

REFERENCE TITLE: water resources; regional planning

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1404

Introduced by
Senator O'Halleran

AN ACT

AMENDING SECTIONS 9-461.05 AND 11-821, ARIZONA REVISED STATUTES; RELATING TO
MUNICIPAL AND COUNTY PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-461.05, Arizona Revised Statutes, is amended to
3 read:

4 9-461.05. General plans; authority; scope

5 A. Each planning agency shall prepare and the governing body of each
6 municipality shall adopt a comprehensive, long-range general plan for the
7 development of the municipality. The planning agency shall coordinate the
8 production of its general plan with the creation of the state land department
9 conceptual land use plans under title 37, chapter 2, article 5.1 and shall
10 cooperate with the state land department regarding integrating the conceptual
11 state land use plans into the municipality's general land use plan. The
12 general plan shall include provisions that identify changes or modifications
13 to the plan that constitute amendments and major amendments. The plan shall
14 be adopted and readopted in the manner prescribed by section 9-461.06.

15 B. The general plan shall be so prepared that all or individual
16 elements of it may be adopted by the governing body and that it may be made
17 applicable to all or part of the territory of the municipality.

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

22 1. A land use element that:

23 (a) Designates the proposed general distribution and location and
24 extent of such uses of the land for housing, business, industry, agriculture,
25 recreation, education, public buildings and grounds, open space and other
26 categories of public and private uses of land as may be appropriate to the
27 municipality.

28 (b) Includes a statement of the standards of population density and
29 building intensity recommended for the various land use categories covered by
30 the plan.

31 (c) Identifies specific programs and policies that the municipality
32 may use to promote infill or compact form development activity and locations
33 where those development patterns should be encouraged.

34 (d) Includes consideration of air quality and access to incident solar
35 energy for all general categories of land use.

36 (e) Includes policies that address maintaining a broad variety of land
37 uses including the range of uses existing in the municipality when the plan
38 is adopted, readopted or amended.

39 (f) For cities and towns with territory in the vicinity of a military
40 airport or ancillary military facility as defined in section 28-8461,
41 includes consideration of military airport or ancillary military facility
42 operations. On or before December 31, 2005, if a city or town includes land
43 in a high noise or accident potential zone as defined in section 28-8461, the
44 city or town shall identify the boundaries of the high noise or accident
45 potential zone in its general plan for purposes of planning land uses in the

1 high noise or accident potential zone that are compatible with the operation
2 of the military airport or ancillary military facility pursuant to section
3 28-8481, subsection J.

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

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

15 1. An open space element that includes:

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

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

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

26 2. A growth area element, specifically identifying those areas, if
27 any, that are particularly suitable for planned multimodal transportation and
28 infrastructure expansion and improvements designed to support a planned
29 concentration of a variety of uses, such as residential, office, commercial,
30 tourism and industrial uses. This element shall include policies and
31 implementation strategies that are designed to:

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

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

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

41 3. An environmental planning element that contains analyses, policies
42 and strategies to address anticipated effects, if any, of plan elements on
43 air quality, water quality and natural resources associated with proposed
44 development under the general plan. The policies and strategies to be
45 developed under this element shall be designed to have community-wide

1 applicability and shall not require the production of an additional
2 environmental impact statement or similar analysis beyond the requirements of
3 state and federal law.

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

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

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

19 5. A water resources element that addresses:

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

22 (b) The CURRENT AND COMMITTED demand for water IN THE CITY OR TOWN AND
23 THE PROJECTED DEMAND that will result from future growth ~~projected in the~~
24 ~~general plan, added to existing uses~~ IN THE CITY OR TOWN OVER TWENTY YEARS.

25 (c) An analysis of how the demand for water ~~that will result from~~
26 ~~future growth projected in the general plan~~ IDENTIFIED IN SUBDIVISION (b) OF
27 THIS PARAGRAPH will be served by the water supplies identified in subdivision
28 (a) of this paragraph or a plan to obtain additional necessary water
29 supplies.

