

REFERENCE TITLE: administrative procedures; counties; districts

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

HB 2827

Introduced by
Representative Ugenti

AN ACT

AMENDING SECTIONS 11-142, 11-241, 11-251, 11-269.10, 11-403, 11-583, 11-802, 11-807, 11-833, 11-863, 11-872, 11-873, 11-874, 11-1602, 11-1608 AND 11-1609, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-1611; AMENDING TITLE 11, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 2 AND 3; AMENDING SECTIONS 48-3642, 48-3648 AND 48-3649, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 21, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-3651; AMENDING TITLE 48, CHAPTER 21, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 3 AND 4; RELATING TO ADMINISTRATIVE PROCEDURES FOR COUNTIES AND FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-142, Arizona Revised Statutes, is amended to
3 read:

4 11-142. Organization of new county; powers and duties of county
5 officers pending organization

6 A. A new county approved pursuant to this article is officially
7 organized and exists and the affected county or counties are officially
8 terminated from and after December 31 following the election of county
9 officers pursuant to section 11-140. The affected county or counties shall
10 continue to provide necessary services through December 31.

11 B. After the canvass of the election of county officers the initial
12 board of supervisors and other officers of each new county shall begin the
13 organization of their respective counties. Any action taken before January 1
14 is merely preparatory in nature but shall be confirmed on the official
15 organization of the county. For these purposes, and according to the
16 determination of the commission, the county officers may arrange for:

- 17 1. Employing and terminating personnel.
- 18 2. Purchasing or otherwise acquiring and disposing of property.

19 C. Before January 1 the boards of supervisors of the new counties may
20 enter into contracts, including intergovernmental agreements pursuant to
21 chapter 7, article 3 of this title, to become effective January 1.

22 D. The budgets of the new counties for the period before the first
23 full fiscal year after the establishment of the new county governments shall
24 be set by the distribution board, derived from the budget of the affected
25 county or counties and apportioned among the new counties according to their
26 respective populations.

27 E. The governor shall appoint a clerk of the superior court in each
28 new county to hold office until the time provided by general law for the next
29 election and qualification of an elected clerk of the court. Legal actions
30 pending at the time of organizing new counties shall be transferred or
31 otherwise disposed of pursuant to sections 12-402 and 12-403.

32 F. All ordinances, codes and rules of the affected county continue in
33 effect, apply to and shall be enforced by the new county until revoked or
34 superseded by ordinances, ~~OR~~ codes ~~or rules~~ adopted by the new county.

35 Sec. 2. Section 11-241, Arizona Revised Statutes, is amended to read:

36 11-241. Appointment; duties

37 The board of supervisors shall appoint a clerk of the board, who shall:

- 38 1. Record all proceedings of the board.
- 39 2. Make full entries of the board's resolutions and decisions on all
40 questions concerning the raising of money for and allowance of accounts
41 against the county.
- 42 3. Record the vote of each member on every question upon which there
43 is a division or at the request of any member present.

- 1 4. Sign all orders made and warrants issued by order of the board for
2 the payment of money.
- 3 5. Record the reports of the county treasurer of the receipts and
4 disbursements of the county.
- 5 6. Preserve and file all accounts acted upon by the board.
- 6 7. Preserve and file all petitions and record the actions of the board
7 thereon.
- 8 8. Record all orders levying taxes.
- 9 9. Perform all other duties required by law ~~or rule~~ or order of the
10 board.
- 11 Sec. 3. Section 11-251, Arizona Revised Statutes, is amended to read:
12 11-251. Powers of board
- 13 The board of supervisors, under such limitations and restrictions as
14 are prescribed by law, may:
 - 15 1. Supervise the official conduct of all county officers and officers
16 of all districts and other subdivisions of the county charged with assessing,
17 collecting, safekeeping, managing or disbursing the public revenues, see that
18 such officers faithfully perform their duties and direct prosecutions for
19 delinquencies, and, when necessary, require the officers to renew their
20 official bonds, make reports and present their books and accounts for
21 inspection.
 - 22 2. Divide the counties into such districts or precincts as required by
23 law, change them and create others as convenience requires.
 - 24 3. Establish, abolish and change election precincts, appoint
25 inspectors and judges of elections, canvass election returns, declare the
26 result and issue certificates thereof.
 - 27 4. Lay out, maintain, control and manage public roads, ferries and
28 bridges within the county and levy such tax for that purpose as may be
29 authorized by law.
 - 30 5. Provide for the care and maintenance of the sick of the county,
31 erect and maintain hospitals for that purpose and, in its discretion, provide
32 a farm in connection with the county hospital and adopt ordinances for
33 working the farm.
 - 34 6. Provide suitable rooms for county purposes.
 - 35 7. Purchase, receive by donation or lease real or personal property
36 necessary for the use of the county prison and take care of, manage and
37 control the property, but no purchase of real property shall be made unless
38 the value has been previously estimated by three disinterested citizens of
39 the county, appointed by the board for that purpose, and no more than the
40 appraised value shall be paid for the property.
 - 41 8. Cause to be erected and furnished a courthouse, jail and hospital
42 and such other buildings as necessary, and construct and establish a branch
43 jail, when necessary, at a point distant from the county seat.

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

32 10. Examine and exhibit the accounts and performance of all officers
33 having the care, management, collection or disbursement of monies belonging
34 to the county or appropriated by law or otherwise for the use and benefit of
35 the county. The working papers and other audit files in an examination and
36 audit of the accounts and performance of a county officer are not public
37 records and are exempt from title 39, chapter 1. The information contained
38 in the working papers and audit files prepared pursuant to a specific
39 examination or audit is not subject to disclosure, except to the county
40 attorney and the attorney general in connection with an investigation or
41 action taken in the course of their official duties.

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

- 1 12. Levy such tax annually on the taxable property of the county as may
2 be necessary to defray the general current expenses thereof, including
3 salaries otherwise unprovided for, and levy such other taxes as are required
4 to be levied by law.
- 5 13. Equalize assessments.
- 6 14. Direct and control the prosecution and defense of all actions to
7 which the county is a party, and compromise them.
- 8 15. Insure the county buildings in the name of and for the benefit of
9 the county.
- 10 16. Fill by appointment all vacancies occurring in county or precinct
11 offices.
- 12 17. Adopt provisions necessary to preserve the health of the county,
13 and provide for the expenses thereof.
- 14 18. With the approval of the department of health services, contract
15 with any qualified person to provide all or part of the health services,
16 funded through the department of health services with federal or state
17 monies, that the board in its discretion extends to residents of the county.
- 18 19. Contract for county printing and advertising, and provide books and
19 stationery for county officers.
- 20 20. Provide for rebinding county records, or, if necessary, the
21 transcribing of county records.
- 22 21. ~~Make~~ ADOPT and enforce necessary ~~rules~~ ORDINANCES and regulations
23 for the government of its body, the preservation of order and the transaction
24 of business.
- 25 22. Adopt a seal for the board, a description and impression of which
26 shall be filed by the clerk in the office of the county recorder and the
27 secretary of state.
- 28 23. Establish, maintain and conduct or aid in establishing, maintaining
29 and conducting public aviation fields, purchase, receive by donation or lease
30 any property necessary for that purpose, lease, at a nominal rental if
31 desired, sell such aviation fields or property to the United States or any
32 department, or sell or lease such aviation fields to a city, exchange lands
33 acquired pursuant to this section for other lands, or act in conjunction with
34 the United States in maintaining, managing and conducting all such property.
35 If any such property or part of that property is not needed for these
36 purposes, it shall be sold by the board and the proceeds shall be paid into
37 the general fund of the county.
- 38 24. Acquire and hold property for the use of county fairs, and conduct,
39 take care of and manage them.
- 40 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
41 dollars in one case, for information leading to the arrest and conviction of
42 persons charged with crime.
- 43 26. Contract for the transportation of insane persons to the state
44 hospital or direct the sheriff to transport such persons. The county is

1 responsible for such expense to the extent the expense is not covered by any
2 third party payor.

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

8 28. Sell or grant to the United States the title or interest of the
9 county in any toll road or toll train in or partly within a national park, on
10 such terms as may be agreed on by the board and the secretary of the interior
11 of the United States.

12 29. Enter into agreements for acquiring rights-of-way, construction,
13 reconstruction or maintenance of highways in their respective counties,
14 including highways that pass through Indian reservations, with the government
15 of the United States, acting through its duly authorized officers or agents
16 pursuant to any act of Congress, except that the governing body of any Indian
17 tribe whose lands are affected must consent to the use of its land, and any
18 such agreements entered into before June 26, 1952 are validated and
19 confirmed.

20 30. Do and perform all other acts and things necessary to the full
21 discharge of its duties as the legislative authority of the county
22 government, including receiving and accepting payment of monies by credit
23 card or debit card, or both. Any fees or costs incurred by the use of the
24 credit or debit card shall be paid by the person tendering payment unless the
25 charging entity determines that the financial benefits of accepting credit
26 cards or debit cards exceeds the additional processing fees.

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

29 32. Budget for funds for foster home care during the school week for
30 children with intellectual disabilities and otherwise handicapped children
31 who reside within the county and attend a school for the handicapped in a
32 city or town within such county.

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

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

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

1 36. Subject to the prohibitions, restrictions and limitations as set
2 forth in section 11-812, adopt and enforce standards for excavation, landfill
3 and grading to prevent unnecessary loss from erosion, flooding and
4 landslides.

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

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

14 39. Establish, maintain and operate facilities that provide for
15 physical evaluation, diagnosis and treatment of patients and that do not keep
16 patients overnight as bed patients or treat patients under general
17 anesthesia.

18 40. Enact ordinances under its police authority prescribing reasonable
19 curfews in the entire unincorporated area or any area less than the entire
20 unincorporated area of the county for minors and fines not to exceed the fine
21 for a petty offense for violation of such ordinances. Nothing in this
22 paragraph shall be construed to require a request from an association or a
23 majority of the residents of an area before the board may enact an ordinance
24 applicable to the entire or any portion of the unincorporated area. An
25 ordinance enacted pursuant to this paragraph shall provide that a minor is
26 not violating a curfew if the minor is accompanied by a parent, a guardian or
27 an adult having supervisory custody, is on an emergency errand or has been
28 specifically directed to the location on reasonable, legitimate business or
29 some other activity by the parent, guardian or adult having supervisory
30 custody. If no curfew ordinance is applicable to a particular unincorporated
31 area of the county, the board may adopt a curfew ordinance on the request or
32 petition of either:

33 (a) A homeowners' association that represents a majority of the
34 homeowners in the area covered by the association and to which the curfew
35 would apply.

36 (b) A majority of the residents of the area to which the curfew would
37 apply.

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

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

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

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

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

13 46. Lease-purchase real property and improvements for real property for
14 public purposes, provided that final payment shall be made not later than
15 twenty-five years after the date of purchase. Any increase in the final
16 payment date from fifteen years up to the maximum of twenty-five years shall
17 be made only on unanimous approval by the board of supervisors.

18 47. Make and enforce ordinances for the protection and disposition of
19 domestic animals subject to inhumane, unhealthful or dangerous conditions or
20 circumstances provided that nothing in this paragraph limits or restricts the
21 authority granted to incorporated cities and towns or counties pursuant to
22 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
23 restrict or limit the authority of the game and fish commission to regulate
24 the taking of wildlife. For the purposes of this paragraph, "domestic
25 animal" means an animal kept as a pet and not primarily for economic
26 purposes.

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

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

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

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

44 52. Make and enforce ordinances that are more restrictive than state
45 requirements to reduce or encourage the reduction of carbon monoxide and

1 ozone levels, provided an ordinance does not establish a standard for
2 vehicular emissions, including ordinances to reduce or encourage the
3 reduction of the commuter use of motor vehicles by employees of the county
4 and employees whose place of employment is in unincorporated areas of the
5 county.

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

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

13 55. Enact ordinances prescribing regulation of alarm systems and
14 providing for civil penalties to reduce the incidence of false alarms at
15 business and residential structures relating to burglary, robbery, fire and
16 other emergencies not within the limits of an incorporated city or town.

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

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

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

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

43 60. Adopt contracting procedures for the operation of a county health
44 system pursuant to section 11-291. Before the adoption of contracting
45 procedures the board shall hold a public hearing. The board shall publish

1 one notification in a newspaper of general circulation in the county seat at
2 least fifteen days before the hearing.

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

9 62. In counties that employ or have designated an animal control county
10 enforcement agent pursuant to section 11-1005, enter into agreements with
11 foundations or charitable organizations to solicit donations, property or
12 services, excluding enforcement or inspection services, for use by the county
13 enforcement agent solely to perform nonmandated services and to fund capital
14 improvements for county animal control, subject to annual financial and
15 performance audits by an independent party as designated by the county board
16 of supervisors. For the purposes of this paragraph, nonmandated services are
17 limited to low cost spay and neuter services, public education and outreach
18 efforts, pet adoption efforts, care for pets that are victims of cruelty or
19 neglect and support for volunteer programs.

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

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

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

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

39 (b) In a manner that makes the product accessible to a patron of the
40 business establishment only with the assistance of an employee of the
41 establishment.

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

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

1 Sec. 4. Section 11-269.10, Arizona Revised Statutes, is amended to
2 read:

3 11-269.10. Parking; public service and public safety emergency
4 vehicles; definition

5 A. Notwithstanding any ~~provision in rule or~~ ordinance, a county shall
6 not prohibit a resident from parking a motor vehicle on a street or driveway
7 in the county if the vehicle is required to be available at designated
8 periods at the person's residence as a condition of the person's employment
9 and either of the following applies:

10 1. The resident is employed by a public service corporation that is
11 regulated by the ARIZONA corporation commission, an entity regulated by the
12 federal energy regulatory commission or a municipal utility and the public
13 service corporation, federally regulated utility or municipal utility is
14 required to prepare for emergency deployments of personnel and equipment for
15 repair or maintenance of natural gas, electrical, telecommunications or water
16 infrastructure, the vehicle has a gross vehicle weight rating of twenty
17 thousand pounds or less and is owned or operated by the public service
18 corporation, federally regulated utility or municipal utility and the vehicle
19 bears an official emblem or other visible designation of the public service
20 corporation, federally regulated utility or municipal utility.

21 2. The resident is employed by a public safety agency, including
22 police or fire service for a federal, state, local or tribal agency or a
23 private fire service provider or an ambulance service provider that is
24 regulated pursuant to title 36, chapter 21.1, and the vehicle has a gross
25 vehicle weight rating of ten thousand pounds or less and bears an official
26 emblem or other visible designation of that agency.

27 B. For the purposes of this section, "telecommunications" means the
28 transmission of information of the user's choosing between or among points
29 specified by the user without change in the form or content of the
30 information as sent and received. Telecommunications does not include
31 commercial mobile radio services.

32 Sec. 5. Section 11-403, Arizona Revised Statutes, is amended to read:

33 11-403. Practice of law prohibited to certain officers;
34 exceptions

35 A. The sheriff and constable and their deputies are prohibited from
36 practicing law, or forming a partnership with an attorney-at-law.

37 B. In a county ~~of the first class~~ having a population of sixty
38 thousand or over, as determined by the official census of the United States,
39 the county attorney or his deputies shall not engage in the private practice
40 of law, except:

41 1. With consent of the board of supervisors, a special deputy county
42 attorney may be appointed upon a fee basis in like manner as a special
43 assistant attorney general.

1 2. Deputy county attorneys may, but in no circumstances shall be
2 required to, represent private clients in pro bono, private civil matters
3 under the following circumstances:

4 (a) The representation will be conducted exclusively during off hours
5 or while on leave and the attorney will not receive any compensation for such
6 services.

7 (b) The client is not seeking an award of attorney fees for the
8 services.

9 (c) The services are for an individual in need of personal legal
10 services who does not have the financial resources to pay for the
11 professional services or for a nonprofit, tax exempt charitable organization
12 formed for the purpose of providing social services to individuals and
13 families.

14 (d) The representation will not interfere with the performance of any
15 official duties.

16 (e) The subject matter of pro bono representation is outside of the
17 area of practice to which the attorney is assigned in the county attorney's
18 office and the activity will not appear to create a conflict of interest.

19 (f) The activity will not reflect adversely on this state, the county
20 or any of their agencies.

21 (g) The deputy county attorney's position will not influence or appear
22 to influence the outcome of any matter.

23 (h) The activity will not involve assertions that are contrary to the
24 interest or position of this state, the county or any of their agencies.

25 (i) The activity does not involve a criminal matter or proceeding or
26 any matter in which this state or the county is a party or has a direct or
27 substantial interest.

28 (j) The activity will not utilize resources that will result in a cost
29 to this state, the county or any of their agencies.

30 (k) The attorney's supervisor may require the attorney to submit a
31 prior written request to engage in pro bono work which includes a provision
32 holding the agency harmless from any of the work undertaken by the attorney.

33 C. Notwithstanding any provision of law ~~or rule to the contrary~~,
34 representation by an attorney of a pro bono client **UNDER SUBSECTION B,**
35 **PARAGRAPH 2 OF THIS SECTION** shall not disqualify the office from subsequently
36 participating in any action affecting the client.

37 Sec. 6. Section 11-583, Arizona Revised Statutes, is amended to read:
38 **11-583. Private practice of civil and criminal law prohibited;**
39 **exception; limitation**

40 A. The public defender and his full-time deputies shall not engage in
41 the private practice of law, except:

42 1. Such prohibition shall not apply to part-time deputies, except that
43 in no instance shall part-time deputies engage in any private litigation in
44 which the county or an officer thereof in his official capacity is a party.

1 2. Deputy county public defenders may, but in no circumstances shall
2 be required to, represent private clients in pro bono, private civil matters
3 under the following circumstances:

4 (a) The representation will be conducted exclusively during off hours
5 or while on leave and the attorney will not receive any compensation for such
6 services.

7 (b) The client is not seeking an award of attorney fees for the
8 services.

9 (c) The services are for an individual in need of personal legal
10 services who does not have the financial resources to pay for the
11 professional services or for a nonprofit, tax exempt charitable organization
12 formed for the purpose of providing social services to individuals and
13 families.

14 (d) The representation will not interfere with the performance of any
15 official duties.

16 (e) The subject matter of pro bono representation is outside of the
17 area of practice to which the attorney is assigned in the public defender's
18 office and the activity will not appear to create a conflict of interest.

19 (f) The activity will not reflect adversely on this state, the county
20 or any of their agencies.

