State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

SB 1598

Introduced by
Senators Klein, Allen; Representatives Burges, Jones, Montenegro, Williams;
Senators Melvin, Pierce S, Shooter; Representatives Carter, Fann, Pratt

AN ACT

AMENDING SECTIONS 9-461, 9-461.05 AND 9-461.06, ARIZONA REVISED STATUTES;  
AMENDING TITLE 9, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4;  
AMENDING SECTIONS 11-801, 11-804 AND 11-805, ARIZONA REVISED STATUTES, AS  
ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING TITLE 11, ARIZONA  
REVISED STATUTES, BY ADDING CHAPTER 11; AMENDING SECTION 12-348, ARIZONA  
REVISED STATUTES; RELATING TO CITY AND COUNTY REGULATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-461, Arizona Revised Statutes, is amended to read:

9-461. Definitions
In this article, unless the context otherwise requires:

1. "AGGREGATE" MEANS CINDER, CRUSHED ROCK OR STONE, DECOMPOSED GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

2. "General plan" means a municipal statement of land development policies, which may include maps, charts, graphs and text which set forth objectives, principles and standards for local growth and redevelopment enacted under the provisions of this article or any prior statute.

3. "General plan" means a municipal statement of land development policies, which may include maps, charts, graphs and text which set forth objectives, principles and standards for local growth and redevelopment enacted under the provisions of this article or any prior statute.

4. "Municipal" or "municipality" means an incorporated city or town.

5. "Planning agency" means the official body designated by local ordinance to carry out the purposes of this article and may be a planning department, a planning commission, a hearing officer, the legislative body itself, or any combination thereof.

6. "Right-of-way" means any public right-of-way and includes any area required for public use pursuant to any general or specific plan.

7. "Specific plan" means a detailed element of the general plan enacted under the provisions of this article or a prior statute.


9. "Subdivision regulations" means a municipal ordinance regulating the design and improvement of subdivisions enacted under the provisions of article 6.2 of this chapter, or any prior statute, regulating the design and improvement of subdivisions.

10. "Zoning ordinance" means a municipal ordinance regulating the use of land OR structures, or both, under the provisions of this article.

Sec. 2. Section 9-461.05, Arizona Revised Statutes, is amended to read:

9-461.05. General plans; authority; scope
A. Each planning agency shall prepare and the governing body of each municipality shall adopt a comprehensive, long-range general plan for the development of the municipality. The planning agency shall coordinate the production of its general plan with the creation of the state land department conceptual land use plans under title 37, chapter 2, article 5.1 and shall cooperate with the state land department regarding integrating the conceptual state land use plans into the municipality's general land use plan. The general plan shall include provisions that identify changes or modifications to the plan that constitute amendments and major amendments. The plan shall be adopted and readopted in the manner prescribed by section 9-461.06.
B. The general plan shall be so prepared that all or individual elements of it may be adopted by the governing body and that it may be made applicable to all or part of the territory of the municipality.

C. The general plan shall consist of a statement of community goals and development policies. It shall include maps, any necessary diagrams and text setting forth objectives, principles, standards and plan proposals. The plan shall include the following elements:

1. A land use element that:
   (a) Designates the proposed general distribution and location and extent of such uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land as may be appropriate to the municipality.
   (b) Includes a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan.
   (c) Identifies specific programs and policies that the municipality may use to promote infill or compact form development activity and locations where those development patterns should be encouraged.
   (d) Includes consideration of air quality and access to incident solar energy for all general categories of land use.
   (e) Includes policies that address maintaining a broad variety of land uses, including the range of uses existing in the municipality when the plan is adopted, readopted or amended.
   (f) For cities and towns with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, includes consideration of military airport or ancillary military facility operations. On or before December 31, 2005, if a city or town includes land in a high noise or accident potential zone as defined in section 28-8461, the city or town shall identify the boundaries of the high noise or accident potential zone in its general plan for purposes of planning land uses in the high noise or accident potential zone that are compatible with the operation of the military airport or ancillary military facility pursuant to section 28-8481, subsection J.
   (g) INCLUDES SOURCES OF CURRENTLY IDENTIFIED AGGREGATES FROM MAPS THAT ARE AVAILABLE FROM STATE AGENCIES, MEASURES TO PRESERVE CURRENTLY IDENTIFIED AGGREGATES FOR FUTURE DEVELOPMENT AND POLICIES TO AVOID INCOMPATIBLE LAND USES.

2. A circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, bicycle routes and any other modes of transportation as may be appropriate, all correlated with the land use element of the plan.

D. For cities and towns having a population of more than two thousand five hundred persons but less than ten thousand persons and whose population growth rate exceeded an average of two per cent per year for the ten year
period before the most recent United States decennial census and for cities
and towns having a population of ten thousand or more persons according to
the most recent United States decennial census, the general plan shall
include, and for other cities and towns the general plan may include:

1. An open space element that includes:
   (a) A comprehensive inventory of open space areas, recreational
       resources and designations of access points to open space areas and
       resources.
   (b) An analysis of forecasted needs, policies for managing and
       protecting open space areas and resources and implementation strategies to
       acquire additional open space areas and further establish recreational
       resources.
   (c) Policies and implementation strategies designed to promote a
       regional system of integrated open space and recreational resources and a
       consideration of any existing regional open space plans.

2. A growth area element, specifically identifying those areas, if
   any, that are particularly suitable for planned multimodal transportation and
   infrastructure expansion and improvements designed to support a planned
   concentration of a variety of uses, such as residential, office, commercial,
   tourism and industrial uses. This element shall include policies and
   implementation strategies that are designed to:
   (a) Make automobile, transit and other multimodal circulation more
       efficient, make infrastructure expansion more economical and provide for a
       rational pattern of land development.
   (b) Conserve significant natural resources and open space areas in the
       growth area and coordinate their location to similar areas outside the growth
       area's boundaries.
   (c) Promote the public and private construction of timely and
       financially sound infrastructure expansion through the use of infrastructure
       funding and financing planning that is coordinated with development activity.

3. An environmental planning element that contains analyses, policies
   and strategies to address anticipated effects, if any, of plan elements on
   air quality, water quality and natural resources associated with proposed
   development under the general plan. The policies and strategies to be
   developed under this element shall be designed to have community-wide
   applicability and shall not require the production of an additional
   environmental impact statement or similar analysis beyond the requirements of
   state and federal law.

4. A cost of development element that identifies policies and
   strategies that the municipality will use to require development to pay its
   fair share toward the cost of additional public service needs generated by
   new development, with appropriate exceptions when in the public interest.
   This element shall include:
   (a) A component that identifies various mechanisms that are allowed by
       law and that can be used to fund and finance additional public services
necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees, facility construction, dedications and service privatization.

(b) A component that identifies policies to ensure that any mechanisms that are adopted by the municipality under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the municipality to provide additional necessary public services to the development and otherwise are imposed according to law.

5. A water resources element that addresses:
   (a) The known legally and physically available surface water, groundwater and effluent supplies.
   (b) The demand for water that will result from future growth projected in the general plan, added to existing uses.
   (c) An analysis of how the demand for water that will result from future growth projected in the general plan will be served by the water supplies identified in subdivision (a) of this paragraph or a plan to obtain additional necessary water supplies.

E. The general plan shall include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons the following elements or any part or phase of the following elements:

1. A conservation element for the conservation, development and utilization of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation element may also cover:
   (a) The reclamation of land.
   (b) Flood control.
   (c) Prevention and control of the pollution of streams and other waters.
   (d) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
   (e) Prevention, control and correction of the erosion of soils, beaches and shores.
   (f) Protection of watersheds.

2. A recreation element showing a comprehensive system of areas and public sites for recreation, including the following and, if practicable, their locations and proposed development:
   (a) Natural reservations.
   (b) Parks.
   (c) Parkways and scenic drives.
   (d) Beaches.
   (e) Playgrounds and playfields.
   (f) Open space.
   (g) Bicycle routes.
   (h) Other recreation areas.
3. The circulation element provided for in subsection C, paragraph 2 of this section shall also include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons recommendations concerning parking facilities, building setback requirements and the delineations of such systems on the land, a system of street naming and house and building numbering and other matters as may be related to the improvement of circulation of traffic. The circulation element may also include:

(a) A transportation element showing a comprehensive transportation system, including locations of rights-of-way, terminals, viaducts and grade separations. This element of the plan may also include port, harbor, aviation and related facilities.

(b) A transit element showing a proposed system of rail or transit lines or other mode of transportation as may be appropriate.

4. A public services and facilities element showing general plans for police, fire, emergency services, sewage, refuse disposal, drainage, local utilities, rights-of-way, easements and facilities for them.

5. A public buildings element showing locations of civic and community centers, public schools, libraries, police and fire stations and other public buildings.

6. A housing element consisting of standards and programs for the elimination of substandard dwelling conditions, for the improvement of housing quality, variety and affordability and for provision of adequate sites for housing. This element shall contain an identification and analysis of existing and forecasted housing needs. This element shall be designed to make equal provision for the housing needs of all segments of the community regardless of race, color, creed or economic level.

7. A conservation, rehabilitation and redevelopment element consisting of plans and programs for:

(a) The elimination of slums and blighted areas.

(b) Community redevelopment, including housing sites, business and industrial sites and public building sites.

(c) Other purposes authorized by law.