30 (d) FOR ANY CITY OR TOWN THAT IS LOCATED BOTH OUTSIDE AN ACTIVE
31 MANAGEMENT AREA ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 2 AND IN A COUNTY
32 THAT MUST PLAN FOR WATER RESOURCES PURSUANT TO SECTION 11-821, SUBSECTION C,
33 PARAGRAPH 4, THE PRACTICALITY, WITH SUPPORTING FINDINGS AND RECOMMENDATIONS,
34 OF REGIONAL INTEGRATION AND COORDINATION WITH ALL OTHER CITIES, TOWNS AND
35 COUNTIES IN THE SAME GROUNDWATER BASIN, OR IN THE SAME SUB-BASIN IF A
36 SUB-BASIN IS DESIGNATED PURSUANT TO SECTION 45-404, EXCEPT CITIES AND TOWNS
37 EXCLUDED PURSUANT TO SUBSECTION F, PARAGRAPH 2 OF THIS SECTION, OF:

38 (i) CURRENT AND FUTURE WATER RESOURCE SUPPLIES, DEMANDS, CUMULATIVE
39 IMPACTS FROM ALL USES, CONSERVATION POLICIES AND IMPLEMENTATION STRATEGIES.

40 (ii) THE PUBLIC INFRASTRUCTURE REQUIRED FOR COORDINATED ACQUISITION
41 AND DISTRIBUTION OF WATER SUPPLIES.

42 (iii) WATER CONSERVATION EFFORTS.

43 (iv) DROUGHT MANAGEMENT EFFORTS.

44 (v) THE FINANCIAL RESOURCES, CAPACITY AND EFFORT REQUIRED TO IMPLEMENT
45 THE REGIONAL INTEGRATION OF THE WATER RESOURCES ELEMENT.

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

4 1. A conservation element for the conservation, development and
5 utilization of natural resources, including forests, soils, rivers and other
6 waters, harbors, fisheries, wildlife, minerals and other natural resources.
7 The conservation element may also cover:

8 (a) The reclamation of land.

9 (b) Flood control.

10 (c) Prevention and control of the pollution of streams and other
11 waters.

12 (d) Regulation of the use of land in stream channels and other areas
13 required for the accomplishment of the conservation plan.

14 (e) Prevention, control and correction of the erosion of soils,
15 beaches and shores.

16 (f) Protection of watersheds.

17 2. A recreation element showing a comprehensive system of areas and
18 public sites for recreation, including the following and, if practicable,
19 their locations and proposed development:

20 (a) Natural reservations.

21 (b) Parks.

22 (c) Parkways and scenic drives.

23 (d) Beaches.

24 (e) Playgrounds and playfields.

25 (f) Open space.

26 (g) Bicycle routes.

27 (h) Other recreation areas.

28 3. The circulation element provided for in subsection C, paragraph 2
29 of this section shall also include for cities of fifty thousand persons or
30 more and may include for cities of less than fifty thousand persons
31 recommendations concerning parking facilities, building setback requirements
32 and the delineations of such systems on the land, a system of street naming
33 and house and building numbering and other matters as may be related to the
34 improvement of circulation of traffic. The circulation element may also
35 include:

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

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

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

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

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

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

13 (a) The elimination of slums and blighted areas.

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

16 (c) Neighborhood preservation and revitalization.

17 (d) Other purposes authorized by law.

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

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

26 10. An energy element that includes:

27 (a) A component that identifies policies that encourage and provide
28 incentives for efficient use of energy.

29 (b) An assessment that identifies policies and practices that provide
30 for greater uses of renewable energy sources.

31 F. WITH RESPECT TO THE WATER RESOURCES ELEMENT UNDER SUBSECTION D,
32 PARAGRAPH 5 OF THIS SECTION:

33 1. CITIES AND TOWNS THAT ARE NOT REQUIRED EITHER TO ADOPT A GENERAL
34 PLAN OR TO INCLUDE A WATER RESOURCES ELEMENT IN A GENERAL PLAN SHALL
35 NEVERTHELESS COOPERATE WITH, COLLABORATE WITH, ASSIST AND PROVIDE INFORMATION
36 TO OTHER CITIES AND TOWNS AND THE COUNTY AS NECESSARY TO ACHIEVE REGIONAL
37 INTEGRATION OF THE WATER RESOURCES ELEMENT IN THE GENERAL AND COMPREHENSIVE
38 PLANS OF THE OTHER MUNICIPALITIES AND THE COUNTY AS REQUIRED BY SUBSECTION D,
39 PARAGRAPH 5, SUBDIVISION (d) OF THIS SECTION.