21 (g) The deputy county public defender's position will not influence or
22 appear to influence the outcome of any matter.

23 (h) The activity will not involve assertions that are contrary to the
24 interest or position of this state, the county or any of their agencies.

25 (i) The activity does not involve a criminal matter or proceeding or
26 any matter in which this state or the county is a party or has a direct or
27 substantial interest.

28 (j) The activity will not utilize resources that will result in cost
29 to this state, the county or any of their agencies.

30 (k) The attorney's supervisor may require the attorney to submit a
31 prior written request to engage in pro bono work which includes a provision
32 holding the agency harmless from any of the work undertaken by the attorney.

33 ~~B.~~ Notwithstanding any provision of law ~~or rule to the contrary~~,
34 representation by an attorney of a pro bono client **UNDER SUBSECTION A,**
35 **PARAGRAPH 2 OF THIS SECTION** shall not disqualify the office from subsequently
36 participating in any action affecting the client.

37 ~~B.~~ **C.** The public defender shall not during his incumbency defend or
38 assist in the defense of, or act as counsel for, any person accused of any
39 crime in any county except as provided in this article unless authorized by
40 the board of supervisors to enter into an intergovernmental agreement with
41 another county pursuant to chapter 7, article 3 of this title.

42 Sec. 7. Section 11-802, Arizona Revised Statutes, is amended to read:
43 11-802. County planning and zoning commissions

44 A. The board of supervisors of a county, in order to conserve and
45 promote the public health, safety, convenience and general welfare and

1 pursuant to this chapter, shall plan and provide for the future growth and
2 improvement of its area of jurisdiction, coordinate all public improvements
3 pursuant to the plan, form a planning and zoning commission to consult with
4 and advise it regarding matters of planning, zoning and subdivision platting
5 and, in the manner provided in this chapter, adopt and enforce those ~~rules,~~
6 regulations, ordinances and plans as may apply to the development of its area
7 of jurisdiction.

8 B. The commission shall act in an advisory capacity to the board and
9 may or, if requested by the board, shall make a report or recommendation in
10 connection with any matter relating to the development of the county under
11 the jurisdiction of the board. The commission shall make those
12 investigations, maps, reports and recommendations in connection with those
13 investigations, maps and reports as seem desirable within the limits of the
14 monies available.

15 C. In the counties having three supervisorial districts, each county
16 planning and zoning commission shall consist of nine members who shall be
17 qualified electors of the county. Three members shall be appointed from each
18 supervisorial district by the supervisor from that district, and not more
19 than one of the three may be a resident of an incorporated municipality.
20 Members of the commission shall serve without compensation except for
21 reasonable travel expenses.

22 D. Except as provided in subsection E of this section, in the counties
23 having five supervisorial districts, each county planning and zoning
24 commission shall consist of ten members who shall be qualified electors of
25 the county. Two members shall be appointed from each supervisorial district
26 by the supervisor from that district. Members shall be residents of the
27 district from which they are appointed. Members of the commission shall
28 serve without compensation except for reasonable travel expenses.

29 E. If any supervisorial district is at least ninety per cent Indian
30 reservation and at least ninety per cent of the district is not subject to
31 county zoning regulations, the supervisor from the district may appoint some
32 or all of the members to the commission from any supervisorial district in
33 the county if there is no appointee who is willing to serve within the
34 supervisorial district. These appointments are subject to the limitations on
35 residency required by subsections C and D of this section. Members appointed
36 to the commission pursuant to this subsection require the approval of the
37 board.

38 F. In counties with a population of less than one hundred seventy-nine
39 thousand persons, an alternate member may be appointed by the appointing
40 supervisor for each commission member appointed pursuant to subsections C, D
41 and E of this section to serve in the absence of that member. Alternate
42 members may be appointed from any supervisorial district in the county.
43 During any meeting of the commission, if the regularly appointed member
44 becomes available, the alternate member shall conclude any action on the

1 agenda item under consideration and the regularly appointed member shall be
2 seated for the remaining items.

3 G. The terms of the members of the commissions shall be for four years
4 except for those initially appointed. Of those members initially appointed
5 pursuant to subsection C of this section, five members shall be appointed to
6 a two year term and four members shall be appointed to a four year term. Of
7 those members initially appointed pursuant to subsection D of this section,
8 five members shall be appointed to a two year term and five members shall be
9 appointed to a four year term. Thereafter, each term shall be four years.
10 If a vacancy occurs otherwise than by expiration of term, the vacancy shall
11 be filled by appointment for the unexpired portion of the term. The board
12 may remove members of the commission for cause.

13 H. On a conversion from three to five supervisorial districts pursuant
14 to section 11-212, the board of supervisors, on expiration of the terms of
15 members of the commission serving on the date of the conversion, shall make
16 those appointments to fill the vacancies to conform to subsection D of this
17 section as soon as is practicable.

18 I. The county assessor, county engineer, county health officer and
19 county attorney shall serve in an advisory capacity to the commission and to
20 the boards of adjustment.

21 J. The commission shall:

22 1. Elect a chairperson from among its members for a term of one year
23 and those other officers as it determines.

24 2. By resolution fix the time and place within the district of regular
25 meetings, hold at least one regular meeting each month when there is new
26 official business to transact and hold additional meetings as the chairperson
27 or a majority of the commission deems necessary.

28 3. Adopt ~~rules~~ **ORDINANCES** for the transaction of business and keep a
29 record of its resolutions, transactions, findings and determinations, which
30 record shall be a public record and be open to public inspection.

31 4. Transmit all of its recommendations, decisions, findings, reports
32 and official actions, regardless of vote, to the board of supervisors.

33 K. A majority of the commission constitutes a quorum for the
34 transaction of business and a majority vote of the quorum is required for any
35 official action.

36 Sec. 8. Section 11-807, Arizona Revised Statutes, is amended to read:
37 11-807. Specific zoning plans; adoption; administration;
38 contents

39 A. The board or commission of a county with a population of less than
40 two million persons may prepare specific zoning plans for designated parcels
41 of land, which shall include a text and maps of a land use plan and specific
42 zoning, sign, street and other regulations for implementation of the county
43 master plans. All property owners within the boundaries of the specific
44 zoning plan shall give written consent before the plan may be established. A

1 specific zoning plan shall not be adopted if it creates an area that is not
2 within the plan but is completely surrounded by the plan boundaries.

3 B. A specific zoning plan may be adopted or amended after notice and
4 hearings before the commission and board as provided in section 11-813. If
5 the board adopts a specific zoning plan, it shall **ADOPT ORDINANCES AND**
6 establish ~~administrative rules and~~ procedures for the application and
7 enforcement of the plan and may assign or delegate administrative functions,
8 powers and duties for the plan to county officers and officials.

9 C. A specific zoning plan shall include text, maps and illustrations
10 specifying all of the following:

11 1. The distribution, location and extent of land uses, including open
12 space.

13 2. The distribution, location, extent and intensity of major
14 components of public and private transportation, sewage and solid waste
15 disposal, drainage and other facilities necessary to provide for the land
16 uses described in the specific zoning plan.

17 3. Standards by which development shall proceed and, if applicable,
18 requirements for conservation, development and utilization of natural
19 resources.

20 4. A statement of whether the specific zoning plan is consistent with
21 the comprehensive plan required by section 11-804.

22 5. Any other matters necessary or desirable for implementation of the
23 specific zoning plan.

24 D. All specific zoning plans adopted under this article shall be
25 consistent with and conform to the adopted comprehensive plan.

26 Sec. 9. Section 11-833, Arizona Revised Statutes, is amended to read:
27 11-833. Standards for enactment of moratorium: land
28 development; limitations; definitions

29 A. A county shall not adopt a moratorium on construction or land
30 development unless it first:

31 1. Provides notice to the public published once in a newspaper of
32 general circulation in the community at least thirty days before a final
33 public hearing to be held to consider the adoption of the moratorium.

34 2. Makes written findings justifying the need for the moratorium in
35 the manner provided for in this section.

36 3. Holds a public hearing on the adoption of the moratorium and the
37 findings that support the moratorium.

38 B. For urban land or land subject to potential urbanization, a
39 moratorium may be justified by demonstration of a need to prevent a shortage
40 of essential public facilities that would otherwise occur during the
41 effective period of the moratorium. This demonstration shall be based on
42 reasonably available information and shall include at least the following
43 findings:

44 1. A showing of the extent of need beyond the estimated capacity of
45 existing essential public facilities expected to result from new land

1 development, including identification of any essential public facilities
2 currently operating beyond capacity and the portion of this capacity already
3 committed to development, or in the case of water resources, a showing that,
4 in an active management area as defined in section 45-402, an assured water
5 supply cannot be provided, or outside an active management area, a sufficient
6 water supply cannot be provided, to the new land development, including
7 identification of current water resources and the portion already committed
8 to development.

9 2. That the moratorium is reasonably limited to those areas of the
10 county where a shortage of essential public facilities would otherwise occur
11 and on property that has not received development approvals based on the
12 sufficiency of existing essential public facilities.

13 3. That the housing and economic development needs of the area
14 affected have been accommodated as much as possible in any program for
15 allocating any remaining essential public facility capacity.

16 C. A moratorium not based on a shortage of essential public facilities
17 under subsection B of this section may be justified only by a demonstration
18 of compelling need for other public facilities, including police and fire
19 facilities. This demonstration shall be based on reasonably available
20 information and shall include at least the following findings:

21 1. For urban land or land subject to potential urbanization:

22 (a) That application of existing development ordinances or regulations
23 and other applicable law is inadequate to prevent irrevocable public harm
24 from development in affected geographical areas.

25 (b) That the moratorium is sufficiently limited to ensure that a
26 needed supply of affected housing types and the supply of commercial and
27 industrial facilities within or in proximity to the county are not
28 unreasonably restricted by the adoption of the moratorium.

29 (c) The reasons that alternative methods of achieving the objectives
30 of the moratorium are unsatisfactory.

31 (d) That the county has determined that the public harm that would be
32 caused by failure to impose a moratorium outweighs the adverse effects on
33 other affected local governments, including shifts in demand for housing or
34 economic development, public facilities and services and buildable lands and
35 the overall impact of the moratorium on population distribution.

36 (e) That the city or town proposing the moratorium has developed a
37 work plan and time schedule for achieving the objectives of the moratorium.

38 2. For rural land:

39 (a) That application of existing development ordinances or regulations
40 and other applicable law is inadequate to prevent irrevocable public harm
41 from development in affected geographical areas.

42 (b) The reasons that alternative methods of achieving the objectives
43 of the moratorium are unsatisfactory.

1 (c) That the moratorium is sufficiently limited to ensure that lots or
2 parcels outside the affected geographical areas are not unreasonably
3 restricted by the adoption of the moratorium.

4 (d) That the county proposing the moratorium has developed a work plan
5 and time schedule for achieving the objectives of the moratorium.

6 D. Any moratorium adopted pursuant to this section does not affect any
7 express provision in a development agreement entered into pursuant to section
8 9-500.05 or as defined in section 11-1101 governing the rate, timing and
9 sequencing of development, nor does it affect rights acquired pursuant to a
10 protected development right granted according to chapter 9 of this title or
11 title 9, chapter 11. Any moratorium adopted pursuant to this section shall
12 provide a procedure pursuant to which an individual landowner may apply for a
13 waiver of the moratorium's applicability to its property by claiming rights
14 obtained pursuant to a development agreement, a protected development right
15 or any vested right or by providing the public facilities that are the
16 subject of the moratorium at the landowner's cost.

17 E. A moratorium adopted under subsection C, paragraph 1 of this
18 section shall not remain in effect for more than one hundred twenty days, but
19 such a moratorium may be extended for additional periods of time of up to one
20 hundred twenty days if the county adopting the moratorium holds a public
21 hearing on the proposed extension and adopts written findings that:

22 1. Verify the problem requiring the need for the moratorium to be
23 extended.

24 2. Demonstrate that reasonable progress is being made to alleviate the
25 problem resulting in the moratorium.

26 3. Set a specific duration for the renewal of the moratorium.

27 F. A county considering an extension of a moratorium shall provide
28 notice to the general public published once in a newspaper of general
29 circulation in the community at least thirty days before a final hearing is
30 held to consider an extension of a moratorium.

31 G. This section does not prevent a city or town from complying with
32 any state or federal law, regulation or order issued in writing by a legally
33 authorized governmental entity.

34 H. A landowner aggrieved by a county's adoption of a moratorium
35 pursuant to this section, at any time within thirty days after the moratorium
36 has been adopted, may file a complaint for a trial de novo in the superior
37 court on the facts and the law regarding the moratorium. All matters
38 presented to the superior court pursuant to this section have preference on
39 the court calendar on the same basis as condemnation matters. The court may
40 award reasonable attorney fees incurred in the appeal and trial pursuant to
41 this section to the prevailing party.

42 I. For the purposes of this section:

43 1. "Compelling need" means a clear and imminent danger to the health
44 and safety of the public.

1 2. "Essential public facilities" means water, sewer and street
2 improvements and water resources to the extent that these improvements and
3 water resources are provided by the county or private utility.

4 3. "Moratorium on construction or land development" means engaging in
5 a pattern or practice of delaying or stopping issuance of permits,
6 authorizations or approvals necessary for the subdivision and partitioning
7 of, or construction on, any land. It does not include denial or delay of
8 permits or authorizations because they are inconsistent with applicable
9 statutes, ~~rules~~, zoning or other ordinances.

10 4. "Rural land" means all property in the unincorporated area of a
11 county or in the incorporated area of the city or town with a population of
12 two thousand nine hundred or less persons.

13 5. "Urban land or land subject to potential urbanization" means all
14 property in the incorporated area of a city or town with a population of more
15 than two thousand nine hundred persons.

16 6. "Vested right" means a right to develop property established by the
17 expenditure of substantial sums of money pursuant to a permit or approval
18 granted by the city, town or county.

19 Sec. 10. Section 11-863, Arizona Revised Statutes, is amended to read:
20 11-863. Contract by county and city for enforcement;
21 ordinances; fees for permits

22 A. Any county may contract with a city or town to provide for
23 enforcement of such codes or ~~rules and regulations~~ ORDINANCES adopted
24 pursuant thereto.

25 B. The board may adopt necessary ~~rules and regulations~~ ORDINANCES for
26 the enforcement of any code adopted under this article, provided that any
27 such ~~rules or regulations~~ ORDINANCES relating to inspections shall require
28 that such inspections be made at the earliest reasonable time.

29 C. The board may establish and charge reasonable fees for permits
30 issued and inspections made pursuant to any code.

31 Sec. 11. Section 11-872, Arizona Revised Statutes, is amended to read:
32 11-872. Control techniques; ordinances; schedule for adoption

33 A. If the administrator of the United States environmental protection
34 agency makes a finding relating to area A, as defined in section 49-541,
35 pursuant to the clean air act amendments of 1990 (P.L. 101-549), section 172,
36 the county shall adopt ~~by rule~~ AN ORDINANCE REGARDING the necessary emission
37 limitations or other standards reflecting control techniques guidelines
38 issued by the United States environmental protection agency pursuant to the
39 clean air act amendments of 1990, section 183 in order to achieve emissions
40 reductions sufficient to respond to the finding.

41 B. The county shall begin to develop ~~rules~~ ORDINANCES that incorporate
42 the provisions of the control techniques guidelines being developed by the
43 United States environmental protection agency. The ~~rule-making~~ process FOR
44 ADOPTING ORDINANCES shall parallel as closely as possible the United States
45 environmental protection agency process and incorporate adequate public

1 notice and comment. The county shall make every practical effort to ~~assure~~
2 ~~ENSURE~~ the ~~rules~~ ORDINANCES are consistent with the concepts and provisions
3 embodied in the United States environmental protection agency process.
4 Within sixty days after the formal adoption of the United States
5 environmental protection agency control techniques guidelines for an industry
6 sector, the county shall adopt ~~rules~~ ORDINANCES, emission limitations or
7 other standards reflecting such guidelines. If the guidelines are required
8 pursuant to subsection A of this section prior to formal adoption by the
9 administrator of the guidelines, the county ~~rules~~ ORDINANCES shall become
10 effective within sixty days after the United States environmental protection
11 agency finding. The county shall determine which industry sector shall be
12 subject to the requirements of this section.

13 C. If the director of the department of environmental quality
14 determines that emissions inventory data, monitoring information and modeling
15 or projections indicate it is likely that reasonable further progress or
16 attainment will not be achieved in order to comply with the clean air act
17 amendments of 1990 or achieve or maintain national ambient air quality
18 standards or other air quality standards applicable to ozone precursors, the
19 county shall adopt ~~rules~~ ORDINANCES necessary to achieve emissions reductions
20 to achieve reasonable further progress or attainment. The ~~rules~~ ORDINANCES
21 shall be based on technically feasible controls to reduce the emissions of
22 volatile organic compounds from industry sectors that the United States
23 environmental protection agency is considering for control technique
24 guidelines.

25 D. All emissions reductions required pursuant to this section shall be
26 achieved for purposes of the one-hour ozone standard no later than June 1,
27 1996 and for purposes of the eight-hour averaged ozone standard no later than
28 December 31, 2008.

29 Sec. 12. Section 11-873, Arizona Revised Statutes, is amended to read:
30 11-873. Ordinances; industry sectors; enhanced enforcement

31 A county with a population of more than one million two hundred
32 thousand persons as determined by the most recent United States decennial
33 census that contains a nonattainment area as defined in section 49-401.01
34 shall develop, implement and enforce ~~rules~~ ORDINANCES regulating the
35 emissions from the graphic arts industry sector, the architectural and
36 industrial coatings industry sector, the highway markings industry sector,
37 bulk plants and terminal and tank truck unloading operations. The
38 enforcement shall be enhanced through programs that may include increased
39 frequency or targeting of inspections, increased sampling frequency, use of
40 portable analyzers or any other technique.

41 Sec. 13. Section 11-874, Arizona Revised Statutes, is amended to read:
42 11-874. Control of area sources; ordinances; industry sectors

43 A county with a population of more than one million two hundred
44 thousand persons as determined by the most recent United States decennial
45 census that contains a nonattainment area as defined in section 49-401.01

1 shall develop, implement and enforce ~~rules~~ ORDINANCES regulating the
2 emissions from all of the following:

3 1. Wood coatings industry sector, through the use of technically
4 feasible controls to reduce the emissions of volatile organic compounds. The
5 ~~rules~~ ORDINANCES shall require the reduction of a minimum of twenty-five per
6 cent from the 1990 baseline emissions by November 15, 1995.