8. A safety element for the protection of the community from natural and artificial hazards, including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths according to function, clearances around structures and geologic hazard mapping in areas of known geologic hazards.

9. A bicycling element consisting of proposed bicycle facilities such as bicycle routes, bicycle parking areas and designated bicycle street crossing areas.

10. An energy element that includes:

(a) A component that identifies policies that encourage and provide incentives for efficient use of energy.
(b) An assessment that identifies policies and practices that provide for greater uses of renewable energy sources.

11. A neighborhood preservation and revitalization element, including:
   (a) A component that identifies city programs that promote home ownership, that provide assistance for improving the appearance of neighborhoods and that promote maintenance of both commercial and residential buildings in neighborhoods.
   (b) A component that identifies city programs that provide for the safety and security of neighborhoods.

F. The water resources element of the general plan does not require:
   1. New independent hydrogeologic studies.
   2. The city or town to be a water service provider.

G. The land use element of a general plan of a city with a population of more than one million persons shall include protections from encroaching development for any shooting range that is owned by this state and that is located within or adjacent to the exterior municipal boundaries on or before January 1, 2004. The general plan shall establish land use categories within at least one-half mile from the exterior boundaries of the shooting range that are consistent with the continued existence of the shooting range and that exclude incompatible uses such as residences, schools, hotels, motels, hospitals or churches except that land zoned to permit these incompatible uses on August 25, 2004 are exempt from this exclusion. For the purposes of this subsection, "shooting range" means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range does not include:
   1. Any area for the exclusive use of archery or air guns.
   2. An enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.
   3. A national guard facility located in a city or town with a population of more than one million persons.
   4. A facility that was not owned by this state before January 1, 2002.

H. The policies and strategies to be developed under these elements shall be designed to have community-wide applicability and this section does not authorize the imposition of dedications, exactions, fees or other requirements that are not otherwise authorized by law.

Sec. 3. Section 9-461.06, Arizona Revised Statutes, is amended to read:
   9-461.06. Adoption and amendment of general plan; expiration and readoption

   A. In municipalities that have territory in a high noise or accident potential zone as defined in section 28-8461, the legislature finds that in general plans and amendments to general plans land use compatibility with the
continued operation of a military airport or ancillary military facility as defined in section 28-8461 is a matter of statewide concern.

B. The general plan and any amendment to such plan shall be adopted or readopted in the manner provided in this article.

C. The governing body shall:
1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of general plans from all geographic, ethnic and economic areas of the municipality. The procedures shall provide for:
   (a) The broad dissemination of proposals and alternatives.
   (b) The opportunity for written comments.
   (c) Public hearings after effective notice.
   (d) Open discussions, communications programs and information services.
   (e) Consideration of public comments.
2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, the county, school districts, associations of governments, public land management agencies, the military airport if the municipality has territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners and citizens generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes on the general plan.

D. At least sixty days before the general plan or an element or major amendment of a general plan is noticed pursuant to subsection E of this section, the planning agency shall transmit the proposal to the planning commission, if any, and the governing body and shall submit a copy for review and further comment to:
1. The planning agency of the county in which the municipality is located.
2. Each county or municipality that is contiguous to the corporate limits of the municipality or its area of extraterritorial jurisdiction.
3. The regional planning agency within which the municipality is located.
4. The department of commerce or any other state agency that is subsequently designated as the general planning agency for this state.
5. The department of water resources for review and comment on the water resources element, if a water resources element is required.
6. If the general plan or an element or amendment of the general plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the military airport.
7. If the general plan or an element or major amendment of the general plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section
28-8461, the attorney general. For the purposes of this paragraph, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan.

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

E. If the municipality has a planning commission, after considering any recommendations from the review required under subsection D of this section the planning commission shall hold at least one public hearing before approving a general plan or any amendment to such plan. When the general plan or any major amendment is being adopted, planning commissions in municipalities having populations over twenty-five thousand persons shall hold two or more public hearings at different locations within the municipality to promote citizen participation. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, the notice shall be posted in at least ten public places in the municipality.

2. Such other manner in addition to publication as the municipality may deem necessary or desirable.

F. Action by the planning commission on the general plan or any amendment to the plan shall be transmitted to the governing body of the municipality.

G. Before adopting the general plan, or any amendment to it, the governing body shall hold at least one public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection E of this section.

H. The adoption or readoption of the general plan or any amendment to such plan shall be by resolution of the governing body of the municipality, after notice as provided for in subsection E of this section. The adoption or readoption of or a major amendment to the general plan shall be approved by affirmative vote of at least two-thirds of the members of the governing body of the municipality. All major amendments to the general plan proposed for adoption by the governing body of a municipality shall be presented at a single public hearing during the calendar year the proposal is made. The general plan, or any amendment to the plan, shall be endorsed in the manner provided by the governing body to show that it has been adopted by the governing body. If the municipality includes property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the governing body of the municipality shall send notice of the approval, adoption or readoption of the general plan or major amendment to the general plan to the attorney general by certified
mail, return receipt requested, within three business days after the
approval, adoption or readoption. If the attorney general determines the
approval, adoption or readoption of the general plan or major amendment to
the general plan is not in compliance with section 28-8481, subsection J, the
attorney general shall notify the municipality by certified mail, return
receipt requested, of the determination of noncompliance. The municipality
shall receive the notice from the attorney general within twenty-five days
after the notice from the municipality to the attorney general is mailed
pursuant to this subsection. The effective date of any approval, adoption or
readoption of, or major amendment to, the general plan shall be thirty days
after the governing body's receipt of the attorney general's determination of
noncompliance. Within thirty days after the receipt of a determination of
noncompliance by the attorney general as prescribed by this section, the
governing body of the municipality shall reconsider any approval, adoption or
readoption of, or major amendment to, the general plan that impacts property
in the high noise or accident potential zone of a military airport or
ancillary military facility as defined in section 28-8461. If the governing
body reaffirms a prior action subject to an attorney general's determination
of noncompliance pursuant to this section, the attorney general may institute
a civil action pursuant to section 28-8481, subsection L. If the governing
body timely sends notice pursuant to this subsection and the attorney general
fails to timely notify the governing body of a determination of
noncompliance, the general plan or major amendment to the general plan shall
be deemed to comply with section 28-8481, subsection J. If the motion to
adopt or readopt a general plan or an amendment to the general plan fails to
pass, the governing body may reconsider the motion in any manner allowed by
the governing body’s rules of procedure, but any subsequent motion for the
adoption or readoption of the general plan or a major amendment to the
general plan must be approved by an affirmative vote of at least two-thirds
of the members of the governing body. For the purposes of this subsection,
"major amendment" means a substantial alteration of the municipality's land
use mixture or balance as established in the municipality's existing general
plan land use element. The municipality’s general plan shall define the
criteria to determine if a proposed amendment to the general plan effects a
substantial alteration of the municipality's land use mixture or balance as
established in the municipality's existing general plan land use element.

I. If the municipality does not have a planning commission, the only
procedural steps required for the adoption of the general plan, or any
amendment to such plan, shall be those provided in this article for action by
the governing body.

J. A copy of the adopted general plan of a municipality shall be sent
to the planning agency of the county within which the municipality is
located, and such plan or any portion of the plan may be adopted as a part of
the county general plan.
K. A general plan, with any amendments, is effective for up to ten
years from the date the plan was initially adopted and ratified pursuant to
subsection M of this section, or until the plan is readopted pursuant to this
subsection and ratified pursuant to subsection M of this section or a new
plan is adopted pursuant to this subsection and ratified pursuant to
subsection M of this section, and becomes effective. On or before the tenth
anniversary of the plan's most recent adoption, the governing body of the
municipality shall either readopt the existing plan for an additional term of
up to ten years or shall adopt a new general plan as provided by this
article.

L. Except for general plans that are required to be submitted to the
voters for ratification pursuant to subsection M of this section, the
adoption or readoption of a general plan, and any amendment to a general
plan, shall not be enacted as an emergency measure and is subject to
referendum as provided by article IV, part 1, section 1, subsection (B),
Constitution of Arizona, and title 19, chapter 1, article 4.

M. The governing body of a city or town having a population of more
than two thousand five hundred persons but less than ten thousand persons and
whose population growth rate exceeded an average of two per cent per year for
the ten year period before the most recent United States decennial census,
and any city or town having a population of ten thousand or more persons,
shall submit each new general plan adopted pursuant to subsection K of this
section to the voters for ratification at the next regularly scheduled
municipal election or at a special election scheduled at least one hundred
twenty days after the governing body adopted the plan pursuant to section
16-204. The governing body shall include a general description of the plan
and its elements in the municipal election pamphlet and shall provide public
copies of the plan in at least two locations that are easily accessible to
the public and may include posting on the municipality's official internet
website. If a majority of the qualified electors voting on the
proposition approves the new plan, it shall become effective as provided by
law. If a majority of the qualified electors voting on the proposition fails
to approve the new plan, the current plan remains in effect until a new plan
is approved by the voters pursuant to this subsection. The governing body
shall either resubmit the proposed new plan, or revise the new plan as
provided by this section, for subsequent submission to the voters at the next
regularly scheduled municipal election or at a special election scheduled at
least one hundred twenty days after the governing body readopted the new or
revised new plan. All subsequent adoptions and submissions of the new plan
or revised plans must comply with the procedures prescribed by this section
until the plan is ratified.