40 2. A CITY OR TOWN THAT IS REQUIRED TO ADOPT A GENERAL PLAN WITH A
41 WATER RESOURCES ELEMENT THAT INCLUDES THE INFORMATION REQUIRED BY SUBSECTION
42 D, PARAGRAPH 5, SUBDIVISION (d) OF THIS SECTION MAY EXCLUDE INFORMATION
43 RELATING TO ANOTHER CITY OR TOWN IN THE IRRIGATION NON-EXPANSION AREA,
44 GROUNDWATER BASIN OR SUB-BASIN, WHICHEVER APPLIES, IF THE CITY OR TOWN
45 SUBJECT TO THE REQUIREMENT APPLIES TO THE DIRECTOR OF WATER RESOURCES TO

1 EXCLUDE THE INFORMATION AND DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR
2 THAT ITS CURRENT AND PLANNED WATER USE WILL NOT HAVE A SIGNIFICANT HYDROLOGIC
3 IMPACT ON THE WATER SUPPLIES OF THE OTHER CITY OR TOWN DURING THE NEXT ONE
4 HUNDRED YEARS.

5 3. WITHIN FIVE YEARS AFTER EACH ADOPTION OR READOPTION OF THE GENERAL
6 PLAN, THE PLANNING AGENCY SHALL REEVALUATE AND ASSESS THE VALIDITY OF THE
7 DATA AND ASSUMPTIONS THAT WERE USED IN DEVELOPING THE WATER RESOURCES ELEMENT
8 AND SHALL PREPARE A REPORT OF ITS FINDINGS AND RECOMMENDATIONS AS AN
9 ATTACHMENT TO THE GENERAL PLAN. THIS PARAGRAPH DOES NOT REQUIRE ANY CITY OR
10 TOWN TO AMEND ITS GENERAL PLAN IN ADVANCE OF ITS NORMAL READOPTION PROCESS.

11 4. The water resources element of the general plan does not require:

12 ~~1-~~ (a) New independent hydrogeologic studies.

13 ~~2-~~ (b) The city or town to be a water service provider.

14 G. The land use element of a general plan of a city with a population
15 of more than one million persons shall include protections from encroaching
16 development for any shooting range that is owned by this state and that is
17 located within or adjacent to the exterior municipal boundaries on or before
18 January 1, 2004. The general plan shall establish land use categories within
19 at least one-half mile from the exterior boundaries of the shooting range
20 that are consistent with the continued existence of the shooting range and
21 that exclude incompatible uses such as residences, schools, hotels, motels,
22 hospitals or churches except that land zoned to permit these incompatible
23 uses on August 25, 2004 are exempt from this exclusion. For the purposes of
24 this subsection, "shooting range" means a permanently located and improved
25 area that is designed and operated for the use of rifles, shotguns, pistols,
26 silhouettes, skeet, trap, black powder or any other similar sport shooting in
27 an outdoor environment. Shooting range does not include:

28 1. Any area for the exclusive use of archery or air guns.

29 2. An enclosed indoor facility that is designed to offer a totally
30 controlled shooting environment and that includes impenetrable walls, floor
31 and ceiling, adequate ventilation, lighting systems and acoustical treatment
32 for sound attenuation suitable for the range's approved use.

33 3. A national guard facility located in a city or town with a
34 population of more than one million persons.

35 4. A facility that was not owned by this state before January 1, 2002.

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

40 Sec. 2. Section 11-821, Arizona Revised Statutes, is amended to read:

41 11-821. County plan; definitions

42 A. The commission shall formulate and the board of supervisors shall
43 adopt or readopt a comprehensive long-term county plan for the development of
44 the area of jurisdiction in the manner prescribed by this article. The
45 planning commission shall coordinate the production of the county plan with

1 the creation of the conceptual state land use plans under title 37, chapter
2 2, article 5.1. The county plan, with the accompanying maps, plats, charts
3 and descriptive matter, shall show the commission's recommendations for the
4 development of the area of jurisdiction together with the general zoning
5 regulations. The county plan shall be made with the general purpose of
6 guiding and accomplishing a coordinated, adjusted and harmonious development
7 of the area of jurisdiction. In the preparation of the county plan the
8 commission shall make surveys and studies of the present conditions and
9 prospective future growth of the area of the jurisdiction. The planning
10 commission shall cooperate with the state land department regarding
11 integrating the conceptual state land use plans into the county plan. The
12 county plan shall include provisions that identify changes or modifications
13 that constitute amendments and major amendments to the plan.