7 2. Commercial bakery industry sector, through the use of technically
8 feasible controls to reduce the emissions of volatile organic compounds. The
9 ~~rules~~ ORDINANCES shall require the reduction of a minimum of thirty per cent
10 from the 1990 baseline emissions by November 15, 1995.

11 3. Consumer and commercial products industry sector, through changes
12 in the formulation of any product used in the cleaning of automobile
13 windshields that contains a concentration of not more than thirty per cent by
14 weight of volatile organic compounds as an ingredient, a solvent or any other
15 component by November 15, 1995. The ~~rules~~ ORDINANCES shall require those
16 reductions to be achieved before the development of control techniques
17 guidance standards developed by the United States environmental protection
18 agency for that industry sector. If the administrator of the United States
19 environmental protection agency finds that area A, as defined in section
20 49-541, has failed to demonstrate reasonable further progress or has failed
21 to attain the national ambient air quality standards for ozone by the
22 applicable attainment date, the county shall adopt the control techniques
23 guidelines issued by the environmental protection agency for the industry
24 sector.

25 4. Solvent cleaning operations, including the use of nonaqueous
26 solvents. The ~~regulations~~ ORDINANCES may include the use of low vapor
27 pressure organic solvents, reformulated lower volatile organic compound
28 content solvents or low volatile organic compound aqueous material
29 substitutes. The ~~rules~~ ORDINANCES adopted pursuant to this paragraph are
30 exempt from the provisions of sections 49-112 and 49-479.

31 Sec. 14. Section 11-1602, Arizona Revised Statutes, is amended to
32 read:

33 11-1602. Regulatory bill of rights

34 To ensure fair and open regulation by counties, a person:

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

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

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

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

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

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

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

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

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

14 8. Unless specifically authorized, may expect counties to avoid
15 duplication of other laws that do not enhance regulatory clarity and to avoid
16 dual permitting to the maximum extent practicable as provided in section
17 11-1604.

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

21 10. MAY REVIEW THE FULL TEXT OR SUMMARY OF ALL ORDINANCE ADOPTION
22 ACTIVITY, THE SUMMARY OF SUBSTANTIVE POLICY STATEMENTS AND THE FULL TEXT OF
23 EXECUTIVE ORDERS IN THE REGISTER AS PROVIDED IN ARTICLE 2 OF THIS CHAPTER.

24 11. MAY PARTICIPATE IN THE ORDINANCE ADOPTION PROCESS AS PROVIDED IN
25 ARTICLE 3 OF THIS CHAPTER, INCLUDING PROVIDING WRITTEN OR ORAL COMMENTS ON
26 PROPOSED ORDINANCES TO A COUNTY AS PROVIDED IN SECTION 11-1634 AND HAVING THE
27 COUNTY ADEQUATELY ADDRESS THOSE COMMENTS AS PROVIDED IN SECTION 11-1635.

28 12. MAY ALLEGE THAT AN EXISTING COUNTY PRACTICE OR SUBSTANTIVE POLICY
29 STATEMENT CONSTITUTES AN ORDINANCE AND HAVE THAT COUNTY PRACTICE OR
30 SUBSTANTIVE POLICY STATEMENT DECLARED VOID BECAUSE THE PRACTICE OR
31 SUBSTANTIVE POLICY STATEMENT CONSTITUTES AN ORDINANCE AS PROVIDED IN SECTION
32 11-1642.

33 Sec. 15. Section 11-1608, Arizona Revised Statutes, is amended to
34 read:

35 11-1608. Complaints; board of supervisors review

36 A. The board of supervisors shall receive complaints concerning
37 ordinances, regulations, substantive policy statements or county practices
38 alleged to violate this ~~article~~ CHAPTER. The board of supervisors may review
39 any ordinance, regulation, substantive policy statement or county practice
40 alleged to violate this ~~article~~ CHAPTER and may hold hearings regarding the
41 allegations. The board of supervisors may recommend actions to alleviate the
42 aspects of the ordinances, regulations, substantive policy statements or
43 county practices alleged to violate this ~~article~~ CHAPTER.

1 B. THE BOARD OF SUPERVISORS MAY REQUIRE THE COMPLAINT TO BE MADE IN
2 WRITING AND INCLUDE THE FOLLOWING INFORMATION:

- 3 1. THE NAME AND ADDRESS OF THE PERSON MAKING THE COMPLAINT.
4 2. THE ORDINANCE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR COUNTY
5 PRACTICE ALLEGED TO VIOLATE THIS CHAPTER.
6 3. ANY FACTS RELEVANT TO AND THE LEGAL BASIS FOR THE COMPLAINT.

7 Sec. 16. Section 11-1609, Arizona Revised Statutes, is amended to
8 read:

9 11-1609. Clarification of interpretation

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

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

17 2. The statute, ordinance, regulation, delegation agreement or
18 authorized substantive policy statement or part of the statute, ordinance,
19 regulation, delegation agreement or authorized substantive policy statement
20 that requires clarification.

21 3. Any facts relevant to the requested ruling.

22 4. The REGULATED person's proposed interpretation of the applicable
23 statute, ordinance, regulation, delegation agreement or authorized
24 substantive policy statement or part of the statute, ordinance, regulation,
25 delegation agreement or authorized substantive policy statement that requires
26 clarification.

27 5. Whether, to the best knowledge of the REGULATED person, the issues
28 or related issues are being considered by the county in connection with an
29 existing license or license application.

30 B. On receipt of a request that complies with subsection A, the county
31 may meet with the REGULATED person to discuss the written request and shall
32 respond within thirty days of the receipt of the written request with a
33 written explanation of its interpretation or application as raised in the
34 written request. The county shall provide the requestor with an opportunity
35 to meet and discuss the county's written explanation.

36 C. The county may modify a written explanation provided under
37 subsection B on written notice to the REGULATED person if required by a
38 change in the law that was applicable at the time the clarification ~~or~~ OF
39 interpretation was issued, including changes caused by legislation,
40 ~~administrative rules~~ ORDINANCES formally adopted by the ~~governing body~~ BOARD
41 OF SUPERVISORS or a court decision.

1 Sec. 17. Title 11, chapter 11, article 1, Arizona Revised Statutes, is
2 amended by adding section 11-1611, to read:

3 11-1611. Substantive policy statement; directory

4 A. A COUNTY SHALL FILE SUBSTANTIVE POLICY STATEMENTS PURSUANT TO
5 SECTION 11-1623.

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

8 THIS SUBSTANTIVE POLICY STATEMENT IS ADVISORY ONLY. A
9 SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL
10 PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF
11 THE COUNTY AND DOES NOT IMPOSE ADDITIONAL REQUIREMENTS OR
12 PENALTIES ON REGULATED PARTIES OR INCLUDE CONFIDENTIAL
13 INFORMATION OR ORDINANCES MADE IN ACCORDANCE WITH THE COUNTY
14 ADMINISTRATIVE PROCEDURE ACT. IF YOU BELIEVE THAT THIS
15 SUBSTANTIVE POLICY STATEMENT DOES IMPOSE ADDITIONAL REQUIREMENTS
16 OR PENALTIES ON REGULATED PARTIES YOU MAY PETITION THE COUNTY
17 UNDER SECTION 11-1642, ARIZONA REVISED STATUTES, FOR A REVIEW OF
18 THE STATEMENT.

19 C. THE COUNTY SHALL PUBLISH AT LEAST ANNUALLY A DIRECTORY SUMMARIZING
20 THE SUBJECT MATTER OF ALL CURRENTLY APPLICABLE ORDINANCES AND SUBSTANTIVE
21 POLICY STATEMENTS. THE COUNTY SHALL KEEP COPIES OF THIS DIRECTORY AND ALL OF
22 ITS SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE DIRECTORY, ORDINANCES
23 AND SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS INCORPORATED BY REFERENCE
24 IN THE ORDINANCES OR SUBSTANTIVE POLICY STATEMENTS SHALL BE OPEN TO PUBLIC
25 INSPECTION AT THE OFFICE OF THE COUNTY DIRECTOR OR COUNTY WEBSITE.

26 Sec. 18. Title 11, chapter 11, Arizona Revised Statutes, is amended by
27 adding articles 2 and 3, to read:

28 ARTICLE 2. PUBLICATION OF COUNTY ORDINANCES

29 11-1621. Publication and distribution of code and register

30 THE COUNTY IS RESPONSIBLE FOR THE PUBLICATION AND DISTRIBUTION OF THE
31 CODE AND THE REGISTER.

32 11-1622. Code; publication of ordinances; distribution

33 A. THE CODE SHALL CONTAIN THE FULL TEXT OF EACH FINAL ORDINANCE FILED
34 WITH THE COUNTY AND EACH ORDINANCE ADOPTED PURSUANT TO A STATUTORY EXEMPTION
35 FROM THE APPLICABILITY OF THIS CHAPTER.

36 B. THE COUNTY SHALL PUBLISH, IN LOOSE-LEAF FORM OR ON THE COUNTY'S
37 WEBSITE, AT LEAST ONCE EVERY QUARTER ALL FINAL ORDINANCES AND ORDINANCES
38 ADOPTED PURSUANT TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS
39 CHAPTER. PUBLICATION OF AN ORDINANCE BY THE COUNTY AS PROVIDED IN THIS
40 SECTION CONSTITUTES PRIMA FACIE EVIDENCE OF THE ADOPTION AND FILING OF THE
41 ORDINANCE PURSUANT TO THIS CHAPTER OR THE ADOPTION OF THE ORDINANCE PURSUANT
42 TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS CHAPTER.

43 C. THE COUNTY MAY CONTRACT FOR THE PRINTING OF THE CODE ON TERMS MOST
44 ADVANTAGEOUS TO THE COUNTY.

1 D. THE CODE SHALL BE AVAILABLE BY SUBSCRIPTION AND FOR SINGLE COPY
2 PURCHASE. THE CHARGE FOR EACH CODE OR PERIODIC SUBSCRIPTION SHALL BE A
3 REASONABLE CHARGE, NOT TO EXCEED ALL COSTS OF PRODUCTION AND DISTRIBUTION OF
4 THE CODE.

5 11-1623. Register

6 A. THE COUNTY SHALL PUBLISH THE REGISTER OR UPDATE THE REGISTER THAT
7 IS AVAILABLE ON THE COUNTY'S WEBSITE AT LEAST ONCE EACH MONTH, INCLUDING THE
8 INFORMATION THAT IS PROVIDED UNDER SUBSECTION B OF THIS SECTION AND THAT IS
9 FILED WITH THE COUNTY DURING THE PRECEDING THIRTY DAYS. THE COUNTY SHALL
10 PUBLISH AN INDEX TO THE REGISTER AT LEAST TWICE EACH YEAR AND MAKE THE INDEX
11 AVAILABLE ON THE COUNTY'S WEBSITE.

12 B. THE REGISTER SHALL CONTAIN:

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

15 2. THE NOTICE AND SUMMARY OF EACH DOCKET OPENING.

16 3. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH PROPOSED ORDINANCE.

17 4. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH FINAL ORDINANCE.

18 5. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH EMERGENCY
19 ORDINANCE.

20 6. SUPPLEMENTAL NOTICES OF A PROPOSED ORDINANCE OR EXPEDITED
21 ORDINANCE.

22 7. A SUMMARY OF BOARD ACTION ON EACH ORDINANCE.

23 8. THE IDENTIFICATION AND A SUMMARY OF SUBSTANTIVE POLICY STATEMENTS
24 AND NOTICE AND A SUMMARY OF ANY GUIDANCE DOCUMENT PUBLICATION OR REVISION
25 SUBMITTED BY COUNTY.

26 9. NOTICES OF ORAL PROCEEDINGS, PUBLIC WORKSHOPS OR OTHER MEETINGS ON
27 AN ORDINANCE ADOPTION.

28 C. FOR THE PURPOSES OF THIS SECTION, FULL TEXT PUBLICATION IN THE
29 REGISTER INCLUDES ALL NEW, AMENDED OR ADDED LANGUAGE AND SUCH EXISTING
30 LANGUAGE AS THE PROPOSING COUNTY DEEMS NECESSARY FOR A PROPER UNDERSTANDING
31 OF THE PROPOSED ORDINANCE. ORDINANCES THAT ARE UNDERGOING EXTENSIVE REVISION
32 MAY BE REPRINTED IN WHOLE.

33 ARTICLE 3. ORDINANCE ADOPTION

34 11-1631. Definitions

35 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

36 1. "EMERGENCY ORDINANCE" MEANS AN ORDINANCE THAT IS MADE PURSUANT TO
37 SECTION 11-1637.

38 2. "FEE" MEANS A CHARGE PRESCRIBED BY A COUNTY FOR AN INSPECTION OR
39 FOR OBTAINING A LICENSE.

40 3. "FINAL ORDINANCE" MEANS ANY ORDINANCE FILED WITH THE COUNTY CLERK
41 AND ADOPTED PURSUANT TO AN EXEMPTION FROM THIS CHAPTER PURSUANT TO SECTION
42 11-1610 OR ADOPTED PURSUANT TO SECTION 11-1637 APPROVED BY THE BOARD OF
43 SUPERVISORS. FOR PURPOSES OF JUDICIAL REVIEW, A FINAL ORDINANCE INCLUDES
44 PROPOSED EXPEDITED ORDINANCES HAVING INTERIM EFFECT PURSUANT TO SECTION
45 11-1638.

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

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

12 6. "LICENSING" INCLUDES THE COUNTY PROCESS RESPECTING THE GRANT,
13 DENIAL, RENEWAL, REVOCATION, SUSPENSION, ANNULMENT, WITHDRAWAL OR AMENDMENT
14 OF A LICENSE.

15 7. "ORDINANCE" MEANS A COUNTY STATEMENT OF GENERAL APPLICABILITY THAT
16 IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR POLICY, OR DESCRIBES THE
17 PROCEDURE OR PRACTICE REQUIREMENTS OF A COUNTY. ORDINANCE INCLUDES
18 PRESCRIBING FEES OR THE AMENDMENT OR REPEAL OF A PRIOR ORDINANCE BUT DOES NOT
19 INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL
20 PROCEDURES OF THE COUNTY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR
21 PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION, ORDINANCES
22 ADOPTED BY THE COUNTY OR A COUNTY'S SUBSTANTIVE POLICY STATEMENT.

23 8. "ORDINANCE ADOPTION" MEANS THE PROCESS FOR FORMULATION AND
24 FINALIZATION OF AN ORDINANCE.

25 9. "PARTY" MEANS EACH PERSON NAMED OR ADMITTED AS A PARTY OR PROPERLY
26 SEEKING AND ENTITLED AS OF RIGHT TO BE ADMITTED AS A PARTY.

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

30 11. "PREAMBLE" MEANS:

31 (a) FOR ANY ORDINANCE ADOPTION SUBJECT TO THIS CHAPTER, A STATEMENT
32 ACCOMPANYING THE ORDINANCE THAT INCLUDES:

33 (i) REFERENCE TO THE SPECIFIC STATUTORY AUTHORITY FOR THE ORDINANCE.

34 (ii) THE NAME AND ADDRESS OF COUNTY PERSONNEL WITH WHOM PERSONS MAY
35 COMMUNICATE REGARDING THE ORDINANCE.

36 (iii) AN EXPLANATION OF THE ORDINANCE, INCLUDING THE COUNTY'S REASONS
37 FOR INITIATING THE ORDINANCE ADOPTION.

38 (iv) A REFERENCE TO ANY STUDY RELEVANT TO THE ORDINANCE THAT THE
39 COUNTY REVIEWED AND EITHER PROPOSES TO RELY ON IN ITS EVALUATION OF OR
40 JUSTIFICATION FOR THE ORDINANCE OR PROPOSES NOT TO RELY ON IN ITS EVALUATION
41 OF OR JUSTIFICATION FOR THE ORDINANCE, WHERE THE PUBLIC MAY OBTAIN OR REVIEW
42 EACH STUDY, ALL DATA UNDERLYING EACH STUDY AND ANY ANALYSIS OF EACH STUDY AND
43 OTHER SUPPORTING MATERIAL.

44 (v) A SHOWING OF GOOD CAUSE WHY THE ORDINANCE IS NECESSARY TO PROMOTE
45 A COUNTY INTEREST.

1 (vi) SUCH OTHER MATTERS AS ARE PRESCRIBED BY STATUTE AND THAT ARE
2 APPLICABLE TO THE SPECIFIC COUNTY OR TO ANY SPECIFIC ORDINANCE OR CLASS OF
3 ORDINANCES.

4 (b) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (a) OF
5 THIS PARAGRAPH, FOR A PROPOSED ORDINANCE, THE PREAMBLE ALSO SHALL INCLUDE A
6 LIST OF ALL PREVIOUS NOTICES APPEARING IN THE REGISTER ADDRESSING THE
7 PROPOSED ORDINANCE, A STATEMENT OF THE TIME, PLACE AND NATURE OF THE
8 PROCEEDINGS FOR THE ADOPTION, AMENDMENT OR REPEAL OF THE ORDINANCE AND WHERE,
9 WHEN AND HOW PERSONS MAY REQUEST AN ORAL PROCEEDING ON THE PROPOSED ORDINANCE
10 IF THE NOTICE DOES NOT PROVIDE FOR ONE.

11 (c) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (a) OF
12 THIS PARAGRAPH, FOR A PROPOSED EXPEDITED ORDINANCE, THE PREAMBLE ALSO SHALL
13 INCLUDE A STATEMENT OF THE TIME, PLACE AND NATURE OF THE PROCEEDINGS FOR THE
14 ADOPTION, AMENDMENT OR REPEAL OF THE ORDINANCE AND AN EXPLANATION OF WHY
15 EXPEDITED PROCEEDINGS ARE JUSTIFIED.

16 (d) FOR A FINAL ORDINANCE, EXCEPT AN EMERGENCY ORDINANCE, THE PREAMBLE
17 ALSO SHALL INCLUDE, IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION
18 (a) OF THIS PARAGRAPH, THE FOLLOWING INFORMATION:

19 (i) A LIST OF ALL PREVIOUS NOTICES APPEARING IN THE REGISTER
20 ADDRESSING THE FINAL ORDINANCE.