N. In applying an open space element or a growth element of a general
plan a municipality shall not designate private land or state trust land as
open space, recreation, conservation or agriculture unless the municipality
receives the written consent of the landowner or provides an alternative,
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economically viable designation in the general plan or zoning ordinance, allowing at least one residential dwelling per acre. If the landowner is the prevailing party in any action brought to enforce this subsection, a court shall award fees and other expenses to the landowner. A municipality may designate land as open space without complying with the requirements of this subsection if the land was zoned as open space and used as a golf course pursuant to a zoning ordinance adopted pursuant to article 6.1 of this chapter before May 1, 2000 and the designation does not impose additional conditions, limitations or restrictions on the golf course, unless the land is state trust land that was not planned and zoned as open space pursuant to title 37, chapter 2, article 5.1.

O. A PERSON WHO IS AGGRIEVED BY A DECISION OF THE GOVERNING BODY FOR A VIOLATION OF THE NONDISCRETIONARY REQUIREMENTS PRESCRIBED IN SECTION 9-461.05, AFTER HAVING PARTICIPATED IN THE PUBLIC HEARING PURSUANT TO SUBSECTION H OF THIS SECTION, MAY FILE A PETITION FOR SPECIAL ACTION IN SUPERIOR COURT TO REVIEW THE DECISION WITHIN THIRTY DAYS AFTER THE GOVERNING BODY HAS RENDERED ITS DECISION. THE COURT MAY AFFIRM, MODIFY OR REVERSE, IN WHOLE OR IN PART, THE DECISION REVIEWED.

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

ARTICLE 4. MUNICIPAL REGULATIONS ON BUSINESSES

9-831. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY MUNICIPAL PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY LAW.

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

3. "MUNICIPAL" OR "MUNICIPALITY" MEANS AN INCORPORATED CITY OR TOWN.

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

5. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A MUNICIPALITY'S CURRENT APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES, INCLUDING, WHERE APPROPRIATE, THE MUNICIPALITY'S CURRENT PRACTICE, PROCEDURE OR METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE MUNICIPALITY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION.

9-832. Regulatory bill of rights

TO ENSURE FAIR AND OPEN REGULATION BY MUNICIPALITIES, A PERSON:
1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A MUNICIPALITY IN A
COURT PROCEEDING REGARDING A MUNICIPALITY DECISION AS PROVIDED IN SECTION 12-348.

2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS AS PROVIDED IN SECTION 9-833.

3. IS ENTITLED TO HAVE A MUNICIPALITY NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT SPECIFICALLY AUTHORIZED AS PROVIDED IN SECTION 9-834, SUBSECTION A.

4. IS ENTITLED TO HAVE A MUNICIPALITY NOT ADOPT AN ORDINANCE OR CODE UNDER A SPECIFIC GRANT OF AUTHORITY THAT EXCEEDS THE SUBJECT MATTER AREAS LISTED IN THE SPECIFIC GRANT OF AUTHORITY OR NOT ADOPT AN ORDINANCE OR CODE UNDER A GENERAL GRANT OF AUTHORITY TO SUPPLEMENT A MORE SPECIFIC GRANT OF AUTHORITY AS PROVIDED IN SECTION 9-834, SUBSECTION B.

5. MAY HAVE A MUNICIPALITY APPROVE OR DENY THE PERSON'S LICENSE APPLICATION WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN SECTION 9-835

6. IS ENTITLED TO RECEIVE WRITTEN NOTICE FROM A MUNICIPALITY ON DENIAL OF A LICENSE APPLICATION:
   (a) THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENTS ON WHICH THE DENIAL IS BASED AS PROVIDED IN SECTION 9-835.
   (b) THAT EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS PROVIDED IN SECTION 9-835.

7. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A LICENSE AS PROVIDED IN SECTION 9-836.


9. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT MUNICIPALITIES TO AVOID DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN SECTION 9-834.

10. MAY FILE A COMPLAINT WITH THE CITY COUNCIL CONCERNING AN ORDINANCE, CODE OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY WITH THIS SECTION.

9-833. Inspections; applicability

A. A MUNICIPAL INSPECTOR OR REGULATOR WHO ENTERS ANY PREMISES OF A REGULATED PERSON FOR THE PURPOSE OF CONDUCTING AN INSPECTION SHALL:
   1. PRESENT PHOTO IDENTIFICATION ON ENTRY OF THE PREMISES.
   2. ON INITIATION OF THE INSPECTION, STATE THE PURPOSE OF THE INSPECTION AND THE LEGAL AUTHORITY FOR CONDUCTING THE INSPECTION.
   3. DISCLOSE ANY APPLICABLE INSPECTION FEES.
   4. AFFORD AN OPPORTUNITY TO HAVE AN AUTHORIZED ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ACCOMPANY THE MUNICIPAL INSPECTOR OR REGULATOR ON THE PREMISES, EXCEPT DURING CONFIDENTIAL INTERVIEWS.
5. PROVIDE NOTICE OF THE RIGHT TO HAVE:
   (a) COPIES OF ANY ORIGINAL DOCUMENTS TAKEN BY THE MUNICIPALITY DURING
       THE INSPECTION IF THE MUNICIPALITY IS PERMITTED BY LAW TO TAKE ORIGINAL
       DOCUMENTS.
   (b) A SPLIT OF ANY SAMPLES TAKEN DURING THE INSPECTION IF THE SPLIT OF
       ANY SAMPLES WOULD NOT PROHIBIT AN ANALYSIS FROM BEING CONDUCTED OR RENDER AN
       ANALYSIS INCONCLUSIVE.
   (c) COPIES OF ANY ANALYSIS PERFORMED ON SAMPLES TAKEN DURING THE
       INSPECTION.

6. INFORM EACH PERSON WHOSE CONVERSATION WITH THE MUNICIPAL INSPECTOR
   OR REGULATOR DURING THE INSPECTION IS TAPE RECORDED THAT THE CONVERSATION IS
   BEING TAPE RECORDED.

7. INFORM EACH PERSON INTERVIEWED DURING THE INSPECTION THAT
   STATEMENTS MADE BY THE PERSON MAY BE INCLUDED IN THE INSPECTION REPORT.

B. ON INITIATION OF AN INSPECTION OF ANY PREMISES OF A REGULATED
   PERSON, A MUNICIPAL INSPECTOR OR REGULATOR SHALL PROVIDE THE FOLLOWING IN
   WRITING:
   1. THE RIGHTS DESCRIBED IN SUBSECTION A OF THIS SECTION.
   2. THE NAME AND TELEPHONE NUMBER OF A CONTACT PERSON AVAILABLE TO
      ANSWER QUESTIONS REGARDING THE INSPECTION.
   3. THE DUE PROCESS RIGHTS RELATING TO AN APPEAL OF A FINAL DECISION OF
      A MUNICIPALITY BASED ON THE RESULTS OF THE INSPECTION, INCLUDING THE NAME AND
      TELEPHONE NUMBER OF A PERSON TO CONTACT WITHIN THE MUNICIPALITY AND ANY
      APPROPRIATE MUNICIPALITY, COUNTY OR STATE GOVERNMENT OMBUDSMAN.

C. A MUNICIPAL INSPECTOR OR REGULATOR SHALL OBTAIN THE SIGNATURE OF
   THE REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ON THE
   WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION INDICATING THAT THE
   REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON HAS READ
   THE WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION AND IS NOTIFIED OF THE
   REGULATED PERSON'S OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON'S
   INSPECTION AND DUE PROCESS RIGHTS. THE MUNICIPALITY SHALL MAINTAIN A COPY OF
   THIS SIGNATURE WITH THE INSPECTION REPORT AND SHALL LEAVE A COPY WITH THE
   REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON. IF A
   REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE REGULATED PERSON IS NOT AT
   THE SITE OR REFUSES TO SIGN THE WRITING PRESCRIBED IN SUBSECTION B OF THIS
   SECTION, THE MUNICIPAL INSPECTOR OR REGULATOR SHALL NOTE THAT FACT ON THE
   WRITING PRESCRIBED IN SUBSECTION B OF THIS SECTION.

D. A MUNICIPALITY THAT CONDUCTS AN INSPECTION SHALL GIVE A COPY OF THE
   INSPECTION REPORT TO THE REGULATED PERSON OR ON-SITE REPRESENTATIVE OF THE
   REGULATED PERSON EITHER:
   1. AT THE TIME OF THE INSPECTION.
   2. NOTWITHSTANDING ANY OTHER STATE LAW, WITHIN THIRTY WORKING DAYS
      AFTER THE INSPECTION.
   3. AS OTHERWISE REQUIRED BY FEDERAL LAW.
E. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the municipality may provide the regulated person an opportunity to correct the deficiencies unless the municipality determines that the deficiencies are:

1. Committed intentionally.
2. Not correctable within a reasonable period of time as determined by the municipality.
3. Evidence of a pattern of noncompliance.
4. A risk to any person, the public health, safety or welfare or the environment.

F. If the municipality allows the regulated person an opportunity to correct the deficiencies pursuant to subsection E of this section, the regulated person shall notify the municipality when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the municipality shall determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the municipality determines the deficiencies have not been corrected within a reasonable period of time, the municipality may take any enforcement action authorized by law for the deficiencies.