14 B. In addition to the other matters that are required or authorized
15 under this section and article 1 of this chapter, the county plan:

16 1. Shall provide for zoning, shall show the zoning districts
17 designated as appropriate for various classes of residential, business and
18 industrial uses and shall provide for the establishment of setback lines and
19 other plans providing for adequate light, air and parking facilities and for
20 expediting traffic within the districts.

21 2. May establish the percentage of a lot or parcel that may be covered
22 by buildings, and the size of yards, courts and other open spaces.

23 3. Shall consider access to incident solar energy.

24 4. May provide for retirement community zoning districts.

25 5. May provide for the regulation and use of business licenses, adult
26 oriented business manager permits and adult service provider permits in
27 conjunction with the establishment or operation of adult oriented businesses
28 and facilities, including adult arcades, adult bookstores or video stores,
29 cabarets, adult live entertainment establishments, adult motion picture
30 theaters, adult theaters, massage establishments and nude model studios.
31 With respect to cabarets, the plan shall not conflict with specific statutory
32 or valid regulatory requirements applicable to persons licensed to dispense
33 alcoholic beverages, but the plan may include regulation of the age and
34 conduct of erotic entertainers in a manner at least as restrictive as rules
35 adopted under title 4.

36 C. IF A CITY OR TOWN IN THE COUNTY IS REQUIRED TO INCLUDE A WATER
37 RESOURCES ELEMENT IN ITS MUNICIPAL GENERAL PLAN PURSUANT TO SECTION 9-461.05,
38 SUBSECTION D, PARAGRAPH 5, THE COUNTY COMPREHENSIVE PLAN SHALL INCLUDE
39 PLANNING FOR WATER RESOURCES IN ITS AREA OF JURISDICTION THAT ADDRESSES:

40 1. THE KNOWN SURFACE WATER, GROUNDWATER AND EFFLUENT SUPPLIES THAT ARE
41 LEGALLY AND PHYSICALLY AVAILABLE.

42 2. THE CURRENT AND COMMITTED DEMAND FOR WATER IN THE COUNTY AND THE
43 PROJECTED DEMAND THAT WILL RESULT FROM FUTURE GROWTH IN THE COUNTY OVER
44 TWENTY YEARS.

1 3. AN ANALYSIS OF HOW THE DEMAND FOR WATER IDENTIFIED IN PARAGRAPH 2
2 OF THIS SUBSECTION WILL BE SERVED BY THE WATER SUPPLIES IDENTIFIED IN
3 PARAGRAPH 1 OF THIS SUBSECTION OR A PLAN TO OBTAIN ADDITIONAL NECESSARY WATER
4 SUPPLIES.

5 4. WITH RESPECT TO AREAS OUTSIDE ACTIVE MANAGEMENT AREAS ESTABLISHED
6 PURSUANT TO TITLE 45, CHAPTER 2 IN COUNTIES HAVING A POPULATION OF MORE THAN
7 ONE HUNDRED THOUSAND PERSONS, AND IN OTHER COUNTIES IN WHICH PRIVATE LAND
8 OWNERSHIP CONSTITUTES LESS THAN FOUR PER CENT OF THE TOTAL AREA OF THE
9 COUNTY, THE PRACTICALITY, WITH SUPPORTING FINDINGS AND RECOMMENDATIONS, OF
10 REGIONAL INTEGRATION AND COORDINATION WITH ALL CITIES, TOWNS AND OTHER
11 COUNTIES IN THE SAME GROUNDWATER BASIN, OR IN THE SAME SUB-BASIN IF A
12 SUB-BASIN IS DESIGNATED PURSUANT TO SECTION 45-404, OF:

13 (a) CURRENT AND FUTURE WATER RESOURCE SUPPLIES, DEMANDS, CUMULATIVE
14 IMPACTS FROM ALL USES, CONSERVATION POLICIES AND IMPLEMENTATION STRATEGIES.

15 (b) THE PUBLIC INFRASTRUCTURE REQUIRED FOR COORDINATED ACQUISITION AND
16 DISTRIBUTION OF WATER SUPPLIES.

17 (c) WATER CONSERVATION EFFORTS.

18 (d) DROUGHT MANAGEMENT EFFORTS.

19 (e) THE FINANCIAL RESOURCES, CAPACITY AND EFFORT REQUIRED TO IMPLEMENT
20 THE REGIONAL INTEGRATION OF THE WATER RESOURCES ELEMENT AS PROVIDED BY THIS
21 PARAGRAPH.