21 (ii) A DESCRIPTION OF THE CHANGES BETWEEN THE PROPOSED ORDINANCES,
22 INCLUDING SUPPLEMENTAL NOTICES AND FINAL ORDINANCES.

23 (iii) A SUMMARY OF THE COMMENTS MADE REGARDING THE ORDINANCE AND THE
24 COUNTY RESPONSE TO THE COMMENTS.

25 (iv) A SUMMARY OF THE BOARD OF SUPERVISOR'S ACTION ON THE ORDINANCE.

26 (v) A STATEMENT OF THE ORDINANCE'S EFFECTIVE DATE.

27 (e) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (a) OF
28 THIS PARAGRAPH, FOR AN EMERGENCY ORDINANCE, THE PREAMBLE ALSO SHALL INCLUDE
29 AN EXPLANATION OF THE SITUATION JUSTIFYING THE ORDINANCE BEING MADE AS AN
30 EMERGENCY ORDINANCE, THE DATE OF THE COUNTY ATTORNEY'S APPROVAL OF THE
31 ORDINANCE AND A STATEMENT OF THE EMERGENCY ORDINANCE'S EFFECTIVE DATE.

32 12. "PROVISION OF LAW" MEANS THE WHOLE OR A PART OF THE UNITED STATES
33 OR ARIZONA CONSTITUTION, OR OF ANY FEDERAL OR STATE STATUTE, RULE OF COURT OR
34 ORDINANCE OF A COUNTY.

35 13. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS
36 ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A COUNTY'S CURRENT APPROACH
37 TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES, INCLUDING,
38 WHERE APPROPRIATE, THE COUNTY'S CURRENT PRACTICE, PROCEDURE OR METHOD OF
39 ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY STATEMENT DOES
40 NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL
41 PROCEDURES OF THE COUNTY AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR
42 PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION, INTERPRETATIONS
43 REQUESTED BY A REGULATED PERSON PURSUANT TO SECTION 11-1609, ORDINANCES
44 PURSUANT TO THIS ARTICLE AND ORDINANCES ADOPTED BY THE COUNTY.

1 11-1632. Public ordinance adoption docket; notice

2 A. EACH COUNTY SHALL ESTABLISH AND MAINTAIN A CURRENT, PUBLIC
3 ORDINANCE ADOPTION DOCKET FOR EACH PENDING ORDINANCE ADOPTION PROCEEDING. AN
4 ORDINANCE ADOPTION PROCEEDING IS PENDING FROM THE TIME THE COUNTY BEGINS TO
5 CONSIDER PROPOSING THE ORDINANCE UNDER SECTION 11-1633 UNTIL ANY ONE OF THE
6 FOLLOWING OCCURS:

7 1. THE TIME THE ORDINANCE ADOPTION PROCEEDING IS TERMINATED BY THE
8 COUNTY INDICATING IN THE ORDINANCE ADOPTION DOCKET THAT THE COUNTY IS NO
9 LONGER ACTIVELY CONSIDERING PROPOSING THE ORDINANCE.

10 2. ONE YEAR AFTER THE NOTICE OF ORDINANCE ADOPTION DOCKET OPENING IS
11 PUBLISHED IN THE REGISTER IF THE COUNTY HAS NOT FILED A NOTICE OF THE
12 PROPOSED ORDINANCE ADOPTION WITH THE COUNTY CLERK PURSUANT TO SECTION
13 11-1633.

14 3. THE ORDINANCE BECOMES EFFECTIVE.

15 4. ONE YEAR AFTER THE NOTICE OF THE PROPOSED ORDINANCE ADOPTION IS
16 PUBLISHED IN THE REGISTER IF THE COUNTY HAS NOT SUBMITTED THE ORDINANCE TO
17 THE BOARD OF SUPERVISORS FOR REVIEW AND APPROVAL.

18 5. PUBLICATION OF A NOTICE OF TERMINATION.

19 B. FOR EACH ORDINANCE ADOPTION PROCEEDING, THE DOCKET SHALL INDICATE
20 ALL OF THE FOLLOWING:

21 1. THE SUBJECT MATTER OF THE PROPOSED ORDINANCE.

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

23 3. THE NAME, ADDRESS AND ELECTRONIC MAIL ADDRESS OF COUNTY PERSONNEL
24 WITH WHOM PERSONS MAY COMMUNICATE REGARDING THE ORDINANCE.

25 4. WHERE WRITTEN SUBMISSIONS ON THE PROPOSED ORDINANCE MAY BE
26 INSPECTED.

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

29 6. THE CURRENT STATUS OF THE PROPOSED ORDINANCE.

30 7. THE DATE THE ORDINANCE WAS SENT TO THE BOARD OF SUPERVISORS.

31 8. THE DATE OF THE ORDINANCE'S FILING AND PUBLICATION.

32 9. THE DATE THE ORDINANCE WAS APPROVED BY THE BOARD OF SUPERVISORS.

33 10. WHEN THE ORDINANCE WILL BECOME EFFECTIVE.

34 C. THE COUNTY SHALL PROVIDE PUBLIC NOTICE OF THE ESTABLISHMENT OF A
35 ORDINANCE ADOPTION DOCKET BY CAUSING A NOTICE OF DOCKET OPENING TO BE
36 PUBLISHED IN THE REGISTER, INCLUDING THE INFORMATION SET FORTH IN SUBSECTION
37 B, PARAGRAPHS 1, 2, 3 AND 5 OF THIS SECTION.

38 11-1633. Notice of proposed ordinance adoption, amendment or
39 repeal; contents of notice

40 A. BEFORE ORDINANCE ADOPTION, AMENDMENT OR REPEAL, THE COUNTY SHALL
41 FILE A NOTICE OF THE PROPOSED ACTION WITH THE COUNTY. THE NOTICE SHALL
42 INCLUDE:

43 1. THE PREAMBLE.

44 2. THE EXACT WORDING OF THE ORDINANCE.

1 B. THE COUNTY SHALL INCLUDE IN THE NEXT EDITION OF THE REGISTER THE
2 INFORMATION IN THE NOTICE UNDER SUBSECTION A OF THIS SECTION.

3 C. BEFORE COMMENCING ANY PROCEEDINGS FOR ORDINANCE ADOPTION, AMENDMENT
4 OR REPEAL, A COUNTY SHALL ALLOW AT LEAST THIRTY DAYS TO ELAPSE AFTER THE
5 PUBLICATION DATE OF THE REGISTER IN WHICH THE NOTICE OF THE PROPOSED
6 ORDINANCE ADOPTION, AMENDMENT OR REPEAL IS CONTAINED.

7 D. IF, AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, A COUNTY
8 DETERMINES THAT A PROPOSED ORDINANCE REQUIRES SUBSTANTIAL CHANGE PURSUANT TO
9 SECTION 11-1636, THE COUNTY SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING THE
10 CHANGES IN THE PROPOSED ORDINANCE. THE COUNTY SHALL PROVIDE FOR ADDITIONAL
11 PUBLIC COMMENT PURSUANT TO SECTION 11-1634.

12 11-1634. Public participation; written statements; oral
13 proceedings

14 A. FOR AT LEAST THIRTY DAYS AFTER PUBLICATION OF THE NOTICE OF THE
15 PROPOSED ORDINANCE ADOPTION, A COUNTY SHALL AFFORD PERSONS THE OPPORTUNITY TO
16 SUBMIT IN WRITING OR ELECTRONICALLY STATEMENTS, ARGUMENTS, DATA AND VIEWS ON
17 THE PROPOSED ORDINANCE, WITH OR WITHOUT THE OPPORTUNITY TO PRESENT THEM
18 ORALLY.

19 B. A COUNTY SHALL SCHEDULE AN ORAL PROCEEDING ON A PROPOSED ORDINANCE
20 IF, WITHIN THIRTY DAYS AFTER THE PUBLISHED NOTICE OF PROPOSED ORDINANCE
21 ADOPTION, A WRITTEN OR ELECTRONICALLY REQUEST FOR AN ORAL PROCEEDING IS
22 SUBMITTED TO THE COUNTY PERSONNEL LISTED PURSUANT TO SECTION 11-1632,
23 SUBSECTION B.

24 C. AN ORAL PROCEEDING ON A PROPOSED ORDINANCE MAY NOT BE HELD EARLIER
25 THAN THIRTY DAYS AFTER NOTICE OF ITS LOCATION AND TIME IS PUBLISHED IN THE
26 REGISTER. THE COUNTY SHALL DETERMINE A LOCATION AND TIME FOR THE ORAL
27 PROCEEDING THAT AFFORDS A REASONABLE OPPORTUNITY TO PERSONS TO PARTICIPATE.
28 THE ORAL PROCEEDING SHALL BE CONDUCTED IN A MANNER THAT ALLOWS FOR ADEQUATE
29 DISCUSSION OF THE SUBSTANCE AND THE FORM OF THE PROPOSED ORDINANCE, AND
30 PERSONS MAY ASK QUESTIONS REGARDING THE PROPOSED ORDINANCE AND PRESENT ORAL
31 ARGUMENT, DATA AND VIEWS ON THE PROPOSED ORDINANCE.

32 D. EACH COUNTY MAY ADOPT ORDINANCES FOR THE CONDUCT OF ORAL ORDINANCE
33 ADOPTION PROCEEDINGS. THOSE ORDINANCES MAY INCLUDE PROVISIONS CALCULATED TO
34 PREVENT UNDUE REPETITION IN THE ORAL PROCEEDINGS.

35 11-1635. Time and manner of ordinance adoption

36 A. A COUNTY MAY NOT SUBMIT AN ORDINANCE TO THE BOARD OF SUPERVISORS
37 UNTIL THE ORDINANCE ADOPTION RECORD IS CLOSED.

38 B. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE OF THE RECORD ON THE
39 PROPOSED ORDINANCE ADOPTION, A COUNTY SHALL TAKE ONE OF THE FOLLOWING
40 ACTIONS:

41 1. SUBMIT THE ORDINANCE TO THE BOARD OF SUPERVISORS.

42 2. TERMINATE THE PROCEEDING BY PUBLICATION OF A NOTICE TO THAT EFFECT
43 IN THE REGISTER.

1 C. BEFORE SUBMITTING AN ORDINANCE TO THE BOARD OF SUPERVISORS, A
2 COUNTY SHALL CONSIDER AND ADEQUATELY ADDRESS THE WRITTEN OR ELECTRONIC
3 SUBMISSIONS, THE ORAL SUBMISSIONS OR ANY MEMORANDUM SUMMARIZING ORAL
4 SUBMISSIONS.

5 D. UNLESS EXEMPTED BY SECTION 11-1610 OR UNLESS THE ORDINANCE IS AN
6 EMERGENCY ORDINANCE MADE PURSUANT TO SECTION 11-1637, IF THE COUNTY CHOOSES
7 TO MAKE THE ORDINANCE, THE COUNTY SHALL SUBMIT AN ORDINANCE PACKAGE TO THE
8 BOARD OF SUPERVISORS. THE ORDINANCE PACKAGE SHALL INCLUDE:

9 1. THE PREAMBLE.

10 2. THE EXACT WORDS OF THE ORDINANCE, INCLUDING EXISTING LANGUAGE AND
11 ANY DELETIONS.

12 E. IF THE ORDINANCE IS EXEMPT PURSUANT TO SECTION 11-1610, THE COUNTY
13 SHALL FILE IT AS A FINAL ORDINANCE WITH THE COUNTY CLERK.

14 F. A COUNTY SHALL NOT FILE A FINAL ORDINANCE WITH THE COUNTY CLERK
15 WITHOUT PRIOR APPROVAL FROM THE BOARD OF SUPERVISORS, UNLESS THE FINAL
16 ORDINANCE IS EXEMPTED PURSUANT TO SECTION 11-1610 OR THE ORDINANCE IS AN
17 EMERGENCY ORDINANCE MADE PURSUANT TO SECTION 11-1637.

18 11-1636. Variance between ordinance and published notice of
19 proposed ordinance

20 A. A COUNTY MAY NOT SUBMIT AN ORDINANCE TO THE BOARD OF SUPERVISORS
21 THAT IS SUBSTANTIALLY DIFFERENT FROM THE PROPOSED ORDINANCE CONTAINED IN THE
22 NOTICE OF PROPOSED ORDINANCE ADOPTION OR A SUPPLEMENTAL NOTICE FILED WITH THE
23 COUNTY PURSUANT TO SECTION 11-1633. A COUNTY MAY TERMINATE AN ORDINANCE
24 ADOPTION PROCEEDING AND COMMENCE A NEW ORDINANCE ADOPTION PROCEEDING FOR THE
25 PURPOSE OF MAKING A SUBSTANTIALLY DIFFERENT ORDINANCE.

26 B. IN DETERMINING WHETHER AN ORDINANCE IS SUBSTANTIALLY DIFFERENT FROM
27 THE PUBLISHED PROPOSED ORDINANCE ON WHICH IT IS REQUIRED TO BE BASED, ALL OF
28 THE FOLLOWING MUST BE CONSIDERED:

29 1. THE EXTENT TO WHICH ALL PERSONS AFFECTED BY THE ORDINANCE SHOULD
30 HAVE UNDERSTOOD THAT THE PUBLISHED PROPOSED ORDINANCE WOULD AFFECT THEIR
31 INTERESTS.

32 2. THE EXTENT TO WHICH THE SUBJECT MATTER OF THE ORDINANCE OR THE
33 ISSUES DETERMINED BY THAT ORDINANCE ARE DIFFERENT FROM THE SUBJECT MATTER OR
34 ISSUES INVOLVED IN THE PUBLISHED PROPOSED ORDINANCE.

35 3. THE EXTENT TO WHICH THE EFFECTS OF THE ORDINANCE DIFFER FROM THE
36 EFFECTS OF THE PUBLISHED PROPOSED ORDINANCE IF IT HAD BEEN MADE INSTEAD.

37 11-1637. Emergency ordinance adoption, amendment or repeal

38 A. IF A COUNTY MAKES A FINDING THAT AN ORDINANCE IS NECESSARY AS AN
39 EMERGENCY MEASURE, THE ORDINANCE MAY BE MADE, AMENDED OR REPEALED AS AN
40 EMERGENCY MEASURE, WITHOUT THE NOTICE PRESCRIBED BY SECTIONS 11-1632 AND
41 11-1633 AND PRIOR REVIEW BY THE BOARD OF SUPERVISORS, IF THE ORDINANCE IS
42 FIRST APPROVED BY THE COUNTY ATTORNEY AND FILED WITH THE COUNTY. THE COUNTY
43 ATTORNEY MAY NOT APPROVE THE ADOPTION, AMENDMENT OR REPEAL OF AN ORDINANCE AS
44 AN EMERGENCY MEASURE IF THE EMERGENCY SITUATION IS CREATED DUE TO THE
45 COUNTY'S DELAY OR INACTION AND THE EMERGENCY SITUATION COULD HAVE BEEN

1 AVERTED BY TIMELY COMPLIANCE WITH THE NOTICE AND PUBLIC PARTICIPATION
2 REQUIREMENTS OF THIS CHAPTER, UNLESS THE COUNTY SUBMITS SUBSTANTIAL EVIDENCE
3 THAT THE ORDINANCE IS NECESSARY AS AN EMERGENCY MEASURE TO DO ANY OF THE
4 FOLLOWING:

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

12 B. AFTER THE ORDINANCE IS FILED WITH THE COUNTY, THE COUNTY SHALL
13 PUBLISH THE ORDINANCE IN THE REGISTER AS PROVIDED IN SECTION 11-1623, AND THE
14 COUNTY, AS SOON AS PRACTICABLE, SHALL NOTIFY PERSONS THAT HAVE REQUESTED
15 NOTICES OF ORDINANCES RELATED TO THAT SUBJECT MATTER.

16 C. AN ORDINANCE ADOPTED, AMENDED OR REPEALED PURSUANT TO THIS SECTION
17 IS VALID FOR ONE HUNDRED EIGHTY DAYS AFTER THE FILING OF THE ORDINANCE WITH
18 THE COUNTY AND MAY BE RENEWED FOR ONE MORE ONE HUNDRED EIGHTY DAY PERIOD IF
19 ALL OF THE FOLLOWING OCCUR:

- 20 1. THE COUNTY DETERMINES THAT THE EMERGENCY SITUATION STILL EXISTS.
- 21 2. THE COUNTY FOLLOWS THE PROCEDURES PRESCRIBED IN THIS SECTION.
- 22 3. THE ORDINANCE IS APPROVED BY THE COUNTY ATTORNEY PURSUANT TO THIS
23 SECTION.

24 4. THE COUNTY HAS ISSUED THE ORDINANCE AS A PROPOSED ORDINANCE OR HAS
25 ISSUED AN ALTERNATIVE PROPOSED ORDINANCE PURSUANT TO SECTION 11-1633.

26 5. THE COUNTY SEEKS APPROVAL OF THE RENEWAL FROM THE COUNTY ATTORNEY
27 BEFORE THE EXPIRATION OF THE PRECEDING ONE HUNDRED EIGHTY DAY PERIOD.

28 6. THE COUNTY FILES NOTICE OF THE RENEWAL AND ANY REQUIRED COUNTY
29 ATTORNEY APPROVAL WITH THE COUNTY AND NOTICE IS PUBLISHED IN THE REGISTER.

30 D. AN ORDINANCE THAT IS ADOPTED PURSUANT TO THIS CHAPTER AND THAT
31 REPLACES AN ORDINANCE ADOPTED, AMENDED OR REPEALED PURSUANT TO THIS SECTION
32 SHALL EXPRESSLY REPEAL THE ORDINANCE REPLACED IF IT HAS NOT EXPIRED.

33 E. THIS SECTION DOES NOT PROHIBIT THE ADOPTION OF A NEW EMERGENCY
34 ORDINANCE IF, AT THE END OF THE EFFECTIVE PERIOD OF THE ORIGINAL EMERGENCY
35 ORDINANCE, THE COUNTY FINDS THAT THE IMMINENT PERIL TO THE PUBLIC HEALTH,
36 SAFETY OR WELFARE OR THE LOSS OF FEDERAL OR STATE FUNDING FOR A COUNTY
37 PROGRAM STILL EXISTS.