G. A municipality's decision pursuant to subsection E or F of this section is not an appealable municipal action.

H. At least once every month after the commencement of the inspection, a municipality shall provide a regulated person with an update on the status of any municipal action resulting from an inspection of the regulated person. A municipality is not required to provide an update after the regulated person is notified that no municipal action will result from the municipality's inspection or after the completion of municipal action resulting from the municipality's inspection.

I. This section does not authorize an inspection or any other act that is not otherwise authorized by law.

J. This section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure requirements. This section does not apply:

1. To criminal investigations, investigations under tribal-state gaming compacts and undercover investigations that are generally or specifically authorized by law.
2. If the inspector or regulator has reasonable suspicion to believe that the regulated person may be engaged in criminal activity.
3. To the Arizona Peace Officer Standards and Training Board established by Section 41-1821.

K. If an inspector or regulator gathers evidence in violation of this section, the violation shall not be a basis to exclude the evidence in a civil or administrative proceeding, if the penalty sought is the denial,
SUSPENSION OR REVOCATION OF THE REGULATED PERSON’S LICENSE OR A CIVIL PENALTY
OF MORE THAN ONE THOUSAND DOLLARS.

L. FAILURE OF A MUNICIPALITY, BOARD OR COMMISSION EMPLOYEE TO COMPLY
WITH THIS SECTION:
  1. CONSTITUTES CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO
SECTION 41-770.
  2. SHALL BE CONSIDERED BY THE JUDGE AND ADMINISTRATIVE LAW JUDGE AS
GROUNDS FOR REDUCTION OF ANY FINE OR CIVIL PENALTY.

M. A MUNICIPALITY MAY ADOPT RULES TO IMPLEMENT SUBSECTION A, PARAGRAPH
5 OF THIS SECTION.

N. THIS SECTION SHALL NOT BE USED TO EXCLUDE EVIDENCE IN A CRIMINAL
PROCEEDING.

9-834. Prohibited acts by municipalities

A. A MUNICIPALITY SHALL NOT BASE A LICENSING DECISION IN WHOLE OR IN
PART ON A LICENSING REQUIREMENT OR CONDITION THAT IS NOT SPECIFICALLY
AUTHORIZED BY STATUTE, RULE, ORDINANCE OR CODE. A GENERAL GRANT OF AUTHORITY
DOES NOT CONSTITUTE A BASIS FOR IMPOSING A LICENSING REQUIREMENT OR CONDITION
UNLESS THE AUTHORITY SPECIFICALLY AUTHORIZES THE REQUIREMENT OR CONDITION.

B. A MUNICIPALITY SHALL NOT:
  1. ADOPT AN ORDINANCE OR CODE UNDER A SPECIFIC GRANT OF AUTHORITY THAT
EXCEEDS THE SUBJECT MATTER AREAS LISTED IN THE SPECIFIC GRANT OF AUTHORITY.
  2. ADOPT AN ORDINANCE OR CODE UNDER A GENERAL GRANT OF AUTHORITY TO
SUPPLEMENT A MORE SPECIFIC GRANT OF AUTHORITY.

C. UNLESS SPECIFICALLY AUTHORIZED, A MUNICIPALITY SHALL AVOID
DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND SHALL
AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE.

D. THIS SECTION DOES NOT PROHIBIT MUNICIPAL FLEXIBILITY TO ISSUE
LICENSES OR ADOPT ORDINANCES OR CODES.

9-835. Licensing time frames; compliance; consequence for
failure to comply with time frame; exception

A. FOR ANY NEW ORDINANCE OR CODE REQUIRING A LICENSE, A MUNICIPALITY
SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE MUNICIPALITY WILL
EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME
FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE
COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME.

B. ON OR BEFORE DECEMBER 31, 2012, A MUNICIPALITY THAT ISSUES LICENSES
REQUIRED UNDER EXISTING ORDINANCES OR CODES SHALL HAVE IN PLACE AN OVERALL
TIME FRAME DURING WHICH THE MUNICIPALITY WILL EITHER GRANT OR DENY EACH TYPE
OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE
SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND
THE SUBSTANTIVE REVIEW TIME FRAME. MUNICIPALITIES SHALL PRIORITIZE THE
ESTABLISHMENT OF TIME FRAMES FOR THOSE LICENSES THAT HAVE THE GREATEST IMPACT
ON THE PUBLIC.

C. IN ESTABLISHING TIME FRAMES, MUNICIPALITIES SHALL CONSIDER ALL OF
THE FOLLOWING:
1. The complexity of the licensing subject matter.
2. The resources of the municipality.
3. The economic impact of delay on the regulated community.
4. The impact of the licensing decision on public health and safety.
5. The possible use of volunteers with expertise in the subject matter area.
6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
7. The possible increased cooperation between the municipality and the regulated community.
8. Increased municipal flexibility in structuring the licensing process and personnel.

D. A municipality shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.

E. If a municipality determines that an application for a license is not administratively complete, the municipality shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection D. If the municipality issues a written notice of deficiencies within the administrative completeness review time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the municipality receives the missing information from the applicant.

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

G. During the substantive review time frame, a municipality may make one comprehensive written request for additional information. The municipality and applicant may mutually agree in writing to allow the municipality to submit supplemental requests for additional information. If a municipality issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the municipality receives the additional information from the applicant.

H. By mutual written agreement, a municipality and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.

I. Unless a municipality and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to subsection H, a municipality shall issue a written notice
GRANTING OR DENYING A LICENSE TO AN APPLICANT. IF A MUNICIPALITY DENIES AN APPLICATION FOR A LICENSE, THE MUNICIPALITY SHALL INCLUDE IN THE WRITTEN NOTICE AT LEAST THE FOLLOWING INFORMATION:

1. JUSTIFICATION FOR THE DENIAL WITH REFERENCES TO THE STATUTES, ORDINANCES, CODES OR SUBSTANTIVE POLICY STATEMENTS ON WHICH THE DENIAL IS BASED.


K. THIS SECTION DOES NOT APPLY TO LICENSES ISSUED WITHIN SEVEN DAYS AFTER RECEIPT OF INITIAL APPLICATION.

9-836. License application process
A MUNICIPALITY THAT ISSUES LICENSES SHALL PROVIDE THE FOLLOWING INFORMATION TO AN APPLICANT AT THE TIME THE APPLICANT OBTAINS AN APPLICATION FOR A LICENSE:

1. A LIST OF ALL OF THE STEPS THE APPLICANT IS REQUIRED TO TAKE IN ORDER TO OBTAIN THE LICENSE.

2. THE APPLICABLE LICENSING TIME FRAMES.

3. THE NAME AND TELEPHONE NUMBER OF A MUNICIPAL CONTACT PERSON WHO CAN ANSWER QUESTIONS OR PROVIDE ASSISTANCE THROUGHOUT THE APPLICATION PROCESS.

9-837. Directory of documents
THE MUNICIPALITY SHALL PUBLISH, OR PROMINENTLY PLACE ON THE MUNICIPAL WEBSITE, AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL CURRENTLY APPLICABLE ORDINANCES, CODES AND SUBSTANTIVE POLICY STATEMENTS. THE MUNICIPALITY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES, CODES, SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE IN THE DOCUMENTS SHALL BE OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE MUNICIPALITY.
9-837. Complaints; governing body review

THE GOVERNING BODY MAY RECEIVE COMPLAINTS CONCERNING ORDINANCES, CODES, SUBSTANTIVE POLICY STATEMENTS OR MUNICIPALITY PRACTICES ALLEGED TO VIOLATE THIS ARTICLE. THE GOVERNING BODY MAY REVIEW ANY ORDINANCE, CODE, SUBSTANTIVE POLICY STATEMENT OR MUNICIPAL PRACTICE ALLEGED TO VIOLATE THIS ARTICLE AND MAY HOLD HEARINGS REGARDING THE ALLEGATIONS. THE GOVERNING BODY MAY RECOMMEND ACTIONS TO ALLEVIATE THE ASPECTS OF THE ORDINANCES, CODES, SUBSTANTIVE POLICY STATEMENTS OR MUNICIPALITY PRACTICES ALLEGED TO VIOLATE THIS ARTICLE.

Sec. 5. Section 11-801, Arizona Revised Statutes, as added by Laws 2010, chapter 244, section 7, is amended to read:

11-801. Definitions

In this chapter, unless the context otherwise requires:

1. "AGGREGATE" MEANS CINDER, CRUSHED ROCK OR STONE, DECOMPOSED GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

2. "Area of jurisdiction" means that part of the county outside the corporate limits of any municipality.

3. "Board" means the board of supervisors.

4. "Commission" means the county planning and zoning commission.

5. "Indian reservation" means all lands that are held in trust by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and that are currently recognized as Indian reservations by the United States department of the interior.

6. "Inspector" means the county zoning inspector.

7. "Newspaper of general circulation in the county seat" means a daily or weekly newspaper if any is published in the county seat.

8. "Rezoning" means a change in the zoning ordinance changing the zoning district boundaries within an area previously zoned.

9. "Zoning district" means any portion of a county in which the same set of zoning regulations applies.

10. "Zoning ordinance" means an ordinance that is adopted by the board of supervisors and that contains zoning regulations together with a map setting forth the precise boundaries of zoning districts within which the various zoning regulations are effective.

11. "Zoning regulations" means provisions that govern the use of land or buildings, or both, the height and location of buildings, the size of yards, courts and open spaces, the establishment of setback lines and such other matters as may otherwise be authorized under this chapter and that the board deems suitable and proper.