22 ~~C.~~ D. In addition to the other matters that are required or
23 authorized under this section and article 1 of this chapter, for counties
24 having a population of more than one hundred twenty-five thousand persons
25 according to the most recent United States decennial census, the county plan
26 shall include, and for other counties the county plan may include:

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

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

35 (b) Specific programs and policies that the county may use to promote
36 compact form development activity and locations where those development
37 patterns should be encouraged.

38 (c) Consideration of air quality and access to incident solar energy
39 for all general categories of land use.

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

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

5 ~~3. Planning for water resources that addresses:~~

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

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

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

14 ~~4.~~ 3. Planning for energy use that:

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

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

18 ~~D.~~ E. In addition to the other matters that are required or
19 authorized under this section and article 1 of this chapter, for counties
20 having a population of more than two hundred thousand persons according to
21 the most recent United States decennial census, the county plan shall
22 include, and for other counties the county plan may include:

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~E.~~ F. WITHIN FIVE YEARS AFTER EACH ADOPTION OR READOPTION OF THE
31 COMPREHENSIVE PLAN, THE COMMISSION SHALL REEVALUATE AND ASSESS THE VALIDITY
32 OF THE DATA AND ASSUMPTIONS THAT WERE USED IN DEVELOPING THE WATER RESOURCES
33 ELEMENT UNDER SUBSECTION C OF THIS SECTION AND SHALL PREPARE A REPORT OF ITS
34 FINDINGS AND RECOMMENDATIONS AS AN ATTACHMENT TO THE COMPREHENSIVE PLAN.
35 THIS SUBSECTION DOES NOT REQUIRE ANY COUNTY TO AMEND ITS COMPREHENSIVE PLAN
36 IN ADVANCE OF ITS NORMAL READOPTION PROCESS. The water resources element of
37 the comprehensive plan does not require:

- 38 1. New independent hydrogeologic studies.
- 39 2. The county to be a water service provider.

40 ~~F.~~ G. To carry out the purposes of this article, the board may adopt
41 overlay zoning districts and regulations applicable to particular buildings,
42 structures and land within individual zones. For the purposes of this
43 subsection, "overlay zoning district" means a special zoning district that
44 includes regulations that modify regulations in another zoning district with
45 which the overlay zoning district is combined. Overlay zoning districts and

1 regulations shall be adopted pursuant to section 11-829. The provisions of
2 overlay zoning shall apply retroactively to authorize overlay zoning
3 districts and regulations adopted before April 20, 1993.

4 ~~G.~~ H. The policies and strategies to be developed under these
5 elements shall be designed to have regional applicability.

6 ~~H.~~ I. This section does not authorize:

7 1. The imposition of dedications, exactions, fees or other
8 requirements that are not otherwise authorized by law.

9 2. The regulation or restriction of the use or occupation of land or
10 improvements for railroad, mining, metallurgical, grazing or general
11 agricultural purposes, if the tract concerned is five or more contiguous
12 commercial acres.

13 ~~I.~~ J. For the purposes of this section:

14 1. "Adult arcade" means any place to which the public is permitted or
15 invited and in which coin-operated or slug-operated or electronically,
16 electrically or mechanically controlled still or motion picture machines,
17 projectors or other image producing devices are maintained to show images
18 involving specific sexual activities or specific anatomical areas to persons
19 in booths or viewing rooms.

20 2. "Adult bookstore or video store" means a commercial establishment
21 that offers for sale or rent any of the following as one of its principal
22 business purposes:

23 (a) Books, magazines, periodicals or other printed matter,
24 photographs, films, motion pictures, videocassettes or reproductions or
25 slides or other visual representations that depict or describe specific
26 sexual activities or specific anatomical areas.

27 (b) Instruments, devices or paraphernalia that are designed for use in
28 connection with specific sexual activities.

29 3. "Adult live entertainment establishment" means an establishment
30 that features either:

31 (a) Persons who appear in a state of nudity.

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

34 4. "Adult motion picture theater" means a commercial establishment in
35 which for any form of consideration films, motion pictures, videocassettes,
36 slides or other similar photographic reproductions that are characterized by
37 the depiction or description of specific sexual activities or specific
38 anatomical areas are predominantly shown.

