demand for water within the service
25 area during the effective term of the designation subject to any limitation
26 in an agreement between the conservation district and the city, town or
27 private water company. Persons proposing to offer subdivided lands served by
28 those designated cities, towns and private water companies for sale or lease
29 are exempt from applying for and obtaining a certificate of assured water
30 supply.

31 G. This section does not apply in the case of the sale of lands for
32 developments that are subject to a mineral extraction and processing permit
33 or an industrial use permit pursuant to sections 45-514 and 45-515.

34 H. The director shall adopt rules to carry out the purposes of this
35 section. On or before January 1, 2008, the rules shall provide for a
36 reduction in water demand for an application for a designation of assured
37 water supply or a certificate of assured water supply if a gray water reuse
38 system will be installed that meets the requirements of the rules adopted by
39 the department of environmental quality for gray water systems and if the
40 application is for a certificate of assured water supply, the land for which
41 the certificate is sought must qualify as a member land in a conservation
42 district pursuant to title 48, chapter 22, article 4. For the purposes of
43 this subsection, "gray water" has the same meaning prescribed in section
44 49-201.

1 I. If the director designates a municipal provider as having an
2 assured water supply under this section and the designation lapses or
3 otherwise terminates while the municipal provider's service area is a member
4 service area of a conservation district, the municipal provider or its
5 successor shall continue to comply with the consistency with management goal
6 requirements in the rules adopted by the director under subsection H of this
7 section as if the designation was still in effect with respect to the
8 municipal provider's designation uses. When determining compliance by the
9 municipal provider or its successor with the consistency with management goal
10 requirements in the rules, the director shall consider only water delivered
11 by the municipal provider or its successor to the municipal provider's
12 designation uses. A person is the successor of a municipal provider if the
13 person commences water service to uses that were previously designation uses
14 of the municipal provider. Any groundwater delivered by the municipal
15 provider or its successor to the municipal provider's designation uses in
16 excess of the amount allowed under the consistency with management goal
17 requirements in the rules shall be considered excess groundwater for purposes
18 of title 48, chapter 22. For the purposes of this subsection, "designation
19 uses" means all water uses served by a municipal provider on the date the
20 municipal provider's designation of assured water supply lapses or otherwise
21 terminates and all recorded lots within the municipal provider's service area
22 that were not being served by the municipal provider on that date but that
23 received final plat approval from a city, town or county on or before that
24 date. Designation uses do not include industrial uses served by an
25 irrigation district under section 45-497.

26 J. For the purposes of this section, "assured water supply" means all
27 of the following:

28 1. Sufficient groundwater, surface water or effluent of adequate
29 quality will be continuously available to satisfy the water needs of the
30 proposed use for at least one hundred years. Beginning January 1 of the
31 calendar year following the year in which a groundwater replenishment
32 district is required to submit its preliminary plan pursuant to section
33 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a
34 member of the district, "sufficient groundwater" for the purposes of this
35 paragraph means that the proposed groundwater withdrawals that the applicant
36 will cause over a period of one hundred years will be of adequate quality and
37 will not exceed, in combination with other withdrawals from land in the
38 replenishment district, a depth to water of one thousand feet or the depth of
39 the bottom of the aquifer, whichever is less. In determining depth to water
40 for the purposes of this paragraph, the director shall consider the
41 combination of:

42 (a) The existing rate of decline.

43 (b) The proposed withdrawals.

1 (c) The expected water requirements of all recorded lots that are not
2 yet served water and that are located in the service area of a municipal
3 provider.

4 2. The projected groundwater use is consistent with the management
5 plan and achievement of the management goal for the active management area.

6 3. The financial capability has been demonstrated to construct the
7 water facilities necessary to make the supply of water available for the
8 proposed use, including a delivery system and any storage facilities or
9 treatment works. The director may accept evidence of the construction
10 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to
11 satisfy this requirement.

12 Sec. 35. Section 48-3609.01, Arizona Revised Statutes, is amended to
13 read:

14 48-3609.01. Watercourse master plans; definition

15 A. If a district organized pursuant to this chapter has completed a
16 watercourse master plan which includes one or more watercourses, and if the
17 plan has been adopted by the board or by any other jurisdiction in that river
18 or drainage system, the board and the governing body of each jurisdiction may
19 adopt and shall enforce uniform rules for that river or drainage system
20 within the jurisdiction using criteria that meet or exceed criteria adopted
21 by the director of water resources pursuant to section 48-3605, subsection A.