12. "Zoning regulations amendment" means a change in the zoning ordinance that modifies, adds to, transfers or repeals one or more zoning regulations or that adds one or more zoning regulations.
Sec. 6. Section 11-804, Arizona Revised Statutes, as added by Laws 2010, chapter 244, section 7, is amended to read:

A. The commission shall formulate and the board of supervisors shall adopt or readopt a long-term comprehensive plan for the development of the area of jurisdiction in the manner prescribed by this article. The comprehensive plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission’s recommendations for the development of the area of jurisdiction. The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the area of jurisdiction pursuant to the present and future needs of the county. The comprehensive plan shall be developed so as to conserve the natural resources of the county, to ensure efficient expenditure of public monies and to promote the health, safety, convenience and general welfare of the public. The comprehensive plan may include studies and recommendations relative to the location, character and extent of highways, railroads, bus and other transportation routes, bicycle facilities, bridges, public buildings, public services, schools, parks, open space, housing quality, variety and affordability, parkways, hiking and riding trails, airports, forests, wildlife areas, dams, projects affecting conservation of natural resources, air quality, water quality and floodplain zoning. In the preparation of the comprehensive plan, the commission shall make surveys and studies of the present conditions and prospective future growth of the area of the jurisdiction. The comprehensive plan shall be a public record, but its purpose and effect shall be primarily as an aid to the county planning and zoning commission and to the board of supervisors in the performance of their duties. The comprehensive plan shall include provisions that identify changes or modifications that constitute amendments and major amendments to the plan.

B. In addition to the other matters that are required or authorized under this section and this article, for counties with a population of more than one hundred twenty-five thousand persons, the comprehensive plan shall include, and for other counties the comprehensive plan may include:

1. Planning for land use that designates the proposed general distribution and location and extent of uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land appropriate to the county. The land use plan shall include:

   (a) A statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan.

   (b) Specific programs and policies that the county may use to promote compact form development activity and locations where those development patterns should be encouraged.
(c) Consideration of air quality and access to incident solar energy for all general categories of land use.

(d) Policies that address maintaining a broad variety of land uses, including the range of uses existing in the county at the time the plan is adopted, readopted or amended.

(e) CURRENTLY IDENTIFIED SOURCES OF AGGREGATES FROM MAPS THAT ARE AVAILABLE FROM STATE AGENCIES, MEASURES TO PRESERVE CURRENTLY IDENTIFIED AGGREGATES FOR FUTURE DEVELOPMENT AND POLICIES TO AVOID INCOMPATIBLE LAND USES.

2. Planning for circulation consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, bicycle routes and any other modes of transportation as may be appropriate, all correlated with the land use plan under paragraph 1 of this subsection.

3. Planning for water resources that addresses:

(a) The known legally and physically available surface water, groundwater and effluent supplies.

(b) The demand for water that will result from future growth projected in the comprehensive plan, added to existing uses.

(c) An analysis of how the demand for water that will result from future growth projected in the comprehensive plan will be served by the water supplies identified in subdivision (a) of this paragraph or a plan to obtain additional necessary water supplies.

4. Planning for energy use that:

(a) Encourages and provides incentives for efficient use of energy.

(b) Identifies policies and practices for greater use of renewable energy.

C. In addition to the other matters that are required or authorized under this section and this article, for counties with a population of more than two hundred thousand persons, the comprehensive plan shall include, and for other counties the comprehensive plan may include:

1. Planning for open space acquisition and preservation. The open space plan shall include:

(a) A comprehensive inventory of open space areas, recreational resources and designations of access points to open space areas and resources.

(b) An analysis of forecasted needs, policies for managing and protecting open space areas and resources and implementation strategies to acquire additional open space areas and further establish recreational resources.

(c) Policies and implementation strategies designed to promote a regional system of integrated open space and recreational resources and a consideration of any existing regional open space plan.

2. Planning for growth areas, specifically identifying those areas, if any, that are particularly suitable for planned multimodal transportation and infrastructure expansion and improvements designed to support a planned
concentration of a variety of uses, such as residential, office, commercial, tourism and industrial uses. The mixed use planning shall include policies and implementation strategies that are designed to:

(a) Make automobile, transit and other multimodal circulation more efficient, make infrastructure expansion more economical and provide for a rational pattern of land development.

(b) Conserve significant natural resources and open areas in the growth area and coordinate their location to similar areas outside the growth area's boundaries.

(c) Promote the public and private construction of timely and financially sound infrastructure expansion through the use of infrastructure funding and financing planning that is coordinated with development activity.

3. An environmental planning element that contains analyses, policies and strategies to address anticipated effects, if any, of plan elements on air quality, water quality and natural resources associated with proposed development under the comprehensive plan. The policies and strategies to be developed under this element shall be designed to have countywide applicability and shall not require the production of an additional environmental impact statement or similar analysis beyond the requirements of state and federal law.

4. A cost of development element that identifies policies and strategies that the county will use to require development to pay its fair share toward the cost of additional public facility needs generated by new development, with appropriate exceptions when in the public interest. This element shall include:

(a) A component that identifies various mechanisms that are allowed by law and that can be used to fund and finance additional public services necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees and facility construction, dedications and privatization.

(b) A component that identifies policies to ensure that any mechanisms that are adopted by the county under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the county to provide additional necessary public facilities to the development and otherwise are imposed pursuant to law.

D. The water resources element of the comprehensive plan does not require:

1. New independent hydrogeologic studies.

2. The county to be a water service provider.

E. In applying an open space element or a growth element of a comprehensive plan, a county shall not designate private or state land as open space, recreation, conservation or agriculture unless the county receives the written consent of the landowner or provides an alternative, economically viable designation in the comprehensive plan or zoning ordinance, allowing at least one residential dwelling per acre. If the
landowner is the prevailing party in any action brought to enforce this subsection, a court shall award fees and other expenses to the landowner. Each county shall incorporate this subsection into its comprehensive plan and provide a process for a landowner to resolve discrepancies relating to this subsection.

F. The policies and strategies to be developed under these elements shall be designed to have regional applicability.

G. For counties with territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the commission shall also consider military airport or ancillary military facility operations and, on or before December 31, 2005, shall identify the boundaries of any high noise or accident potential zone as defined in section 28-8461 in its comprehensive plan for purposes of planning land uses in the high noise or accident potential zone that are compatible with the operation of the military airport or ancillary military facility pursuant to section 28-8481, subsection J.

Sec. 7. Section 11-805, Arizona Revised Statutes, as added by Laws 2010, chapter 244, section 7, is amended to read:

11-805. Comprehensive plan adoption; notice; hearing; amendment; expiration; readoption

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

B. The board of supervisors shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of the comprehensive plan from all geographic, ethnic and economic areas of the county. The procedures shall provide for:
   (a) The broad dissemination of proposals and alternatives.
   (b) The opportunity for written comments.
   (c) Public hearings after effective notice.
   (d) Open discussions, communications programs and information services.
   (e) Consideration of public comments.

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

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

D. The commission shall coordinate the production of the comprehensive
plan with the creation of the conceptual state land use plans under title 37,
chapter 2, article 5.1. The commission shall cooperate with the state land
department regarding integrating the conceptual state land use plans into the
comprehensive plan.

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

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

1. Each municipality in the county.
2. Each other county that is contiguous to the county.
3. The regional planning agency in the county.
4. The department of commerce or any other state agency that is
   subsequently designated as the general planning agency for this state.
5. The department of water resources for review and comment on the
   water resources element, if a water resources element is required.
6. If the comprehensive plan or an element or amendment of the
   comprehensive plan is applicable to territory in the vicinity of a military
   airport or ancillary military facility as defined in section 28-8461, the
   military airport.
7. If the comprehensive plan or an element or major amendment of the
   comprehensive plan is applicable to property in the high noise or accident
   potential zone of a military airport or ancillary military facility as
   defined in section 28-8461, the attorney general. For the purposes of this
   paragraph, "major amendment" means a substantial alteration of the county's
   land use mixture or balance as established in the county's existing
   comprehensive plan land use element for that area of the county.
8. Any person or entity that requests in writing to receive a review
copy of the proposal.
G. After considering any recommendations from the review required under subsection F of this section, the commission shall hold at least one public hearing. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation in the county seat.
2. Publication at least once in a newspaper of general circulation in the area to be affected, or adjacent to the area to be affected, if the area affected is other than the county seat.
3. Such other manner in addition to publication as the county may deem necessary or desirable.

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

I. Before the adoption, amendment or extension of the plan, the board shall hold at least one public hearing on the plan. After the board considers the commission’s recommendation and any recommendations from the review required under subsection F of this section, the board shall hold at least one public hearing at which residents of the county shall be heard concerning the matters contained in the plan. At least fifteen days' notice of the hearing shall be given by one publication in a newspaper of general circulation in the county seat. The board shall consider protests and objections to the plan and may change or alter any portion of the comprehensive plan. However, before any change is made, that portion of the plan proposed to be changed shall be re-referred to the commission for its recommendation, which may be accepted or rejected by the board.