38 11-1638. Expedited ordinance adoption

39 A. A COUNTY MAY CONDUCT EXPEDITED ORDINANCE ADOPTION PURSUANT TO THIS
40 SECTION IF THE ORDINANCE ADOPTION DOES NOT INCREASE THE COST OF REGULATORY
41 COMPLIANCE OR REDUCE PROCEDURAL RIGHTS OF PERSONS REGULATED AND DOES ONE OR
42 MORE OF THE FOLLOWING:

- 43 1. AMENDS OR REPEALS ORDINANCES MADE OBSOLETE BY REPEAL OR
44 SUPERSESSION OF THE COUNTY'S STATUTORY AUTHORITY.

1 2. AMENDS OR REPEALS ORDINANCES FOR WHICH THE STATUTE ON WHICH THE
2 ORDINANCE IS AUTHORIZED HAS BEEN DECLARED UNCONSTITUTIONAL BY A COURT WITH
3 JURISDICTION, THERE IS A FINAL JUDGMENT AND NO STATUTE HAS BEEN ENACTED TO
4 REPLACE THE UNCONSTITUTIONAL STATUTE.

5 3. ADOPTS, AMENDS OR REPEALS ORDINANCES THAT REPEAT VERBATIM EXISTING
6 STATUTORY AUTHORITY GRANTED TO THE COUNTY.

7 4. ADOPTS, AMENDS OR REPEALS ORDINANCES RELATING ONLY TO INTERNAL
8 GOVERNMENTAL OPERATIONS THAT ARE NOT SUBJECT TO VIOLATION BY A PERSON.

9 5. CORRECTS TYPOGRAPHICAL ERRORS, MAKES ADDRESS OR NAME CHANGES OR
10 CLARIFIES LANGUAGE OF AN ORDINANCE WITHOUT CHANGING ITS EFFECT.

11 6. ADOPTS OR INCORPORATES BY REFERENCE WITHOUT MATERIAL CHANGE FEDERAL
12 STATUTES OR REGULATIONS, STATUTES OF THIS STATE OR RULES OF OTHER AGENCIES OF
13 THIS STATE PURSUANT TO SECTION 11-1639.

14 7. REDUCES OR CONSOLIDATES STEPS, PROCEDURES OR PROCESSES IN THE
15 ORDINANCES.

16 B. IF THE PROPOSED EXPEDITED ORDINANCE ADOPTION IS SOLELY FOR A
17 PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION, THE
18 COUNTY SHALL NOTIFY THE BOARD OF SUPERVISORS OF THE PROPOSED EXPEDITED
19 ORDINANCE ADOPTION. THE NOTICE SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE
20 NUMBER OF THE COUNTY CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED
21 EXPEDITED ORDINANCE ADOPTION AND INDICATE HOW THE PROPOSED EXPEDITED
22 ORDINANCE ADOPTION ACHIEVES THE PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH
23 1, 3 OR 5 OF THIS SECTION.

24 C. IF THE PROPOSED EXPEDITED ORDINANCE ADOPTION IS FOR A PURPOSE
25 PRESCRIBED IN SUBSECTION A, PARAGRAPH 2, 4, 6 OR 7 OF THIS SECTION, THE
26 COUNTY SHALL FILE A REQUEST FOR PROPOSED EXPEDITED ORDINANCE ADOPTION WITH
27 THE BOARD OF SUPERVISORS OF THE REQUEST. THE REQUEST SHALL CONTAIN THE NAME,
28 ADDRESS AND TELEPHONE NUMBER OF THE COUNTY CONTACT PERSON AND THE EXACT
29 WORDING OF THE PROPOSED EXPEDITED ORDINANCE ADOPTION AND AN EXPLANATION OF
30 HOW THE PROPOSED EXPEDITED ORDINANCE ADOPTION MEETS THE CRITERIA IN
31 SUBSECTION A OF THIS SECTION.

32 D. THE BOARD OF SUPERVISORS MAY APPROVE THE REQUEST FOR EXPEDITED
33 ORDINANCE ADOPTION IF THE REQUEST COMPLIES WITH SUBSECTION A OF THIS SECTION.

34 E. ON DELIVERY OF THE NOTICE REQUIRED IN SUBSECTION B OF THIS SECTION
35 OR ON APPROVAL BY THE BOARD OF SUPERVISORS OF A REQUEST FOR PROPOSED
36 EXPEDITED ORDINANCE ADOPTION THE COUNTY SHALL FILE A NOTICE OF THE PROPOSED
37 EXPEDITED ORDINANCE ADOPTION WITH THE COUNTY FOR PUBLICATION IN THE NEXT
38 REGISTER CONTAINING THE PROVISIONS OF THE PROPOSED ORDINANCE ADOPTION FILED
39 WITH THE COUNTY PURSUANT TO SUBSECTION B OR C OF THIS SECTION AND ALLOW ANY
40 PERSON TO PROVIDE WRITTEN COMMENT TO THE COUNTY FOR AT LEAST THIRTY DAYS
41 AFTER PUBLICATION IN THE REGISTER, INCLUDING OBJECTIONS TO THE ORDINANCE
42 ADOPTION BECAUSE IT DOES NOT MEET THE CRITERIA PURSUANT TO SUBSECTION A OF
43 THIS SECTION. THE COUNTY SHALL ADEQUATELY RESPOND IN WRITING TO THE COMMENTS
44 ON THE PROPOSED EXPEDITED ORDINANCE ADOPTION.

1 F. A COUNTY MAY NOT SUBMIT AN EXPEDITED ORDINANCE TO THE BOARD OF
2 SUPERVISORS THAT IS SUBSTANTIALLY DIFFERENT FROM THE PROPOSED ORDINANCE
3 CONTAINED IN THE NOTICE OF PROPOSED EXPEDITED ORDINANCE ADOPTION. HOWEVER, A
4 COUNTY MAY TERMINATE AN EXPEDITED ORDINANCE ADOPTION PROCEEDING PURSUANT TO
5 SUBSECTION K OF THIS SECTION AND COMMENCE A NEW ORDINANCE ADOPTION PROCEEDING
6 FOR THE PURPOSE OF MAKING A SUBSTANTIALLY DIFFERENT ORDINANCE. A COUNTY
7 SHALL USE THE CRITERIA PRESCRIBED IN SECTION 11-1636, SUBSECTION B FOR
8 DETERMINING WHETHER AN EXPEDITED ORDINANCE IS SUBSTANTIALLY DIFFERENT FROM
9 THE PUBLISHED PROPOSED EXPEDITED ORDINANCE.

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

22 H. BEFORE THE COUNTY FILES A NOTICE OF FINAL EXPEDITED ORDINANCE
23 ADOPTION WITH THE COUNTY, THE BOARD SHALL APPROVE ANY PROPOSED EXPEDITED
24 ORDINANCE ADOPTION. THE BOARD SHALL NOT APPROVE THE ORDINANCE UNLESS:

25 1. THE ORDINANCE SATISFIES THE CRITERIA FOR EXPEDITED ORDINANCE
26 ADOPTION PURSUANT TO SUBSECTION A OF THIS SECTION.

27 2. THE ORDINANCE IS CLEAR, CONCISE AND UNDERSTANDABLE.

28 3. THE ORDINANCE IS NOT ILLEGAL, INCONSISTENT WITH LEGISLATIVE INTENT
29 OR BEYOND THE COUNTY'S STATUTORY AUTHORITY.

30 4. THE COUNTY, IN WRITING, ADEQUATELY ADDRESSED THE COMMENTS ON THE
31 PROPOSED ORDINANCE AND ANY SUPPLEMENTARY PROPOSAL.

32 5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION
33 11-1645.

34 6. THE ORDINANCE IS NOT A SUBSTANTIAL CHANGE, CONSIDERED AS A WHOLE,
35 FROM THE PROPOSED ORDINANCE AND ANY SUPPLEMENTARY PROPOSAL.

36 7. THE ORDINANCE IMPOSES THE LEAST BURDEN AND COSTS TO PERSONS
37 REGULATED BY THE ORDINANCE.

38 I. ON RECEIPT OF BOARD'S APPROVAL, THE COUNTY SHALL FILE A NOTICE OF
39 FINAL EXPEDITED ORDINANCE ADOPTION WITH THE COUNTY THAT CONTAINS THE
40 INFORMATION REQUIRED IN SUBSECTION B OF THIS SECTION AND THAT THE COUNTY DID
41 RECEIVE APPROVAL FROM THE BOARD OF SUPERVISORS PURSUANT TO THIS SECTION.

42 J. THE EXPEDITED ORDINANCE ADOPTION BECOMES EFFECTIVE THIRTY DAYS
43 FOLLOWING PUBLICATION OF THE NOTICE OF PROPOSED EXPEDITED ORDINANCE ADOPTION.

44 K. A COUNTY MAY TERMINATE AN EXPEDITED ORDINANCE ADOPTION PROCEEDING
45 ON APPROVAL OF THE BOARD OF SUPERVISORS.

1 11-1639. Incorporation by reference

2 A. A COUNTY MAY INCORPORATE BY REFERENCE IN ITS ORDINANCES, AND
3 WITHOUT PUBLISHING THE INCORPORATED MATTER IN FULL, ALL OR ANY PART OF A
4 CODE, STANDARD, RULE OR REGULATION OF AN AGENCY OF THE UNITED STATES OR OF
5 THIS STATE OR A NATIONALLY RECOGNIZED ORGANIZATION OR ASSOCIATION, IF
6 INCORPORATION OF ITS TEXT IN COUNTY ORDINANCES WOULD BE UNDULY CUMBERSOME,
7 EXPENSIVE OR OTHERWISE INEXPEDIENT.

8 B. THE REFERENCE IN THE COUNTY ORDINANCES SHALL FULLY IDENTIFY THE
9 INCORPORATED MATTER BY LOCATION, DATE AND OTHERWISE AND SHALL STATE THAT THE
10 ORDINANCE DOES NOT INCLUDE ANY LATER AMENDMENTS OR EDITIONS OF THE
11 INCORPORATED MATTER.

12 C. A COUNTY MAY INCORPORATE BY REFERENCE SUCH MATTER IN ITS ORDINANCES
13 ONLY IF THE AGENCY, ORGANIZATION OR ASSOCIATION ORIGINALLY ISSUING THAT
14 MATTER MAKES COPIES OF IT READILY AVAILABLE TO THE PUBLIC FOR INSPECTION AND
15 REPRODUCTION.

16 D. THE ORDINANCES SHALL STATE WHERE COPIES OF THE INCORPORATED MATTER
17 ARE AVAILABLE FROM THE COUNTY ISSUING THE ORDINANCE AND FROM THE AGENCY OF
18 THE UNITED STATES OR THIS STATE OR THE ORGANIZATION OR ASSOCIATION ORIGINALLY
19 ISSUING THE MATTER.

20 E. A COUNTY MAY INCORPORATE LATER AMENDMENTS OR EDITIONS OF THE
21 INCORPORATED MATTER ONLY AFTER COMPLIANCE WITH THE ORDINANCE ADOPTION
22 REQUIREMENTS OF THIS CHAPTER.

23 11-1640. Invalidity of ordinances not made according to this
24 chapter

25 AN ORDINANCE IS INVALID UNLESS IT IS ADOPTED AND APPROVED IN
26 SUBSTANTIAL COMPLIANCE WITH SECTIONS 11-1632 THROUGH 11-1639, UNLESS
27 OTHERWISE PROVIDED BY LAW.

28 11-1641. Filing ordinances and preamble with county; permanent
29 record

30 A. FOLLOWING THE FILING OF AN ORDINANCE ADOPTED PURSUANT TO AN
31 EXEMPTION TO THIS CHAPTER OR FOLLOWING APPROVAL AND FILING OF AN ORDINANCE
32 AND PREAMBLE BY THE BOARD OF SUPERVISORS, THE COUNTY SHALL AFFIX TO EACH
33 ORDINANCE DOCUMENT AND PREAMBLE THE TIME AND DATE OF FILING. AN ORDINANCE IS
34 NOT FINAL UNTIL THE COUNTY AFFIXES THE TIME AND DATE OF FILING TO THE
35 ORDINANCE DOCUMENT AS PROVIDED IN THIS SECTION.

36 B. THE COUNTY SHALL KEEP A PERMANENT RECORD OF ORDINANCES AND
37 PREAMBLES FILED WITH THE OFFICE.

38 11-1642. Petition for an ordinance or review of a practice or
39 policy

40 A. ANY PERSON, IN A MANNER AND FORM PRESCRIBED BY THE COUNTY, MAY
41 PETITION A COUNTY REQUESTING THE MAKING OF A FINAL ORDINANCE, A REVIEW OF THE
42 VALIDITY OF AN ORDINANCE OR A REVIEW OF AN EXISTING COUNTY PRACTICE OR
43 SUBSTANTIVE POLICY STATEMENT THAT THE PETITIONER ALLEGES TO CONSTITUTE AN
44 ORDINANCE. THE PETITION SHALL CLEARLY STATE THE ORDINANCE, COUNTY PRACTICE
45 OR SUBSTANTIVE POLICY STATEMENT THAT THE PERSON WISHES THE COUNTY TO ADOPT OR

1 REVIEW. WITHIN FORTY-FIVE DAYS AFTER SUBMISSION OF A PETITION, THE COUNTY
2 SHALL EITHER DENY THE PETITION IN WRITING, STATING ITS REASONS FOR DENIAL,
3 INITIATE ORDINANCE ADOPTION PROCEEDINGS IN ACCORDANCE WITH THIS CHAPTER OR,
4 IF OTHERWISE LAWFUL, ADOPT AN ORDINANCE.

5 B. A PERSON MAY APPEAL TO THE BOARD OF SUPERVISORS THE COUNTY'S FINAL
6 DECISION WITHIN THIRTY DAYS AFTER THE COUNTY GIVES WRITTEN NOTICE PURSUANT TO
7 SUBSECTION A OF THIS SECTION. THE APPEAL SHALL BE LIMITED TO WHETHER THE
8 ORDINANCE IS VALID OR WHETHER AN EXISTING COUNTY PRACTICE OR SUBSTANTIVE
9 POLICY STATEMENT CONSTITUTES AN ORDINANCE. THE BOARD OF SUPERVISORS SHALL
10 PLACE THIS APPEAL ON THE AGENDA OF ITS NEXT MEETING IF AT LEAST THREE BOARD
11 OF SUPERVISORS MEMBERS MAKE SUCH A REQUEST OF THE BOARD OF SUPERVISORS WITHIN
12 TWO WEEKS AFTER THE FILING OF THE APPEAL.

13 C. A COUNTY PRACTICE OR SUBSTANTIVE POLICY STATEMENT APPEALED TO AND
14 CONSIDERED BY THE BOARD OF SUPERVISORS PURSUANT TO THIS SECTION REMAINS IN
15 EFFECT WHILE UNDER CONSIDERATION OF THE BOARD OF SUPERVISORS. IF THE BOARD
16 OF SUPERVISORS ULTIMATELY DECIDES THE ORDINANCE IS INVALID OR THE COUNTY
17 PRACTICE OR STATEMENT CONSTITUTES AN ORDINANCE, THE ORDINANCE, PRACTICE OR
18 STATEMENT SHALL BE CONSIDERED VOID.

19 D. A DECISION BY THE COUNTY PURSUANT TO THIS SECTION IS NOT SUBJECT TO
20 JUDICIAL REVIEW, EXCEPT THAT, IN ADDITION TO THE PROCEDURE PRESCRIBED IN THIS
21 SECTION OR IN LIEU OF THE PROCEDURE PRESCRIBED IN THIS SECTION, A PERSON MAY
22 SEEK DECLARATORY RELIEF PURSUANT TO SECTION 11-1643.

23 E. AN ASSOCIATION HAS STANDING TO PETITION A COUNTY AND APPEAL TO THE
24 BOARD OF SUPERVISORS PURSUANT TO THIS SECTION ON BEHALF OF ANY MEMBER.

25 11-1643. Declaratory judgment

26 A. AFTER THE ORDINANCE HAS BEEN CONSIDERED BY THE BOARD OF SUPERVISORS
27 PURSUANT TO SECTION 11-1642, ANY PERSON WHO IS OR MAY BE AFFECTED BY AN
28 ORDINANCE MAY OBTAIN A JUDICIAL DECLARATION OF THE VALIDITY OF THE ORDINANCE
29 BY FILING AN ACTION FOR DECLARATORY RELIEF IN THE SUPERIOR COURT IN MARICOPA
30 COUNTY PURSUANT TO TITLE 12, CHAPTER 10, ARTICLE 2.

31 B. AFTER THE EXISTING COUNTY PRACTICE OR SUBSTANTIVE POLICY STATEMENT
32 HAS BEEN CONSIDERED BY THE BOARD OF SUPERVISORS PURSUANT TO SECTION 11-1642,
33 ANY PERSON WHO IS OR MAY BE AFFECTED BY AN EXISTING COUNTY PRACTICE OR
34 SUBSTANTIVE POLICY STATEMENT THAT THE PERSON ALLEGES TO CONSTITUTE AN
35 ORDINANCE MAY OBTAIN A JUDICIAL DECLARATION ON WHETHER THE PRACTICE OR
36 SUBSTANTIVE POLICY STATEMENT CONSTITUTES AN ORDINANCE BY FILING AN ACTION FOR
37 DECLARATORY RELIEF IN THE SUPERIOR COURT IN MARICOPA COUNTY PURSUANT TO TITLE
38 12, CHAPTER 10, ARTICLE 2.

39 C. AN ASSOCIATION HAS STANDING TO FILE AN ACTION FOR DECLARATORY
40 RELIEF PURSUANT TO THIS SECTION ON BEHALF OF ANY MEMBER.

41 11-1644. Preamble; justifications for ordinance adoption

42 ONLY THE REASONS CONTAINED IN THE PREAMBLE MAY BE USED BY ANY PARTY AS
43 JUSTIFICATIONS FOR THE ADOPTION OF THE ORDINANCE IN ANY PROCEEDING IN WHICH
44 ITS VALIDITY IS AT ISSUE.

1 11-1645. General permits: issuance of traditional permit

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

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

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

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

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

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

18 11-1646. Standard procedural ordinances

19 A. THE BOARD OF SUPERVISORS SHALL ADOPT STANDARD PROCEDURAL ORDINANCES
20 FOR USE BY ITS DEPARTMENTS. THE STANDARD ORDINANCES MUST PROVIDE FOR THE
21 PROCEDURAL FUNCTIONS AND DUTIES OF AS MANY DEPARTMENTS AS IS PRACTICABLE.