22 B. During the preparation of a watercourse master plan, record owners
23 of real property in and immediately contiguous to the watercourse or
24 watercourses included in the planning shall be publicly notified by the board
25 or its agents so that the owners may have input to the planning process. In
26 addition, aggregate mining operations recommendation committees organized
27 pursuant to section ~~11-830~~ 11-812, subsection D, if any, shall be notified.

28 C. All watercourse master plans shall consider recharge techniques
29 including gabions, swales, dry wells, sand tanks and small dams.

30 D. This section does not apply to any city or town which has adopted a
31 resolution assuming floodplain management and regulation within its area of
32 jurisdiction as provided in section 48-3610 prior to July 1, 1990.

33 E. A district that has prepared a watercourse master plan for a river
34 may participate in the planning, establishment and operation of a
35 recreational corridor channelization district established pursuant to chapter
36 35 of this title.

37 F. For the purposes of this section, "watercourse master plan" means a
38 hydraulic plan for a watercourse that examines the cumulative impacts of
39 existing development and future encroachment in the floodplain and future
40 development in the watershed on potential flood damages and that establishes
41 technical criteria for subsequent development so as to minimize potential
42 flood damages for all flood events up to and including the one hundred-year
43 flood.

1 Sec. 36. Section 48-6414, Arizona Revised Statutes, is amended to
2 read:

3 48-6414. Inapplicability of other adequate water supply
4 provisions to proposed subdivisions in the district

5 Section 9-463.01, subsections J through Q, section ~~11-806.01,~~
6 ~~subsections F through I~~ 11-823, section 32-2181, subsection F, section
7 32-2183, subsection ~~F~~ H, section 32-2197.08, subsection D, section 45-108,
8 subsection H, section 45-108.01, section 45-108.02 and section 45-108.03 do
9 not apply to proposed subdivisions in the district.

10 Sec. 37. Section 49-1273, Arizona Revised Statutes, is amended to
11 read:

12 49-1273. Water supply development revolving fund; purposes;
13 limitation

14 A. Monies in the water supply development revolving fund may be used
15 for the following purposes:

16 1. Making water supply development loans to water providers in this
17 state under section 49-1274 for water supply development purposes.

18 2. Making loans or grants to water providers for the planning or
19 design of water supply development projects. A single grant shall not exceed
20 one hundred thousand dollars.

21 3. Purchasing or refinancing debt obligations of water providers at or
22 below market rate if the debt obligation was issued for a water supply
23 development purpose.

24 4. Providing financial assistance to water providers with bonding
25 authority to purchase insurance for local bond obligations incurred by them
26 for water supply development purposes.

27 5. Paying the costs to administer the fund.

28 6. Providing linked deposit guarantees through third party lenders by
29 depositing monies with the lender on the condition that the lender make a
30 loan on terms approved by the committee, at a rate of return on the deposit
31 approved by the committee and the state treasurer and by giving the lender
32 recourse against the deposit of loan repayments that are not made when due.

33 B. If the monies pledged to secure water supply development bonds
34 issued pursuant to section 49-1278 become insufficient to pay the principal
35 and interest on the water supply development bonds guaranteed by the water
36 supply development revolving fund, the authority shall direct the state
37 treasurer to liquidate securities in the fund as may be necessary and shall
38 apply those proceeds to make current all payments then due on the bonds. The
39 state treasurer shall immediately notify the attorney general and auditor
40 general of the insufficiency. The auditor general shall audit the
41 circumstances surrounding the depletion of the fund and report the findings
42 to the attorney general. The attorney general shall conduct an investigation
43 and report those findings to the governor and the legislature.

1 C. Monies in the water supply development revolving fund shall not be
2 used to provide financial assistance to a water provider, other than an
3 Indian tribe, unless one of the following applies:

4 1. The board of supervisors of the county in which the water provider
5 is located has adopted the provision authorized by section ~~11-806.01,~~
6 ~~subsection F~~ 11-823, SUBSECTION A.

7 2. The water provider is located in a city or town and the legislative
8 body of the city or town has enacted the ordinance authorized by section
9 9-463.01, subsection 0.

10 3. The water provider is located in an active management area
11 established pursuant to title 45, chapter 2, article 2.

12 Sec. 38. Retention of members

13 All persons serving as members or alternate members of a county
14 planning and zoning commission on the effective date of this act may continue
15 to serve until expiration of their normal terms.