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

K. If the county's area of jurisdiction includes property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the board shall send notice of the approval, adoption or readoption of the comprehensive plan or major amendment to the comprehensive plan to the attorney general by certified mail, return receipt requested, within three business days after the approval, adoption or readoption. If the attorney general determines the approval, adoption or readoption of the comprehensive plan or major amendment to the comprehensive plan is not in compliance with section 28-8481, subsection J, the attorney general shall notify the county by certified mail, return receipt requested, of the determination of noncompliance. The board shall receive the notice from the attorney general within twenty-five days after the notice from the board to the attorney general is mailed pursuant to this subsection. The effective date of any approval, adoption or readoption of, or major amendment to, the comprehensive plan shall be thirty days after the board's receipt of the attorney general's determination of noncompliance. Within thirty days after the receipt of a determination of noncompliance by the attorney general as prescribed by this section, the board shall reconsider any approval, adoption or readoption of, or major amendment to, the comprehensive plan that impacts property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461. If the board reaffirms a prior action subject to an attorney general's determination of noncompliance pursuant to this section, the attorney general may institute a civil action pursuant to section 28-8481, subsection L. If the board timely sends notice pursuant to this subsection and the attorney general fails to timely notify the board of a determination of noncompliance, the comprehensive plan or major amendment to the comprehensive plan is deemed to comply with section 28-8481, subsection J. For the purposes of this subsection "major amendment" has the same meaning prescribed in subsection J of this section.

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

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

N. A PERSON WHO IS AGGRIEVED BY A DECISION OF THE BOARD OF SUPERVISORS FOR A VIOLATION OF THE NONDISCRETIONARY REQUIREMENTS PRESCRIBED IN SECTION 11-804, AFTER HAVING PARTICIPATED IN THE PUBLIC HEARING PURSUANT TO SUBSECTION I OF THIS SECTION, MAY FILE A PETITION FOR SPECIAL ACTION IN SUPERIOR COURT TO REVIEW THE BOARD’S DECISION WITHIN THIRTY DAYS AFTER THE BOARD HAS RENDERED ITS DECISION. THE COURT MAY AFFIRM, MODIFY OR REVERSE, IN WHOLE OR IN PART, THE DECISION REVIEWED.

Sec. 8. Title 11, Arizona Revised Statutes, is amended by adding chapter 11, to read:

CHAPTER 11
COUNTY REGULATIONS ON BUSINESSES
ARTICLE 1. GENERAL PROVISIONS

11-1601. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY COUNTY PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY LAW.
2. "LICENSING" INCLUDES THE COUNTY PROCESS RESPECTING THE GRANT, DENIAL, RENEWAL, REVOCATION, SUSPENSION, ANNULMENT, WITHDRAWAL OR AMENDMENT OF A LICENSE.
3. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION, OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.
4. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS ONLY ADVISORY AND THAT INFORMS THE GENERAL PUBLIC OF A COUNTY’S CURRENT APPROACH TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES, INCLUDING, WHERE APPROPRIATE, THE COUNTY’S CURRENT PRACTICE, PROCEDURE OR METHOD OF ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE COUNTY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION.

11-1602. Regulatory bill of rights
A. TO ENSURE FAIR AND OPEN REGULATION BY COUNTIES, A PERSON:
1. IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A COUNTY IN A COURT PROCEEDING REGARDING A COUNTY DECISION AS PROVIDED IN SECTION 12-348.
2. IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS AS PROVIDED IN SECTION 11-1603.
3. IS ENTITLED TO HAVE A COUNTY NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT SPECIFICALLY AUTHORIZED AS PROVIDED IN SECTION 11-1604.
4. IS ENTITLED TO HAVE A COUNTY NOT ADOPT AN ORDINANCE OR CODE UNDER A SPECIFIC GRANT OF AUTHORITY THAT EXCEEDS THE SUBJECT MATTER AREAS LISTED IN THE SPECIFIC GRANT OF AUTHORITY OR NOT ADOPT AN ORDINANCE OR CODE UNDER A GENERAL GRANT OF AUTHORITY TO SUPPLEMENT A MORE SPECIFIC GRANT OF AUTHORITY AS PROVIDED IN SECTION 11-1604.

5. MAY HAVE A COUNTY APPROVE OR DENY THE PERSON'S LICENSE APPLICATION WITHIN A PREDETERMINED PERIOD OF TIME AS PROVIDED IN SECTION 11-1605.

6. IS ENTITLED TO RECEIVE WRITTEN NOTICE FROM A COUNTY ON DENIAL OF A LICENSE APPLICATION:
   (a) THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE ORDINANCE, CODE OR AUTHORIZED SUBSTANTIVE POLICY STATEMENTS ON WHICH THE DENIAL IS BASED AS PROVIDED IN SECTION 11-1605.
   (b) THAT EXPLAINS THE APPLICANT'S RIGHT TO APPEAL THE DENIAL AS PROVIDED IN SECTION 11-1605.

7. IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A LICENSE AS PROVIDED IN SECTION 11-1606.

8. MAY INSPECT ALL ORDINANCES AND SUBSTANTIVE POLICY STATEMENTS OF A COUNTY, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICE OF THE COUNTY AS PROVIDED IN SECTION 11-1607.

9. UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT COUNTIES TO AVOID DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND TO AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE AS PROVIDED IN SECTION 11-1604.

10. MAY FILE A COMPLAINT WITH THE BOARD OF SUPERVISORS CONCERNING AN ORDINANCE, CODE OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY WITH THIS SECTION.

11-1603. Inspections; applicability
A. A COUNTY INSPECTOR OR REGULATOR WHO ENTERS ANY PREMISES OF A REGULATED PERSON FOR THE PURPOSE OF CONDUCTING AN INSPECTION SHALL:
   1. PRESENT PHOTO IDENTIFICATION ON ENTRY OF THE PREMISES.
   2. ON INITIATION OF THE INSPECTION, STATE THE PURPOSE OF THE INSPECTION AND THE LEGAL AUTHORITY FOR CONDUCTING THE INSPECTION.
   3. DISCLOSE ANY APPLICABLE INSPECTION FEES.
   4. AFFORD AN OPPORTUNITY TO HAVE AN AUTHORIZED ON-SITE REPRESENTATIVE OF THE REGULATED PERSON ACCOMPANY THE COUNTY INSPECTOR OR REGULATOR ON THE PREMISES, EXCEPT DURING CONFIDENTIAL INTERVIEWS.
   5. PROVIDE NOTICE OF THE RIGHT TO HAVE:
      (a) COPIES OF ANY ORIGINAL DOCUMENTS TAKEN BY THE COUNTY DURING THE INSPECTION IF THE COUNTY IS PERMITTED BY LAW TO TAKE ORIGINAL DOCUMENTS.
      (b) A SPLIT OF ANY SAMPLES TAKEN DURING THE INSPECTION IF THE SPLIT OF ANY SAMPLES WOULD NOT PROHIBIT AN ANALYSIS FROM BEING CONDUCTED OR RENDER AN ANALYSIS INCONCLUSIVE.
      (c) COPIES OF ANY ANALYSIS PERFORMED ON SAMPLES TAKEN DURING THE INSPECTION.
6. Inform each person whose conversation with the county inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.

7. Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.

B. On initiation of an inspection of any premises of a regulated person, a county inspector or regulator shall provide the following in writing:

1. The rights described in subsection A of this section.

2. The name and telephone number of a contact person available to answer questions regarding the inspection.

3. The due process rights relating to an appeal of a final decision of a county based on the results of the inspection, including the name and telephone number of a person to contact within the county and any appropriate municipality, county or state government ombudsman.

C. A county inspector or regulator shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in subsection B of this section indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in subsection B of this section and is notified of the regulated person's or on-site representative of the regulated person's inspection and due process rights. The county shall maintain a copy of this signature with the inspection report and shall leave a copy with the regulated person or on-site representative of the regulated person. If a regulated person or on-site representative of the regulated person is not at the site or refuses to sign the writing prescribed in subsection B of this section, the county inspector or regulator shall note that fact on the writing prescribed in subsection B of this section.

D. A county that conducts an inspection shall give a copy of the inspection report to the regulated person or on-site representative of the regulated person either:

1. At the time of the inspection.

2. Notwithstanding any other state law, within thirty working days after the inspection.

3. As otherwise required by federal law.

E. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the county may provide the regulated person an opportunity to correct the deficiencies unless the county determines that the deficiencies are:

1. Committed intentionally.

2. Not correctable within a reasonable period of time as determined by the county.

3. Evidence of a pattern of noncompliance.

4. A risk to any person, the public health, safety or welfare or the environment.
F. IF THE COUNTY ALLOWS THE REGULATED PERSON AN OPPORTUNITY TO CORRECT
THE DEFICIENCIES PURSUANT TO SUBSECTION E OF THIS SECTION, THE REGULATED
PERSON SHALL NOTIFY THE COUNTY WHEN THE DEFICIENCIES HAVE BEEN CORRECTED.
WITHIN THIRTY DAYS OF RECEIPT OF NOTIFICATION FROM THE REGULATED PERSON THAT
THE DEFICIENCIES HAVE BEEN CORRECTED, THE COUNTY SHALL DETERMINE IF THE
REGULATED PERSON IS IN SUBSTANTIAL COMPLIANCE AND NOTIFY THE REGULATED PERSON
WHETHER OR NOT THE REGULATED PERSON IS IN SUBSTANTIAL COMPLIANCE. IF THE
REGULATED PERSON FAILS TO CORRECT THE DEFICIENCIES OR THE COUNTY DETERMINES
THE DEFICIENCIES HAVE NOT BEEN CORRECTED WITHIN A REASONABLE PERIOD OF TIME,
THE COUNTY MAY TAKE ANY ENFORCEMENT ACTION AUTHORIZED BY LAW FOR THE
DEFICIENCIES.