22 B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C OF THIS SECTION, A
23 DEPARTMENT SHALL USE THE STANDARD PROCEDURAL ORDINANCES ADOPTED UNDER
24 SUBSECTION A OF THIS SECTION.

25 C. A DEPARTMENT MAY ADOPT AN ORDINANCE OF A PROCEDURE THAT DIFFERS
26 FROM THE STANDARD PROCEDURAL ORDINANCES ADOPTED UNDER SUBSECTION A OF THIS
27 SECTION IF IT IS CLEARLY IMPRACTICAL.

28 11-1647. Exemptions

29 THIS ARTICLE DOES NOT APPLY TO ANY:

30 1. ORDINANCE THAT RELATES TO THE USE OF PUBLIC WORKS, INCLUDING
31 STREETS AND HIGHWAYS, UNDER THE JURISDICTION OF A COUNTY IF THE EFFECT OF THE
32 ORDER IS INDICATED TO THE PUBLIC BY MEANS OF SIGNS OR SIGNALS.

33 2. ORDINANCE REGULATING MOTOR VEHICLE OPERATION THAT RELATES TO SPEED,
34 PARKING, STANDING, STOPPING OR PASSING.

35 3. ORDINANCE CONCERNING ONLY THE INTERNAL MANAGEMENT OF A COUNTY THAT
36 DOES NOT DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE
37 RIGHTS OR DUTIES OF ANY SEGMENT OF THE PUBLIC.

38 4. ORDINANCE THAT ONLY ESTABLISHES SPECIFIC PRICES TO BE CHARGED FOR
39 PARTICULAR GOODS OR SERVICES SOLD BY A COUNTY.

40 5. ORDINANCE CONCERNING ONLY THE PHYSICAL SERVICING, MAINTENANCE OR
41 CARE OF COUNTY OWNED OR OPERATED FACILITIES OR PROPERTY.

42 6. ORDINANCE THAT RELATES TO INMATES OR COMMITTED YOUTH, A
43 CORRECTIONAL OR DETENTION FACILITY UNDER THE JURISDICTION OF THE COUNTY OR A
44 PATIENT ADMITTED TO AN INSTITUTION OR TREATMENT CENTER PURSUANT TO COURT
45 ORDER.

1 Sec. 19. Section 48-3642, Arizona Revised Statutes, is amended to
2 read:

3 48-3642. Regulatory bill of rights

4 To ensure fair and open regulation by districts, a person:

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

8 2. Is entitled to receive information and notice regarding inspections
9 as provided in section 48-3643.

10 3. Is entitled to have a district not base a licensing decision in
11 whole or in part on licensing conditions or requirements that are not
12 specifically authorized as provided in section 48-3644.

13 4. May have a district approve or deny the person's license
14 application within a predetermined period of time as provided in section
15 48-3645.

16 5. Is entitled to receive written or electronic notice from a district
17 on denial of a license application:

18 (a) That justifies the denial with references to the statute,
19 ordinance, regulation, executive order, delegation agreement or authorized
20 substantive policy statement on which the denial is based as provided in
21 section 48-3645.

22 (b) That explains the applicant's right to appeal the denial as
23 provided in section 48-3645.

24 6. Is entitled to receive information regarding the license
25 application process at the time the person obtains an application for a
26 license as provided in section 48-3646.

27 7. May inspect all ordinances, regulations and substantive policy
28 statements of a district, including a directory of documents, at the office
29 of the district or a district website as provided in section 48-3647.

30 8. Unless specifically authorized, may expect districts to avoid
31 duplication of other laws that do not enhance regulatory clarity and to avoid
32 dual permitting to the maximum extent practicable as provided in section
33 48-3644.

34 9. May file a complaint with the board of review concerning an
35 ordinance, **RULE**, regulation or substantive policy statement that fails to
36 comply with this section.

37 10. **MAY REVIEW THE FULL TEXT OR SUMMARY OF ALL RULE MAKING ACTIVITY,**
38 **THE SUMMARY OF SUBSTANTIVE POLICY STATEMENTS AND THE FULL TEXT OF EXECUTIVE**
39 **ORDERS IN THE REGISTER AS PROVIDED IN ARTICLE 3 OF THIS CHAPTER.**

40 11. **MAY PARTICIPATE IN THE RULE MAKING PROCESS AS PROVIDED IN ARTICLE 4**
41 **OF THIS CHAPTER, INCLUDING PROVIDING WRITTEN OR ORAL COMMENTS ON PROPOSED**
42 **RULES TO A DISTRICT AS PROVIDED IN SECTION 48-3674 AND HAVING THE DISTRICT**
43 **ADEQUATELY ADDRESS THOSE COMMENTS AS PROVIDED IN SECTION 48-3675.**

44 12. **MAY ALLEGE THAT AN EXISTING DISTRICT PRACTICE OR SUBSTANTIVE POLICY**
45 **STATEMENT CONSTITUTES A RULE AND HAVE THAT DISTRICT PRACTICE OR SUBSTANTIVE**

1 POLICY STATEMENT DECLARED VOID BECAUSE THE PRACTICE OR SUBSTANTIVE POLICY
2 STATEMENT CONSTITUTES A RULE AS PROVIDED IN SECTION 48-3682.

3 Sec. 20. Section 48-3648, Arizona Revised Statutes, is amended to
4 read:

5 48-3648. Complaints; board of review

6 A. The board of review shall receive complaints concerning ordinances,
7 RULE, REGULATIONS, substantive policy statements or district practices
8 alleged to violate this ~~article~~ CHAPTER. The board of review may review any
9 ordinance, RULE, regulation, substantive policy statement or district
10 practice alleged to violate this ~~article~~ CHAPTER and may hold hearings
11 regarding the allegations. The board of review may recommend actions to
12 alleviate the aspects of the ordinances, RULES, regulations, substantive
13 policy statements or district practices alleged to violate this ~~article~~
14 CHAPTER.

15 B. THE BOARD MAY REQUIRE THE COMPLAINT TO BE MADE IN WRITING AND
16 INCLUDE THE FOLLOWING INFORMATION:

- 17 1. THE NAME AND ADDRESS OF THE PERSON MAKING THE COMPLAINT.
- 18 2. THE ORDINANCE, RULE, SUBSTANTIVE POLICY STATEMENT ALLEGED TO
19 VIOLATE THIS CHAPTER.
- 20 3. ANY FACTS RELEVANT TO AND THE LEGAL BASIS FOR THE COMPLAINT.

21 Sec. 21. Section 48-3649, Arizona Revised Statutes, is amended to
22 read:

23 48-3649. Clarification of interpretation

24 A. A REGULATED person may request a district to clarify its
25 interpretation or application of a statute, ordinance, regulation, executive
26 order, delegation agreement or authorized substantive policy statement
27 affecting the REGULATED PERSON'S procurement of a license by providing the
28 district with a written request that states:

- 29 1. The name and address of the REGULATED person requesting the
30 clarification.
- 31 2. The statute, ordinance, RULE, regulation, executive order,
32 delegation agreement or authorized substantive policy statement or part of
33 the statute, ordinance, RULE, regulation, executive order, delegation
34 agreement or authorized substantive policy statement that requires
35 clarification.
- 36 3. Any facts relevant to the requested ~~ruling~~ CLARIFICATION.
- 37 4. The REGULATED person's proposed interpretation of the applicable
38 statute, ordinance, RULE, regulation, executive order, delegation agreement
39 or authorized substantive policy statement or part of the statute, ordinance,
40 RULE, regulation, executive order, delegation agreement or authorized
41 substantive policy statement.
- 42 5. Whether, to the best knowledge of the REGULATED person, the issues
43 or related issues are being considered by the district in connection with an
44 existing license or license application.

1 B. On receipt of a request that complies with subsection A, the
2 district may meet with the **REGULATED** person to discuss the written request
3 and shall respond within thirty days of the receipt of the written request
4 with a written explanation of its interpretation or application as raised in
5 the written request. The district shall provide the requestor with an
6 opportunity to meet and discuss the district's written explanation.

7 C. A district may modify a written explanation provided under
8 subsection B on written notice to the **REGULATED** person if required by a
9 change in the law that was applicable at the time the clarification ~~or~~ **OF**
10 interpretation was issued, including changes caused by legislation,
11 administrative rules formally adopted by the governing body or a court
12 decision.

13 Sec. 22. Title 48, chapter 21, article 2, Arizona Revised Statutes, is
14 amended by adding section 48-3651, to read:

15 **48-3651. Substantive policy statements; directory**

16 A. A DISTRICT SHALL FILE SUBSTANTIVE POLICY STATEMENTS PURSUANT TO
17 SECTION 48-3663.

18 B. A DISTRICT SHALL ENSURE THAT THE FIRST PAGE OF EACH SUBSTANTIVE
19 POLICY STATEMENT INCLUDES THE FOLLOWING NOTICE:

20 THIS SUBSTANTIVE POLICY STATEMENT IS ADVISORY ONLY. A
21 SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL
22 PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF
23 THE DISTRICT AND DOES NOT IMPOSE ADDITIONAL REQUIREMENTS OR
24 PENALTIES ON REGULATED PARTIES OR INCLUDE CONFIDENTIAL
25 INFORMATION OR RULES MADE IN ACCORDANCE WITH THE DISTRICT
26 ADMINISTRATIVE PROCEDURE ACT. IF YOU BELIEVE THAT THIS
27 SUBSTANTIVE POLICY STATEMENT DOES IMPOSE ADDITIONAL REQUIREMENTS
28 OR PENALTIES ON REGULATED PARTIES YOU MAY PETITION THE DISTRICT
29 UNDER SECTION 48-3682, ARIZONA REVISED STATUTES, FOR A REVIEW OF
30 THE STATEMENT.

31 C. THE DISTRICT SHALL PUBLISH AT LEAST ANNUALLY A DIRECTORY
32 SUMMARIZING THE SUBJECT MATTER OF ALL CURRENTLY APPLICABLE RULES AND
33 SUBSTANTIVE POLICY STATEMENTS. THE DISTRICT SHALL KEEP COPIES OF THIS
34 DIRECTORY AND ALL OF ITS SUBSTANTIVE POLICY STATEMENTS AT ONE LOCATION. THE
35 DIRECTORY, RULES AND SUBSTANTIVE POLICY STATEMENTS AND ANY MATERIALS
36 INCORPORATED BY REFERENCE IN THE RULES OR SUBSTANTIVE POLICY STATEMENTS SHALL
37 BE OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE DISTRICT DIRECTOR OR
38 DISTRICT WEBSITE.

39 Sec. 23. Title 48, chapter 21, Arizona Revised Statutes, is amended by
40 adding articles 3 and 4, to read:

41 ARTICLE 3. PUBLICATION OF DISTRICT RULES

42 **48-3661. Publication and distribution of code and register**

43 THE DISTRICT CLERK IS RESPONSIBLE FOR THE PUBLICATION AND DISTRIBUTION
44 OF THE CODE AND THE REGISTER.

1 48-3662. Code: publication of rules: distribution

2 A. THE CODE SHALL CONTAIN THE FULL TEXT OF EACH FINAL RULE FILED WITH
3 THE DISTRICT CLERK AND EACH RULE MADE PURSUANT TO A STATUTORY EXEMPTION FROM
4 THE APPLICABILITY OF THIS CHAPTER.

5 B. THE DISTRICT CLERK SHALL PUBLISH, IN LOOSE-LEAF FORM OR ON THE
6 DISTRICT'S WEBSITE, AT LEAST ONCE EVERY QUARTER ALL FINAL RULES AND RULES
7 MADE PURSUANT TO A STATUTORY EXEMPTION FROM THE APPLICABILITY OF THIS
8 CHAPTER. PUBLICATION OF A RULE BY THE DISTRICT CLERK AS PROVIDED IN THIS
9 SECTION CONSTITUTES PRIMA FACIE EVIDENCE OF THE MAKING AND FILING OF THE RULE
10 PURSUANT TO THIS CHAPTER OR THE MAKING OF THE RULE PURSUANT TO A STATUTORY
11 EXEMPTION FROM THE APPLICABILITY OF THIS CHAPTER.

12 C. THE DISTRICT CLERK MAY CONTRACT FOR THE PRINTING OF THE CODE ON
13 TERMS MOST ADVANTAGEOUS TO THE DISTRICT.

14 D. THE CODE SHALL BE AVAILABLE BY SUBSCRIPTION AND FOR SINGLE COPY
15 PURCHASE. THE CHARGE FOR EACH CODE OR PERIODIC SUBSCRIPTION SHALL BE A
16 REASONABLE CHARGE, NOT TO EXCEED ALL COSTS OF PRODUCTION AND DISTRIBUTION OF
17 THE CODE.

18 48-3663. Register

19 A. THE DISTRICT CLERK SHALL PUBLISH THE REGISTER OR UPDATE THE
20 REGISTER THAT IS AVAILABLE ON THE DISTRICT'S WEBSITE AT LEAST ONCE EACH
21 MONTH, INCLUDING THE INFORMATION THAT IS PROVIDED UNDER SUBSECTION B OF THIS
22 SECTION AND THAT IS FILED WITH THE DISTRICT CLERK DURING THE PRECEDING THIRTY
23 DAYS. THE DISTRICT CLERK SHALL PUBLISH AN INDEX TO THE REGISTER AT LEAST
24 TWICE EACH YEAR AND MAKE THE INDEX AVAILABLE ON THE DISTRICT'S WEBSITE.

25 B. THE REGISTER SHALL CONTAIN:

26 1. A SCHEDULE OF THE TIME, DATE AND PLACE OF ALL HEARINGS ON PROPOSED
27 REPEALS, MAKINGS OR AMENDMENTS OF RULES.

28 2. THE NOTICE AND SUMMARY OF EACH DOCKET OPENING.

29 3. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH PROPOSED RULE.

30 4. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH FINAL RULE.

31 5. THE FULL TEXT AND ACCOMPANYING PREAMBLE OF EACH EMERGENCY RULE.

32 6. SUPPLEMENTAL NOTICES OF A PROPOSED RULE OR SUMMARY RULE.

33 7. A SUMMARY OF BOARD ACTION ON EACH RULE.

34 8. THE IDENTIFICATION AND A SUMMARY OF SUBSTANTIVE POLICY STATEMENTS
35 AND NOTICE AND A SUMMARY OF ANY GUIDANCE DOCUMENT PUBLICATION OR REVISION
36 SUBMITTED BY DISTRICT.

37 9. NOTICES OF ORAL PROCEEDINGS, PUBLIC WORKSHOPS OR OTHER MEETINGS ON
38 AN OPEN RULE MAKING DOCKET.

39 C. FOR THE PURPOSES OF THIS SECTION, FULL TEXT PUBLICATION IN THE
40 REGISTER INCLUDES ALL NEW, AMENDED OR ADDED LANGUAGE AND SUCH EXISTING
41 LANGUAGE AS THE PROPOSING DISTRICT DEEMS NECESSARY FOR A PROPER UNDERSTANDING
42 OF THE PROPOSED RULE. RULES THAT ARE UNDERGOING EXTENSIVE REVISION MAY BE
43 REPRINTED IN WHOLE.

ARTICLE 4. RULE MAKING

48-3671. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE BOARD OF DIRECTORS OF A FLOOD CONTROL DISTRICT ORGANIZED UNDER ARTICLE 1 OF THIS CHAPTER.

2. "DISTRICT" MEANS A DISTRICT ORGANIZED PURSUANT TO ARTICLE 1 OF THIS CHAPTER.

3. "EMERGENCY RULE" MEANS A RULE THAT IS MADE PURSUANT TO SECTION 48-3679.

4. "FEE" MEANS A CHARGE PRESCRIBED BY A DISTRICT FOR AN INSPECTION OR FOR OBTAINING A LICENSE.

5. "FINAL RULE" MEANS ANY RULE FILED WITH THE DISTRICT CLERK AND MADE PURSUANT TO AN EXEMPTION FROM THIS CHAPTER PURSUANT TO SECTION 48-3650 OR MADE PURSUANT TO SECTION 48-3677, APPROVED BY THE BOARD. FOR PURPOSES OF JUDICIAL REVIEW, A FINAL RULE INCLUDES PROPOSED EXPEDITED RULES HAVING INTERIM EFFECT PURSUANT TO SECTION 48-3678.

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

7. "LICENSE" INCLUDES THE WHOLE OR PART OF ANY DISTRICT PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY LAW, BUT DOES NOT INCLUDE A LICENSE REQUIRED SOLELY FOR REVENUE PURPOSES.

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

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

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

11. "PREAMBLE" MEANS:

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

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

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

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

1 (iv) A REFERENCE TO ANY STUDY RELEVANT TO THE RULE THAT THE DISTRICT
2 REVIEWED AND EITHER PROPOSES TO RELY ON IN ITS EVALUATION OF OR JUSTIFICATION
3 FOR THE RULE OR PROPOSES NOT TO RELY ON IN ITS EVALUATION OF OR JUSTIFICATION
4 FOR THE RULE, WHERE THE PUBLIC MAY OBTAIN OR REVIEW EACH STUDY, ALL DATA
5 UNDERLYING EACH STUDY AND ANY ANALYSIS OF EACH STUDY AND OTHER SUPPORTING
6 MATERIAL.

7 (v) A SHOWING OF GOOD CAUSE WHY THE RULE IS NECESSARY TO PROMOTE A
8 DISTRICT INTEREST.

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

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

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

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

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

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

31 (iii) A SUMMARY OF THE COMMENTS MADE REGARDING THE RULE AND THE
32 DISTRICT RESPONSE TO THE COMMENTS.

33 (iv) A SUMMARY OF THE BOARD'S ACTION ON THE RULE.

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

35 (e) IN ADDITION TO THE INFORMATION SET FORTH IN SUBDIVISION (a) OF
36 THIS PARAGRAPH, FOR AN EMERGENCY RULE, THE PREAMBLE ALSO SHALL INCLUDE AN
37 EXPLANATION OF THE SITUATION JUSTIFYING THE RULE BEING MADE AS AN EMERGENCY
38 RULE, THE DATE OF THE COUNTY ATTORNEY'S APPROVAL OF THE RULE AND A STATEMENT
39 OF THE EMERGENCY RULE'S EFFECTIVE DATE.

40 12. "PROVISION OF LAW" MEANS THE WHOLE OR A PART OF THE UNITED STATES
41 OR ARIZONA CONSTITUTION, OR OF ANY FEDERAL OR STATE STATUTE, RULE OF COURT,
42 ORDINANCE OR RULE OF A DISTRICT.

43 13. "RULE" MEANS A DISTRICT STATEMENT OF GENERAL APPLICABILITY THAT
44 IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR POLICY, OR DESCRIBES THE
45 PROCEDURE OR PRACTICE REQUIREMENTS OF A DISTRICT. RULE INCLUDES PRESCRIBING

1 FEES OR THE AMENDMENT OR REPEAL OF A PRIOR RULE BUT DOES NOT INCLUDE INTERNAL
2 PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE DISTRICT
3 AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES
4 OR CONFIDENTIAL INFORMATION, RULES ADOPTED BY THE DISTRICT OR A DISTRICT'S
5 SUBSTANTIVE POLICY STATEMENT.

6 14. "RULE MAKING" MEANS THE PROCESS FOR FORMULATION AND FINALIZATION OF
7 A RULE.

8 15. "SUBSTANTIVE POLICY STATEMENT" MEANS A WRITTEN EXPRESSION THAT IS
9 ONLY ADVISORY AND INFORMS THE GENERAL PUBLIC OF A DISTRICT'S CURRENT APPROACH
10 TO, OR OPINION OF, THE REQUIREMENTS OF THE ORDINANCES OR CODES, INCLUDING,
11 WHERE APPROPRIATE, THE DISTRICT'S CURRENT PRACTICE, PROCEDURE OR METHOD OF
12 ACTION BASED ON THAT APPROACH OR OPINION. A SUBSTANTIVE POLICY STATEMENT
13 DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL
14 PROCEDURES OF THE DISTRICT AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS OR
15 PENALTIES ON REGULATED PARTIES OR CONFIDENTIAL INFORMATION, INTERPRETATION
16 REQUESTED BY A REGULATED PERSON PURSUANT TO SECTION 48-3649, RULES PURSUANT
17 TO THIS ARTICLE AND RULES ADOPTED BY THE DISTRICT.

18 48-3672. Public rule making docket

19 A. EACH DISTRICT SHALL ESTABLISH AND MAINTAIN A CURRENT, PUBLIC RULE
20 MAKING DOCKET FOR EACH PENDING RULE MAKING PROCEEDING. A RULE MAKING
21 PROCEEDING IS PENDING FROM THE TIME THE DISTRICT BEGINS TO CONSIDER PROPOSING
22 THE RULE UNDER SECTION 48-3673 UNTIL ANY ONE OF THE FOLLOWING OCCURS:

23 1. THE TIME THE RULE MAKING PROCEEDING IS TERMINATED BY THE DISTRICT
24 INDICATING IN THE RULE MAKING DOCKET THAT THE DISTRICT IS NO LONGER ACTIVELY
25 CONSIDERING PROPOSING THE RULE.

26 2. ONE YEAR AFTER THE NOTICE OF RULE MAKING DOCKET OPENING IS
27 PUBLISHED IN THE REGISTER IF THE DISTRICT HAS NOT FILED A NOTICE OF THE
28 PROPOSED RULE MAKING WITH THE DISTRICT CLERK PURSUANT TO SECTION 48-3673.

29 3. THE RULE BECOMES EFFECTIVE.

30 4. ONE YEAR AFTER THE NOTICE OF THE PROPOSED RULE MAKING IS PUBLISHED
31 IN THE REGISTER IF THE DISTRICT HAS NOT SUBMITTED THE RULE TO THE BOARD FOR
32 REVIEW AND APPROVAL.

33 5. PUBLICATION OF A NOTICE OF TERMINATION.

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

36 1. THE SUBJECT MATTER OF THE PROPOSED RULE.

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

38 3. THE NAME, ADDRESS AND ELECTRONIC MAIL ADDRESS OF DISTRICT PERSONNEL
39 WITH WHOM PERSONS MAY COMMUNICATE REGARDING THE RULE.

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

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

43 6. THE CURRENT STATUS OF THE PROPOSED RULE.

44 7. THE DATE THE RULE WAS SENT TO THE BOARD.

45 8. THE DATE OF THE RULE'S FILING AND PUBLICATION.

1 9. THE DATE THE RULE WAS APPROVED BY THE BOARD.
2 10. WHEN THE RULE WILL BECOME EFFECTIVE.
3 C. THE DISTRICT SHALL PROVIDE PUBLIC NOTICE OF THE ESTABLISHMENT OF A
4 RULE MAKING DOCKET BY CAUSING A NOTICE OF DOCKET OPENING TO BE PUBLISHED IN
5 THE REGISTER, INCLUDING THE INFORMATION SET FORTH IN SUBSECTION B, PARAGRAPHS
6 1, 2, 3 AND 5 OF THIS SECTION.
7 48-3673. Notice of proposed rule making, amendment or repeal;
8 contents of notice
9 A. BEFORE RULE MAKING, AMENDMENT OR REPEAL, THE DISTRICT SHALL FILE A
10 NOTICE OF THE PROPOSED ACTION WITH THE DISTRICT CLERK. THE NOTICE SHALL
11 INCLUDE:
12 1. THE PREAMBLE.
13 2. THE EXACT WORDING OF THE RULE.
14 B. THE DISTRICT CLERK SHALL INCLUDE IN THE NEXT EDITION OF THE
15 REGISTER THE INFORMATION IN THE NOTICE UNDER SUBSECTION A OF THIS SECTION.
16 C. BEFORE COMMENCING ANY PROCEEDINGS FOR RULE MAKING, AMENDMENT OR
17 REPEAL, A DISTRICT SHALL ALLOW AT LEAST THIRTY DAYS TO ELAPSE AFTER THE
18 PUBLICATION DATE OF THE REGISTER IN WHICH THE NOTICE OF THE PROPOSED RULE
19 MAKING, AMENDMENT OR REPEAL IS CONTAINED.
20 D. IF, AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, A DISTRICT
21 DETERMINES THAT A PROPOSED RULE REQUIRES SUBSTANTIAL CHANGE PURSUANT TO
22 SECTION 48-3676, THE DISTRICT SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING
23 THE CHANGES IN THE PROPOSED RULE. THE DISTRICT SHALL PROVIDE FOR ADDITIONAL
24 PUBLIC COMMENT PURSUANT TO SECTION 48-3674.
25 48-3674. Public participation: written statements; oral
26 proceeding
27 A. FOR AT LEAST THIRTY DAYS AFTER PUBLICATION OF THE NOTICE OF THE
28 PROPOSED RULE MAKING, A DISTRICT SHALL AFFORD PERSONS THE OPPORTUNITY TO
29 SUBMIT IN WRITING OR ELECTRONICALLY STATEMENTS, ARGUMENTS, DATA AND VIEWS ON
30 THE PROPOSED RULE, WITH OR WITHOUT THE OPPORTUNITY TO PRESENT THEM ORALLY.
31 B. A DISTRICT SHALL SCHEDULE AN ORAL PROCEEDING ON A PROPOSED RULE IF,
32 WITHIN THIRTY DAYS AFTER THE PUBLISHED NOTICE OF PROPOSED RULE MAKING, A
33 WRITTEN OR ELECTRONIC REQUEST FOR AN ORAL PROCEEDING IS SUBMITTED TO THE
34 DISTRICT PERSONNEL LISTED PURSUANT TO SECTION 48-3672, SUBSECTION B.
35 C. AN ORAL PROCEEDING ON A PROPOSED RULE MAY NOT BE HELD EARLIER THAN
36 THIRTY DAYS AFTER NOTICE OF ITS LOCATION AND TIME IS PUBLISHED IN THE
37 REGISTER. THE DISTRICT SHALL DETERMINE A LOCATION AND TIME FOR THE ORAL
38 PROCEEDING THAT AFFORDS A REASONABLE OPPORTUNITY TO PERSONS TO PARTICIPATE.
39 THE ORAL PROCEEDING SHALL BE CONDUCTED IN A MANNER THAT ALLOWS FOR ADEQUATE
40 DISCUSSION OF THE SUBSTANCE AND THE FORM OF THE PROPOSED RULE, AND PERSONS
41 MAY ASK QUESTIONS REGARDING THE PROPOSED RULE AND PRESENT ORAL ARGUMENT, DATA
42 AND VIEWS ON THE PROPOSED RULE.
43 D. EACH DISTRICT MAY MAKE RULES FOR THE CONDUCT OF ORAL RULE MAKING
44 PROCEEDINGS. THOSE RULES MAY INCLUDE PROVISIONS CALCULATED TO PREVENT UNDUE
45 REPETITION IN THE ORAL PROCEEDINGS.

1 48-3675. Time and manner of rule making

2 A. A DISTRICT MAY NOT SUBMIT A RULE TO THE BOARD UNTIL THE RULE MAKING
3 RECORD IS CLOSED.

4 B. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE OF THE RECORD ON THE
5 PROPOSED RULE MAKING, A DISTRICT SHALL TAKE ONE OF THE FOLLOWING ACTIONS:

6 1. SUBMIT THE RULE TO THE BOARD.

7 2. TERMINATE THE PROCEEDING BY PUBLICATION OF A NOTICE TO THAT EFFECT
8 IN THE REGISTER.

9 C. BEFORE SUBMITTING A RULE TO THE BOARD, A DISTRICT SHALL CONSIDER
10 AND ADEQUATELY ADDRESS THE WRITTEN OR ELECTRONIC SUBMISSIONS, THE ORAL
11 SUBMISSIONS OR ANY MEMORANDUM SUMMARIZING ORAL SUBMISSIONS.

12 D. UNLESS EXEMPTED BY SECTION 48-3650 OR UNLESS THE RULE IS AN
13 EMERGENCY RULE MADE PURSUANT TO SECTION 48-3677, IF THE DISTRICT CHOOSES TO
14 MAKE THE RULE, THE DISTRICT SHALL SUBMIT A RULE PACKAGE TO THE BOARD. THE
15 RULE PACKAGE SHALL INCLUDE:

16 1. THE PREAMBLE.

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

19 E. IF THE RULE IS EXEMPT PURSUANT TO SECTION 48-3650, THE DISTRICT
20 SHALL FILE IT AS A FINAL RULE WITH THE DISTRICT CLERK.

21 F. A DISTRICT SHALL NOT FILE A FINAL RULE WITH THE DISTRICT CLERK
22 WITHOUT PRIOR APPROVAL FROM THE BOARD, UNLESS THE FINAL RULE IS EXEMPTED
23 PURSUANT TO SECTION 48-3650 OR THE RULE IS AN EMERGENCY RULE MADE PURSUANT TO
24 SECTION 48-3677.

25 48-3676. Variance between rule and published notice of proposed
26 rule

27 A. A DISTRICT MAY NOT SUBMIT A RULE TO THE BOARD THAT IS SUBSTANTIALLY
28 DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE NOTICE OF PROPOSED RULE
29 MAKING OR A SUPPLEMENTAL NOTICE FILED WITH THE DISTRICT CLERK PURSUANT TO
30 SECTION 48-3673. A DISTRICT MAY TERMINATE A RULE MAKING PROCEEDING AND
31 COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A
32 SUBSTANTIALLY DIFFERENT RULE.

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

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

38 2. THE EXTENT TO WHICH THE SUBJECT MATTER OF THE RULE OR THE ISSUES
39 DETERMINED BY THAT RULE ARE DIFFERENT FROM THE SUBJECT MATTER OR ISSUES
40 INVOLVED IN THE PUBLISHED PROPOSED RULE.

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

1 48-3677. Emergency rule making, amendment or repeal

2 A. IF A DISTRICT MAKES A FINDING THAT A RULE IS NECESSARY AS AN
3 EMERGENCY MEASURE, THE RULE MAY BE MADE, AMENDED OR REPEALED AS AN EMERGENCY
4 MEASURE, WITHOUT THE NOTICE PRESCRIBED BY SECTIONS 48-3672 AND 48-3673 AND
5 PRIOR REVIEW BY THE BOARD, IF THE RULE IS FIRST APPROVED BY THE DISTRICT
6 ATTORNEY AND FILED WITH THE DISTRICT CLERK. THE DISTRICT ATTORNEY MAY NOT
7 APPROVE THE MAKING, AMENDMENT OR REPEAL OF A RULE AS AN EMERGENCY MEASURE IF
8 THE EMERGENCY SITUATION IS CREATED DUE TO THE DISTRICT'S DELAY OR INACTION
9 AND THE EMERGENCY SITUATION COULD HAVE BEEN AVERTED BY TIMELY COMPLIANCE WITH
10 THE NOTICE AND PUBLIC PARTICIPATION REQUIREMENTS OF THIS CHAPTER, UNLESS THE
11 DISTRICT SUBMITS SUBSTANTIAL EVIDENCE THAT THE RULE IS NECESSARY AS AN
12 EMERGENCY MEASURE TO DO ANY OF THE FOLLOWING:

- 13 1. PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE.
- 14 2. COMPLY WITH DEADLINES IN AMENDMENTS TO A DISTRICT'S GOVERNING LAW
15 OR FEDERAL PROGRAMS.
- 16 3. AVOID VIOLATION OF FEDERAL LAW OR REGULATION OR OTHER STATE LAW.
- 17 4. AVOID AN IMMINENT BUDGET REDUCTION.
- 18 5. AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST OR THE INTEREST OF
19 THE PARTIES CONCERNED.

20 B. AFTER THE RULE IS FILED WITH THE DISTRICT CLERK, THE DISTRICT CLERK
21 SHALL PUBLISH THE RULE IN THE REGISTER AS PROVIDED IN SECTION 48-3663 AND THE
22 DISTRICT SHALL, AS SOON AS PRACTICABLE, NOTIFY PERSONS THAT HAVE REQUESTED
23 NOTICES OF RULES RELATED TO THAT SUBJECT MATTER.

24 C. A RULE MADE, AMENDED OR REPEALED PURSUANT TO THIS SECTION IS VALID
25 FOR ONE HUNDRED EIGHTY DAYS AFTER THE FILING OF THE RULE WITH THE DISTRICT
26 CLERK AND MAY BE RENEWED FOR ONE MORE ONE HUNDRED EIGHTY DAY PERIOD IF ALL OF
27 THE FOLLOWING OCCUR:

- 28 1. THE DISTRICT DETERMINES THAT THE EMERGENCY SITUATION STILL EXISTS.
- 29 2. THE DISTRICT FOLLOWS THE PROCEDURES PRESCRIBED IN THIS SECTION.
- 30 3. THE RULE IS APPROVED BY THE DISTRICT ATTORNEY PURSUANT TO THIS
31 SECTION.
- 32 4. THE DISTRICT HAS ISSUED THE RULE AS A PROPOSED RULE OR HAS ISSUED
33 AN ALTERNATIVE PROPOSED RULE PURSUANT TO SECTION 48-3673.
- 34 5. THE DISTRICT SEEKS APPROVAL OF THE RENEWAL FROM THE DISTRICT
35 ATTORNEY BEFORE THE EXPIRATION OF THE PRECEDING ONE HUNDRED EIGHTY DAY
36 PERIOD.
- 37 6. THE DISTRICT FILES NOTICE OF THE RENEWAL AND ANY REQUIRED DISTRICT
38 ATTORNEY APPROVAL WITH THE DISTRICT CLERK AND NOTICE IS PUBLISHED IN THE
39 REGISTER.

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

43 E. THIS SECTION DOES NOT PROHIBIT THE ADOPTION OF A NEW EMERGENCY RULE
44 IF, AT THE END OF THE EFFECTIVE PERIOD OF THE ORIGINAL EMERGENCY RULE, THE
45 DISTRICT FINDS THAT THE IMMINENT PERIL TO THE PUBLIC HEALTH, SAFETY OR

1 WELFARE OR THE LOSS OF FEDERAL OR STATE FUNDING FOR A DISTRICT PROGRAM STILL
2 EXISTS.

3 48-3678. Expedited rule making

4 A. A DISTRICT MAY CONDUCT EXPEDITED RULE MAKING PURSUANT TO THIS
5 SECTION IF THE RULE MAKING DOES NOT INCREASE THE COST OF REGULATORY
6 COMPLIANCE OR REDUCE PROCEDURAL RIGHTS OF PERSONS REGULATED AND DOES ONE OR
7 MORE OF THE FOLLOWING:

8 1. AMENDS OR REPEALS RULES MADE OBSOLETE BY REPEAL OR SUPERSESION OF
9 THE DISTRICT'S STATUTORY AUTHORITY.

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

14 3. MAKES, AMENDS OR REPEALS RULES THAT REPEAT VERBATIM EXISTING
15 STATUTORY AUTHORITY GRANTED TO THE DISTRICT.

16 4. MAKES, AMENDS OR REPEALS RULES RELATING ONLY TO INTERNAL
17 GOVERNMENTAL OPERATIONS THAT ARE NOT SUBJECT TO VIOLATION BY A PERSON.

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

20 6. ADOPTS OR INCORPORATES BY REFERENCE WITHOUT MATERIAL CHANGE FEDERAL
21 STATUTES OR REGULATIONS, STATUTES OF THIS STATE OR RULES OF OTHER AGENCIES OF
22 THIS STATE PURSUANT TO SECTION 48-3679.

23 7. REDUCES OR CONSOLIDATES STEPS, PROCEDURES OR PROCESSES IN THE
24 RULES.

25 B. IF THE PROPOSED EXPEDITED RULE MAKING IS SOLELY FOR A PURPOSE
26 PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION, A DISTRICT
27 SHALL NOTIFY THE BOARD OF THE PROPOSED EXPEDITED RULE MAKING. THE NOTICE
28 SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE DISTRICT CONTACT
29 PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED RULE MAKING AND
30 INDICATE HOW THE PROPOSED EXPEDITED RULE MAKING ACHIEVES THE PURPOSE
31 PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION.

32 C. IF THE PROPOSED EXPEDITED RULE MAKING IS FOR A PURPOSE PRESCRIBED
33 IN SUBSECTION A, PARAGRAPH 2, 4, 6 OR 7 OF THIS SECTION, A DISTRICT SHALL
34 FILE A REQUEST FOR PROPOSED EXPEDITED RULE MAKING WITH THE BOARD OF THE
35 REQUEST. THE REQUEST SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF
36 THE DISTRICT CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED
37 RULE MAKING AND AN EXPLANATION OF HOW THE PROPOSED EXPEDITED RULE MAKING
38 MEETS THE CRITERIA IN SUBSECTION A OF THIS SECTION.