G. A COUNTY DECISION PURSUANT TO SUBSECTION E OR F OF THIS SECTION IS
NOT AN APPEALABLE COUNTY ACTION.

H. AT LEAST ONCE EVERY MONTH AFTER THE COMMENCEMENT OF THE INSPECTION
A COUNTY SHALL PROVIDE A REGULATED PERSON WITH AN UPDATE ON THE STATUS OF ANY
COUNTY ACTION RESULTING FROM AN INSPECTION OF THE REGULATED PERSON. A COUNTY
IS NOT REQUIRED TO PROVIDE AN UPDATE AFTER THE REGULATED PERSON IS NOTIFIED
THAT NO COUNTY ACTION WILL RESULT FROM THE COUNTY'S INSPECTION OR AFTER THE
COMPLETION OF COUNTY ACTION RESULTING FROM THE COUNTY'S INSPECTION.

I. THIS SECTION DOES NOT AUTHORIZE AN INSPECTION OR ANY OTHER ACT THAT
IS NOT OTHERWISE AUTHORIZED BY LAW.

J. THIS SECTION APPLIES ONLY TO INSPECTIONS NECESSARY FOR THE ISSUANCE
OF A LICENSE OR TO DETERMINE COMPLIANCE WITH LICENSURE REQUIREMENTS. THIS
SECTION DOES NOT APPLY:
1. TO CRIMINAL INVESTIGATIONS, INVESTIGATIONS UNDER TRIBAL-STATE
GAMING COMPACTS AND UNDERCOVER INVESTIGATIONS THAT ARE GENERALLY OR
SPECIFICALLY AUTHORIZED BY LAW.
2. IF THE INSPECTOR OR REGULATOR HAS REASONABLE SUSPICION TO BELIEVE
THAT THE REGULATED PERSON MAY BE ENGAGED IN CRIMINAL ACTIVITY.
3. TO THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
ESTABLISHED BY SECTION 41-1821.

K. IF AN INSPECTOR OR REGULATOR GATHERS EVIDENCE IN VIOLATION OF THIS
SECTION, THE VIOLATION SHALL NOT BE A BASIS TO EXCLUDE THE EVIDENCE IN A
CIVIL OR ADMINISTRATIVE PROCEEDING, IF THE PENALTY SOUGHT IS THE DENIAL,
SUSPENSION OR REVOCATION OF THE REGULATED PERSON'S LICENSE OR A CIVIL PENALTY
OF MORE THAN ONE THOUSAND DOLLARS.

L. FAILURE OF A COUNTY, BOARD OR COMMISSION EMPLOYEE TO COMPLY WITH
THIS SECTION:
1. CONSTITUTES CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO
SECTION 41-770.
2. SHALL BE CONSIDERED BY THE JUDGE AND ADMINISTRATIVE LAW JUDGE AS
GROUNDS FOR REDUCTION OF ANY FINE OR CIVIL PENALTY.

M. A COUNTY MAY ADOPT RULES TO IMPLEMENT SUBSECTION A, PARAGRAPH 5 OF
THIS SECTION.
N. THIS SECTION SHALL NOT BE USED TO EXCLUDE EVIDENCE IN A CRIMINAL PROCEEDING.

11-1604. Prohibited acts by county
A. A COUNTY SHALL NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON A LICENSING REQUIREMENT OR CONDITION THAT IS NOT SPECIFICALLY AUTHORIZED BY STATUTE, RULE, ORDINANCE OR CODE. A GENERAL GRANT OF AUTHORITY DOES NOT CONSTITUTE A BASIS FOR IMPOSING A LICENSING REQUIREMENT OR CONDITION UNLESS THE AUTHORITY SPECIFICALLY AUTHORIZES THE REQUIREMENT OR CONDITION.
B. A COUNTY SHALL NOT:
1. ADOPT AN ORDINANCE OR CODE UNDER A SPECIFIC GRANT OF AUTHORITY THAT EXCEEDS THE SUBJECT MATTER AREAS LISTED IN THE SPECIFIC GRANT OF AUTHORITY.
2. ADOPT AN ORDINANCE OR CODE UNDER A GENERAL GRANT OF AUTHORITY TO SUPPLEMENT A MORE SPECIFIC GRANT OF AUTHORITY.
C. UNLESS SPECIFICALLY AUTHORIZED, A COUNTY SHALL AVOID DUPLICATION OF OTHER LAWS THAT DO NOT ENHANCE REGULATORY CLARITY AND SHALL AVOID DUAL PERMITTING TO THE MAXIMUM EXTENT PRACTICABLE.
D. THIS SECTION DOES NOT PROHIBIT COUNTY FLEXIBILITY TO ISSUE LICENSES OR ADOPT ORDINANCES OR CODES.

11-1605. Licensing time frames; compliance; consequence for failure to comply with time frame; exemption
A. FOR ANY NEW ORDINANCE OR CODE REQUIRING A LICENSE, A COUNTY SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE COUNTY WILL EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME.
B. ON OR BEFORE DECEMBER 31, 2012, A COUNTY THAT ISSUES LICENSES REQUIRED UNDER EXISTING ORDINANCES OR CODES SHALL HAVE IN PLACE AN OVERALL TIME FRAME DURING WHICH THE COUNTY WILL EITHER GRANT OR DENY EACH TYPE OF LICENSE THAT IT ISSUES. THE OVERALL TIME FRAME FOR EACH TYPE OF LICENSE SHALL STATE SEPARATELY THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND THE SUBSTANTIVE REVIEW TIME FRAME. COUNTIES SHALL PRIORITIZE THE ESTABLISHMENT OF TIME FRAMES FOR THOSE LICENSES THAT HAVE THE GREATEST IMPACT ON THE PUBLIC.
C. IN ESTABLISHING TIME FRAMES, COUNTIES SHALL CONSIDER ALL OF THE FOLLOWING:
1. THE COMPLEXITY OF THE LICENSING SUBJECT MATTER.
2. THE RESOURCES OF THE COUNTY.
3. THE ECONOMIC IMPACT OF DELAY ON THE REGULATED COMMUNITY.
4. THE IMPACT OF THE LICENSING DECISION ON PUBLIC HEALTH AND SAFETY.
5. THE POSSIBLE USE OF VOLUNTEERS WITH EXPERTISE IN THE SUBJECT MATTER AREA.
6. THE POSSIBLE INCREASED USE OF GENERAL LICENSES FOR SIMILAR TYPES OF LICENSED BUSINESSES OR FACILITIES.
7. THE POSSIBLE INCREASED COOPERATION BETWEEN THE COUNTY AND THE REGULATED COMMUNITY.
8. INCREASED COUNTY FLEXIBILITY IN STRUCTURING THE LICENSING PROCESS AND PERSONNEL.

D. A COUNTY SHALL ISSUE A WRITTEN NOTICE OF ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES TO AN APPLICANT FOR A LICENSE WITHIN THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME.


F. IF A COUNTY DOES NOT ISSUE A WRITTEN NOTICE OF ADMINISTRATIVE COMPLETENESS OR DEFICIENCIES WITHIN THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME, THE APPLICATION IS DEEMED ADMINISTRATIVELY COMPLETE. IF A COUNTY ISSUES A TIMELY WRITTEN NOTICE OF DEFICIENCIES, AN APPLICATION SHALL NOT BE COMPLETE UNTIL ALL REQUESTED INFORMATION HAS BEEN RECEIVED BY THE COUNTY.

G. DURING THE SUBSTANTIVE REVIEW TIME FRAME, A COUNTY MAY MAKE ONE COMPREHENSIVE WRITTEN REQUEST FOR ADDITIONAL INFORMATION. THE COUNTY AND APPLICANT MAY MUTUALLY AGREE IN WRITING TO ALLOW THE COUNTY TO SUBMIT SUPPLEMENTAL REQUESTS FOR ADDITIONAL INFORMATION. IF A COUNTY ISSUES A COMPREHENSIVE WRITTEN REQUEST OR A SUPPLEMENTAL REQUEST BY MUTUAL WRITTEN AGREEMENT FOR ADDITIONAL INFORMATION, THE SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME ARE SUSPENDED FROM THE DATE THE REQUEST IS ISSUED UNTIL THE DATE THAT THE COUNTY RECEIVES THE ADDITIONAL INFORMATION FROM THE APPLICANT.