39 D. THE BOARD MAY APPROVE THE REQUEST FOR EXPEDITED RULE MAKING IF THE
40 REQUEST COMPLIES WITH SUBSECTION A OF THIS SECTION.

41 E. ON DELIVERY OF THE NOTICE REQUIRED IN SUBSECTION B OF THIS SECTION
42 OR ON APPROVAL OF THE BOARD OF A REQUEST FOR PROPOSED EXPEDITED RULE MAKING
43 THE DISTRICT SHALL FILE A NOTICE OF THE PROPOSED EXPEDITED RULE MAKING WITH
44 THE DISTRICT CLERK FOR PUBLICATION IN THE NEXT REGISTER CONTAINING THE
45 PROVISIONS OF THE PROPOSED RULE MAKING FILED WITH THE BOARD PURSUANT TO

1 SUBSECTION B OR C OF THIS SECTION AND ALLOW ANY PERSON TO PROVIDE WRITTEN
2 COMMENT TO THE DISTRICT FOR AT LEAST THIRTY DAYS AFTER PUBLICATION IN THE
3 REGISTER, INCLUDING OBJECTIONS TO THE RULE MAKING BECAUSE IT DOES NOT MEET
4 THE CRITERIA PURSUANT TO SUBSECTION A OF THIS SECTION. THE DISTRICT SHALL
5 ADEQUATELY RESPOND IN WRITING TO THE COMMENTS ON THE PROPOSED EXPEDITED RULE
6 MAKING.

7 F. A DISTRICT MAY NOT SUBMIT AN EXPEDITED RULE TO THE BOARD THAT IS
8 SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE NOTICE OF
9 PROPOSED EXPEDITED RULE MAKING. HOWEVER, A DISTRICT MAY TERMINATE AN
10 EXPEDITED RULE MAKING PROCEEDING PURSUANT TO SUBSECTION K OF THIS SECTION AND
11 COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A
12 SUBSTANTIALLY DIFFERENT RULE. A DISTRICT SHALL USE THE CRITERIA PRESCRIBED
13 IN SECTION 48-3676, SUBSECTION B FOR DETERMINING WHETHER AN EXPEDITED RULE IS
14 SUBSTANTIALLY DIFFERENT FROM THE PUBLISHED PROPOSED EXPEDITED RULE.

15 G. AFTER ADEQUATELY ADDRESSING, IN WRITING, ANY WRITTEN OBJECTIONS, A
16 DISTRICT SHALL FILE A REQUEST FOR APPROVAL WITH THE BOARD. THE REQUEST SHALL
17 CONTAIN THE NOTICE FILED WITH THE DISTRICT CLERK PURSUANT TO THIS SECTION AND
18 THE DISTRICT'S RESPONSES TO ANY WRITTEN COMMENTS. THE BOARD MAY REQUIRE A
19 REPRESENTATIVE OF THE DISTRICT WHOSE PROPOSED EXPEDITED RULE MAKING IS UNDER
20 EXAMINATION TO ATTEND A BOARD MEETING AND ANSWER QUESTIONS. THE BOARD MAY
21 COMMUNICATE TO THE DISTRICT ITS COMMENTS ON THE PROPOSED EXPEDITED RULE
22 MAKING WITHIN THE SCOPE OF SUBSECTION A OF THIS SECTION AND REQUIRE THE
23 DISTRICT TO RESPOND TO ITS COMMENTS OR TESTIMONY IN WRITING. A PERSON MAY
24 SUBMIT WRITTEN COMMENTS TO THE BOARD THAT ARE WITHIN THE SCOPE OF SUBSECTION
25 A OF THIS SECTION.

26 H. BEFORE A DISTRICT FILES A NOTICE OF FINAL EXPEDITED RULE MAKING
27 WITH THE DISTRICT CLERK, THE BOARD SHALL APPROVE ANY PROPOSED EXPEDITED RULE
28 MAKING. THE BOARD SHALL NOT APPROVE THE RULE UNLESS:

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

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

32 3. THE RULE IS NOT ILLEGAL, INCONSISTENT WITH LEGISLATIVE INTENT OR
33 BEYOND THE DISTRICT'S STATUTORY AUTHORITY.

34 4. THE DISTRICT, IN WRITING, ADEQUATELY ADDRESSED THE COMMENTS ON THE
35 PROPOSED RULE AND ANY SUPPLEMENTARY PROPOSAL.

36 5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION
37 48-3685.

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

40 7. THE RULE IMPOSES THE LEAST BURDEN AND COSTS TO PERSONS REGULATED BY
41 THE RULE.

42 I. ON RECEIPT OF BOARD APPROVAL, THE DISTRICT SHALL FILE A NOTICE OF
43 FINAL EXPEDITED RULE MAKING WITH THE DISTRICT CLERK THAT CONTAINS THE
44 INFORMATION REQUIRED IN SUBSECTION B OF THIS SECTION AND THAT THE DISTRICT
45 DID RECEIVE APPROVAL FROM THE BOARD PURSUANT TO THIS SECTION.

1 J. THE EXPEDITED RULE MAKING BECOMES EFFECTIVE THIRTY DAYS FOLLOWING
2 PUBLICATION OF THE NOTICE OF PROPOSED EXPEDITED RULE MAKING.

3 K. A DISTRICT MAY TERMINATE AN EXPEDITED RULE MAKING PROCEEDING ON
4 APPROVAL OF THE BOARD.

5 48-3679. Incorporation by reference

6 A. A DISTRICT MAY INCORPORATE BY REFERENCE IN ITS RULES, AND WITHOUT
7 PUBLISHING THE INCORPORATED MATTER IN FULL, ALL OR ANY PART OF A CODE,
8 STANDARD, RULE OR REGULATION OF AN AGENCY OF THE UNITED STATES OR OF THIS
9 STATE OR A NATIONALLY RECOGNIZED ORGANIZATION OR ASSOCIATION, IF
10 INCORPORATION OF ITS TEXT IN DISTRICT RULES WOULD BE UNDULY CUMBERSOME,
11 EXPENSIVE OR OTHERWISE INEXPEDIENT.

12 B. THE REFERENCE IN THE DISTRICT RULES SHALL FULLY IDENTIFY THE
13 INCORPORATED MATTER BY LOCATION, DATE AND OTHERWISE AND SHALL STATE THAT THE
14 RULE DOES NOT INCLUDE ANY LATER AMENDMENTS OR EDITIONS OF THE INCORPORATED
15 MATTER.

16 C. A DISTRICT MAY INCORPORATE BY REFERENCE SUCH MATTER IN ITS RULES
17 ONLY IF THE AGENCY, ORGANIZATION OR ASSOCIATION ORIGINALLY ISSUING THAT
18 MATTER MAKES COPIES OF IT READILY AVAILABLE TO THE PUBLIC FOR INSPECTION AND
19 REPRODUCTION.

20 D. THE RULES SHALL STATE WHERE COPIES OF THE INCORPORATED MATTER ARE
21 AVAILABLE FROM THE DISTRICT ISSUING THE RULE AND FROM THE AGENCY OF THE
22 UNITED STATES OR THIS STATE OR THE ORGANIZATION OR ASSOCIATION ORIGINALLY
23 ISSUING THE MATTER.

24 E. A DISTRICT MAY INCORPORATE LATER AMENDMENTS OR EDITIONS OF THE
25 INCORPORATED MATTER ONLY AFTER COMPLIANCE WITH THE RULE MAKING REQUIREMENTS
26 OF THIS CHAPTER.

27 48-3680. Invalidity of rules not made according to this

28 A RULE IS INVALID UNLESS IT IS MADE AND APPROVED IN SUBSTANTIAL
29 COMPLIANCE WITH SECTIONS 48-3672 THROUGH 48-3679, UNLESS OTHERWISE PROVIDED
30 BY LAW.

31 48-3681. Filing rules and preamble with district clerk;
32 permanent record

33 A. FOLLOWING THE FILING OF A RULE MADE PURSUANT TO AN EXEMPTION TO
34 THIS CHAPTER OR FOLLOWING APPROVAL AND FILING OF A RULE AND PREAMBLE BY THE
35 BOARD, THE DISTRICT CLERK SHALL AFFIX TO EACH RULE DOCUMENT AND PREAMBLE THE
36 TIME AND DATE OF FILING. A RULE IS NOT FINAL UNTIL THE DISTRICT CLERK
37 AFFIXES THE TIME AND DATE OF FILING TO THE RULE DOCUMENT AS PROVIDED IN THIS
38 SECTION.

39 B. THE DISTRICT CLERK SHALL KEEP A PERMANENT RECORD OF RULES,
40 PREAMBLES AND ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS FILED
41 WITH THE OFFICE.

42 48-3682. Petition for a rule or review of a rule, practice or
43 policy

44 A. ANY PERSON, IN A MANNER AND FORM PRESCRIBED BY THE DISTRICT, MAY
45 PETITION A DISTRICT REQUESTING THE MAKING OF A FINAL RULE, A REVIEW OF THE

1 VALIDITY OF A RULE OR A REVIEW OF AN EXISTING DISTRICT PRACTICE OR
2 SUBSTANTIVE POLICY STATEMENT THAT THE PETITIONER ALLEGES TO CONSTITUTE A
3 RULE. THE PETITION SHALL CLEARLY STATE THE RULE, DISTRICT PRACTICE OR
4 SUBSTANTIVE POLICY STATEMENT THAT THE PERSON WISHES THE DISTRICT TO MAKE OR
5 REVIEW. WITHIN FORTY-FIVE DAYS AFTER SUBMISSION OF A PETITION, THE DISTRICT
6 SHALL EITHER DENY THE PETITION IN WRITING, STATING ITS REASONS FOR DENIAL,
7 INITIATE RULE MAKING PROCEEDINGS IN ACCORDANCE WITH THIS CHAPTER OR, IF
8 OTHERWISE LAWFUL, MAKE A RULE.

9 B. A PERSON MAY APPEAL TO THE BOARD THE DISTRICT'S FINAL DECISION
10 WITHIN THIRTY DAYS AFTER THE DISTRICT GIVES WRITTEN NOTICE PURSUANT TO
11 SUBSECTION A OF THIS SECTION. THE APPEAL SHALL BE LIMITED TO WHETHER A RULE
12 IS VALID OR WHETHER AN EXISTING DISTRICT PRACTICE OR SUBSTANTIVE POLICY
13 STATEMENT CONSTITUTES A RULE. THE BOARD SHALL PLACE THIS APPEAL ON THE
14 AGENDA OF ITS NEXT MEETING IF AT LEAST THREE BOARD MEMBERS MAKE SUCH A
15 REQUEST OF THE BOARD WITHIN TWO WEEKS AFTER THE FILING OF THE APPEAL.

16 C. A DISTRICT PRACTICE OR SUBSTANTIVE POLICY STATEMENT APPEALED TO AND
17 CONSIDERED BY THE BOARD PURSUANT TO THIS SECTION SHALL REMAIN IN EFFECT WHILE
18 UNDER CONSIDERATION OF THE BOARD. IF THE BOARD ULTIMATELY DECIDES THE RULE
19 IS INVALID OR THE DISTRICT PRACTICE OR STATEMENT CONSTITUTES A RULE, THE
20 RULE, PRACTICE OR STATEMENT SHALL BE CONSIDERED VOID.

21 D. A DECISION BY THE DISTRICT PURSUANT TO THIS SECTION IS NOT SUBJECT
22 TO JUDICIAL REVIEW, EXCEPT THAT, IN ADDITION TO THE PROCEDURE PRESCRIBED IN
23 THIS SECTION OR IN LIEU OF THE PROCEDURE PRESCRIBED IN THIS SECTION, A PERSON
24 MAY SEEK DECLARATORY RELIEF PURSUANT TO SECTION 48-3683.

25 E. AN ASSOCIATION HAS STANDING TO PETITION A DISTRICT AND APPEAL TO
26 THE BOARD PURSUANT TO THIS SECTION ON BEHALF OF ANY MEMBER.

27 48-3683. Declaratory judgment

28 A. AFTER THE RULE HAS BEEN CONSIDERED BY THE BOARD PURSUANT TO SECTION
29 48-3682, ANY PERSON WHO IS OR MAY BE AFFECTED BY A RULE MAY OBTAIN A JUDICIAL
30 DECLARATION OF THE VALIDITY OF THE RULE BY FILING AN ACTION FOR DECLARATORY
31 RELIEF IN THE SUPERIOR COURT IN MARICOPA COUNTY PURSUANT TO TITLE 12, CHAPTER
32 10, ARTICLE 2.

33 B. AFTER THE EXISTING DISTRICT PRACTICE OR SUBSTANTIVE POLICY
34 STATEMENT HAS BEEN CONSIDERED BY THE BOARD PURSUANT TO SECTION 48-3682, ANY
35 PERSON WHO IS OR MAY BE AFFECTED BY AN EXISTING DISTRICT PRACTICE OR
36 SUBSTANTIVE POLICY STATEMENT THAT THE PERSON ALLEGES TO CONSTITUTE A RULE MAY
37 OBTAIN A JUDICIAL DECLARATION ON WHETHER THE PRACTICE OR SUBSTANTIVE POLICY
38 STATEMENT CONSTITUTES A RULE BY FILING AN ACTION FOR DECLARATORY RELIEF IN
39 THE SUPERIOR COURT IN MARICOPA COUNTY PURSUANT TO TITLE 12, CHAPTER 10,
40 ARTICLE 2.

41 C. AN ASSOCIATION HAS STANDING TO FILE AN ACTION FOR DECLARATORY
42 RELIEF PURSUANT TO THIS SECTION ON BEHALF OF ANY MEMBER.

1 48-3684. Preamble: justification for rule making
2 ONLY THE REASONS CONTAINED IN THE PREAMBLE MAY BE USED BY ANY PARTY AS
3 JUSTIFICATIONS FOR THE MAKING OF THE RULE IN ANY PROCEEDING IN WHICH ITS
4 VALIDITY IS AT ISSUE.

5 48-3685. General permits: issuance of traditional permit
6 A. IF A DISTRICT PROPOSES A NEW RULE OR AN AMENDMENT TO AN EXISTING
7 RULE THAT REQUIRES THE ISSUANCE OF A REGULATORY PERMIT, LICENSE OR DISTRICT
8 AUTHORIZATION, THE DISTRICT SHALL USE A GENERAL PERMIT IF THE FACILITIES,
9 ACTIVITIES OR PRACTICES IN THE CLASS ARE SUBSTANTIALLY SIMILAR IN NATURE
10 UNLESS ANY OF THE FOLLOWING APPLIES:

- 11 1. A GENERAL PERMIT IS PROHIBITED BY FEDERAL LAW.
- 12 2. THE ISSUANCE OF AN ALTERNATIVE TYPE OF PERMIT, LICENSE OR
13 AUTHORIZATION IS SPECIFICALLY AUTHORIZED BY STATE STATUTE.
- 14 3. THE ISSUANCE OF A GENERAL PERMIT IS NOT TECHNICALLY FEASIBLE OR
15 WOULD NOT MEET THE APPLICABLE STATUTORY REQUIREMENTS.
- 16 4. THE ISSUANCE OF A GENERAL PERMIT WOULD RESULT IN ADDITIONAL
17 REGULATORY REQUIREMENTS OR COSTS BEING PLACED ON THE PERMIT APPLICANT.

18 B. THE DISTRICT RETAINS THE AUTHORITY TO REVOKE AN APPLICANT'S ABILITY
19 TO OPERATE UNDER A GENERAL PERMIT AND TO REQUIRE THE APPLICANT TO OBTAIN A
20 TRADITIONAL PERMIT IF THE APPLICANT IS IN SUBSTANTIAL NONCOMPLIANCE WITH THE
21 APPLICABLE REQUIREMENTS FOR THE GENERAL PERMIT.

22 48-3686. Standard procedural rules
23 A. THE BOARD SHALL ADOPT STANDARD PROCEDURAL RULES FOR USE BY ITS
24 DEPARTMENTS. THE STANDARD RULES MUST PROVIDE FOR THE PROCEDURAL FUNCTIONS
25 AND DUTIES OF AS MANY DEPARTMENTS AS IS PRACTICABLE.

26 B. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C OF THIS SECTION, A
27 DEPARTMENT SHALL USE THE STANDARD PROCEDURAL RULES ADOPTED UNDER SUBSECTION A
28 OF THIS SECTION.

29 C. A DEPARTMENT MAY ADOPT A RULE OF A PROCEDURE THAT DIFFERS FROM THE
30 STANDARD PROCEDURAL RULES ADOPTED UNDER SUBSECTION A OF THIS SECTION IF IT IS
31 CLEARLY IMPRACTICAL.

32 48-3687. Exemptions
33 THIS ARTICLE DOES NOT APPLY TO ANY:

- 34 1. RULE THAT RELATES TO THE USE OF PUBLIC WORKS, INCLUDING STREETS AND
35 HIGHWAYS, UNDER THE JURISDICTION OF A DISTRICT IF THE EFFECT OF THE ORDER IS
36 INDICATED TO THE PUBLIC BY MEANS OF SIGNS OR SIGNALS.
- 37 2. RULE REGULATING MOTOR VEHICLE OPERATION THAT RELATES TO SPEED,
38 PARKING, STANDING, STOPPING OR PASSING.
- 39 3. RULE CONCERNING ONLY THE INTERNAL MANAGEMENT OF A DISTRICT THAT
40 DOES NOT DIRECTLY AND SUBSTANTIALLY AFFECT THE PROCEDURAL OR SUBSTANTIVE
41 RIGHTS OR DUTIES OF ANY SEGMENT OF THE PUBLIC.
- 42 4. RULE THAT ONLY ESTABLISHES SPECIFIC PRICES TO BE CHARGED FOR
43 PARTICULAR GOODS OR SERVICES SOLD BY A DISTRICT.
- 44 5. RULE CONCERNING ONLY THE PHYSICAL SERVICING, MAINTENANCE OR CARE OF
45 DISTRICT OWNED OR OPERATED FACILITIES OR PROPERTY.

1 6. RULE THAT RELATES TO INMATES OR COMMITTED YOUTH, A CORRECTIONAL OR
2 DETENTION FACILITY UNDER THE JURISDICTION OF THE DISTRICT OR A PATIENT
3 ADMITTED TO AN INSTITUTION OR TREATMENT CENTER PURSUANT TO COURT ORDER.

4 Sec. 24. Effective date

5 This act is effective from and after December 31, 2012.