I. UNLESS A COUNTY AND AN APPLICANT FOR A LICENSE MUTUALLY AGREE TO EXTEND THE SUBSTANTIVE REVIEW TIME FRAME AND THE OVERALL TIME FRAME PURSUANT TO SUBSECTION H, A COUNTY SHALL ISSUE A WRITTEN NOTICE GRANTING OR DENYING A LICENSE TO AN APPLICANT. IF A COUNTY DENIES AN APPLICATION FOR A LICENSE, THE COUNTY SHALL INCLUDE IN THE WRITTEN NOTICE AT LEAST THE FOLLOWING INFORMATION:

1. JUSTIFICATION FOR THE DENIAL WITH REFERENCES TO THE STATUTES OR ORDINANCES ON WHICH THE DENIAL IS BASED.


J. IF A COUNTY DOES NOT ISSUE TO THE APPLICANT THE WRITTEN NOTICE GRANTING OR DENYING A LICENSE WITHIN THE OVERALL TIME FRAME OR WITHIN THE
MUTUALLY AGREED UPON TIME FRAME EXTENSION, THE COUNTY SHALL REFUND TO THE
APPLICANT ALL FEES CHARGED FOR REVIEWING AND ACTING ON THE APPLICATION FOR
THE LICENSE AND SHALL EXCUSE PAYMENT OF ANY FEES THAT HAVE NOT YET BEEN PAID.
THE COUNTY SHALL NOT REQUIRE AN APPLICANT TO SUBMIT AN APPLICATION FOR A
REFUND PURSUANT TO THIS SUBSECTION. THE REFUND SHALL BE MADE WITHIN THIRTY
DAYS AFTER THE EXPIRATION OF THE OVERALL TIME FRAME OR THE TIME FRAME
EXTENSION. THE COUNTY SHALL CONTINUE TO PROCESS THE APPLICATION.
NOTWITHSTANDING ANY OTHER STATUTE, THE COUNTY SHALL MAKE THE REFUND FROM THE
FUND IN WHICH THE APPLICATION FEES WERE ORIGINALLY DEPOSITED.
K. THIS SECTION DOES NOT APPLY TO LICENSES ISSUED WITHIN SEVEN DAYS
AFTER RECEIPT OF INITIAL APPLICATION.
11-1606. License application process
A COUNTY THAT ISSUES LICENSES SHALL PROVIDE THE FOLLOWING INFORMATION
TO AN APPLICANT AT THE TIME THE APPLICANT OBTAINS AN APPLICATION FOR A
LICENSE:
1. A LIST OF ALL OF THE STEPS THE APPLICANT IS REQUIRED TO TAKE IN
ORDER TO OBTAIN THE LICENSE.
2. THE APPLICABLE LICENSING TIME FRAMES.
3. THE NAME AND TELEPHONE NUMBER OF A COUNTY CONTACT PERSON WHO CAN
ANSWER QUESTIONS OR PROVIDE ASSISTANCE THROUGHOUT THE APPLICATION PROCESS.
11-1607. Directory of documents
THE COUNTY SHALL PUBLISH, OR PROMINENTLY PLACE ON THE COUNTY WEBSITE,
AT LEAST ANNUALLY A DIRECTORY SUMMARIZING THE SUBJECT MATTER OF ALL CURRENTLY
APPLICABLE ORDINANCES, CODES AND SUBSTANTIVE POLICY STATEMENTS. THE COUNTY
SHALL KEEP COPIES OF THIS DIRECTORY AND ALL SUBSTANTIVE POLICY STATEMENTS AT
ONE LOCATION. THE DIRECTORY, ORDINANCES, CODES, SUBSTANTIVE POLICY STATEMENTS
AND ANY MATERIALS INCORPORATED BY REFERENCE IN THESE DOCUMENTS SHALL BE OPEN
TO PUBLIC INSPECTION AT THE OFFICE OF THE COUNTY.
11-1608. Complaints; board of supervisor review
A. THE BOARD OF SUPERVISORS SHALL RECEIVE COMPLAINTS CONCERNING
ORDINANCES, CODES, SUBSTANTIVE POLICY STATEMENTS OR COUNTY PRACTICES ALLEGED
TO VIOLATE THIS ARTICLE. THE BOARD OF SUPERVISORS MAY REVIEW ANY ORDINANCE,
CODE, SUBSTANTIVE POLICY STATEMENT OR COUNTY PRACTICE ALLEGED TO VIOLATE THIS
ARTICLE AND MAY HOLD HEARINGS REGARDING THE ALLEGATIONS. THE BOARD OF
SUPERVISORS MAY RECOMMEND ACTIONS TO ALLEVIATE THE ASPECTS OF THE ORDINANCES,
CODES, SUBSTANTIVE POLICY STATEMENTS OR COUNTY PRACTICES ALLEGED TO VIOLATE
THIS ARTICLE.
Sec. 9. Section 12-348, Arizona Revised Statutes, is amended to read:
12-348. Award of fees and other expenses against the state or a
city, town or county; reduction or denial of award;
application; basis for amount of award; source of
award; definitions
A. In addition to any costs which THAT are awarded as prescribed by
statute, a court shall award fees and other expenses to any party other than

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this state or a city, town or county which THAT prevails by an adjudication on the merits in any of the following:

1. A civil action brought by the state or a city, town or county against the party.

2. A court proceeding to review a state agency decision pursuant to chapter 7, article 6 of this title or any other statute authorizing judicial review of agency, CITY, TOWN OR COUNTY decisions.

3. A proceeding pursuant to section 41-1034.

4. A special action proceeding brought by the party to challenge an action by the THIS state OR A CITY, TOWN OR COUNTY against the party.

5. An appeal by the THIS state to a court of law from a decision of the personnel board under title 41, chapter 4, article 6.

6. A civil action brought by the party to challenge the seizure and sale of personal property by the THIS state or a city, town or county.

B. In addition to any costs which THAT are awarded as prescribed by statute, a court may award fees and other expenses to any party, other than this state or a city, town or county, which THAT prevails by an adjudication on the merits in an action brought by the party against this state or a city, town or county challenging:

1. The assessment or collection of taxes or in an action brought by this state or a city, town or county against the party to enforce the assessment or collection of taxes.

2. The adequacy or regularity of notice of delinquent taxes.

3. The regularity of sales of property for delinquent taxes.

C. The court in its discretion may deny the award provided for in this section or may reduce the award if it finds that any of the following applies:

1. During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter.

2. The reason that the party other than the THIS state or a city, town or county has prevailed is an intervening change in the applicable law.

3. The prevailing party refused an offer of civil settlement which THAT was at least as favorable to the party as the relief ultimately granted.

D. A party may apply pursuant to the applicable procedural rules for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed.

E. The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of the services furnished, except that:

1. An expert is not eligible for compensation at a rate in excess of the highest rate of compensation for experts paid by this state or a city, town or county.
2. Except for awards made pursuant to subsection B of this section, the award of attorney fees may not exceed the amount which the prevailing party has paid or has agreed to pay the attorney or a maximum amount of seventy-five dollars per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee.

3. For awards made pursuant to subsection B of this section, the award of attorney fees may not exceed the amount that the prevailing party has paid or agreed to pay the attorney or a maximum amount of one hundred seventy-five dollars per hour.

4. Except for awards made pursuant to subsection B of this section, an award of fees against a city, town or county as provided in this section shall not exceed ten thousand dollars.

5. For awards made pursuant to subsection B of this section, an award of fees against the state or a city, town or county shall not exceed thirty thousand dollars for fees incurred at each level of judicial appeal.

F. The particular state agency over which a party prevails shall pay the fees and expenses awarded as provided in this section from any monies appropriated to the agency for that purpose. If no agency is involved or if an agency fails or refuses to pay fees and other expenses within thirty days after demand by a person who has received an award pursuant to this section, and if no further review or appeals of the award are pending, the person may file a claim for the fees and other expenses with the department of administration, which shall pay the claim within thirty days, in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1. If, at the time the agency failed or refused to pay the award, it had appropriated monies either designated or assignable for the purpose of paying awards, the legislature shall reduce the agency's operating appropriation for the following year by the amount of the award and shall appropriate the amount of the reduction to the department of administration as reimbursement for the loss.

G. A city, town or county shall pay fees and expenses awarded as provided in this section within thirty days after demand by a party who has received an award if no further review or appeal of the award is pending.

H. This section does not:

1. Apply to an action arising from a proceeding before this state or a city, town or county in which the role of this state or a city, town or county was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, to adjudicate a dispute or issue between private parties or to establish or fix a rate.

2. Apply to proceedings brought by this state pursuant to title 13 or 28.
3. Entitle a party to obtain fees and other expenses incurred in making an application for an award pursuant to this section for fees and other expenses.

4. Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which the state or a city, town or county is a nominal party.

5. Personally obligate any officer or employee of this state or a city, town or county for the payment of an award entered under this section.

6. Apply, except as provided in subsection A, paragraph 5 of this section, to proceedings involving the personnel board under title 41, chapter 4, article 6.

7. Apply to proceedings brought by a city, town or county pursuant to title 13 or 28.

8. Apply to proceedings brought by a city, town or county on collection of taxes or pursuant to traffic ordinances or to criminal proceedings brought by a city, town or county on ordinances which contain a criminal penalty or fine for violations of those ordinances.

I. As used in FOR THE PURPOSES OF this section:

1. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test or project which the court finds to be directly related to and necessary for the presentation of the party's case and reasonable and necessary attorney fees, and in the case of an action to review an agency decision pursuant to subsection A, paragraph 2 of this section, all fees and other expenses that are incurred in the contested case proceedings in which the decision was rendered.

2. "Party" means an individual, partnership, corporation, association or public or private organization.

3. "State" means this state and any agency, officer, department, board or commission of this state.

Sec. 10. Effective dates

A. Sections 11-801, 11-804 and 11-805, Arizona Revised Statutes, as added by Laws 2010, chapter 244, section 7 and as amended by this act, are effective from and after September 30, 2011.

B. Sections 9-833 and 11-1603, Arizona Revised Statutes, as added by this act, are effective from and after December 31, 2011.