39 5. "Adult oriented business" means adult arcades, adult bookstores or
40 video stores, cabarets, adult live entertainment establishments, adult motion
41 picture theaters, adult theaters, massage establishments that offer adult
42 service or nude model studios.

43 6. "Adult oriented business manager" means a person on the premises of
44 an adult oriented business who is authorized to exercise overall operational
45 control of the business.

1 7. "Adult service" means dancing, serving food or beverages, modeling,
2 posing, wrestling, singing, reading, talking, listening or other performances
3 or activities conducted for any consideration in an adult oriented business
4 by a person who is nude or seminude during all or part of the time that the
5 person is providing the service.

6 8. "Adult service provider" or "erotic entertainer" means any natural
7 person who provides an adult service.

8 9. "Adult theater" means a theater, concert hall, auditorium or
9 similar commercial establishment that predominantly features persons who
10 appear in a state of nudity or who engage in live performances that are
11 characterized by the exposure of specific anatomical areas or specific sexual
12 activities.

13 10. "Cabaret" means an adult oriented business licensed to provide
14 alcoholic beverages pursuant to title 4, chapter 2, article 1.

15 11. "Discernibly turgid state" means the state of being visibly
16 swollen, bloated, inflated or distended.

17 12. "Massage establishment" means an establishment in which a person,
18 firm, association or corporation engages in or permits massage activities,
19 including any method of pressure on, friction against, stroking, kneading,
20 rubbing, tapping, pounding, vibrating or stimulating of external soft parts
21 of the body with the hands or with the aid of any mechanical apparatus or
22 electrical apparatus or appliance. This paragraph does not apply to:

23 (a) Physicians who are licensed pursuant to title 32, chapter 7, 8,
24 13, 14 or 17.

25 (b) Registered nurses, licensed practical nurses or technicians who
26 are acting under the supervision of a physician who is licensed pursuant to
27 title 32, chapter 13 or 17.

28 (c) Registered nurse practitioners who are licensed pursuant to title
29 32, chapter 15.

30 (d) Persons who are employed or acting as trainers for a bona fide
31 amateur, semiprofessional or professional athlete or athletic team.

32 (e) Persons who are licensed pursuant to title 32, chapter 3 or 5 if
33 the activity is limited to the head, face or neck.

34 13. "Nude model studio" means a place in which a person who appears in
35 a state of nudity or who displays specific anatomical areas is observed,
36 sketched, drawn, painted, sculptured, photographed or otherwise depicted by
37 other persons who pay money or other consideration. Nude model studio does
38 not include a proprietary school that is licensed by this state, a college,
39 community college or university that is supported entirely or in part by
40 taxation, a private college or university that maintains and operates
41 educational programs in which credits are transferable to a college,
42 community college or university that is supported entirely or in part by
43 taxation or a structure to which the following apply:

1 (a) A sign is not visible from the exterior of the structure and no
2 other advertising appears indicating that a nude person is available for
3 viewing.

4 (b) A student must enroll at least three days in advance of a class in
5 order to participate.

6 (c) No more than one nude or seminude model is on the premises at any
7 time.

8 14. "Nude", "nudity" or "state of nudity" means any of the following:

9 (a) The appearance of a human anus, genitals or a female breast below
10 a point immediately above the top of the areola.

11 (b) A state of dress that fails to opaquely cover a human anus,
12 genitals or a female breast below a point immediately above the top of the
13 areola.

14 15. "Principal business purposes" means that a commercial establishment
15 derives fifty per cent or more of its gross income from the sale or rental of
16 items listed in paragraph 2 of this subsection.

17 16. "Seminude" means a state of dress in which clothing covers no more
18 than the genitals, pubic region and female breast below a point immediately
19 above the top of the areola, as well as portions of the body that are covered
20 by supporting straps or devices.

21 17. "Specific anatomical areas" means any of the following:

22 (a) A human anus, genitals, the pubic region or a female breast below
23 a point immediately above the top of the areola that is less than completely
24 and opaquely covered.

25 (b) Male genitals in a discernibly turgid state even if completely and
26 opaquely covered.

27 18. "Specific sexual activities" means any of the following:

28 (a) Human genitals in a state of sexual stimulation or arousal.

29 (b) Sex acts, normal or perverted, actual or simulated, including acts
30 of human masturbation, sexual intercourse, oral copulation or sodomy.

31 (c) Fondling or other erotic touching of the human genitals, pubic
32 region, buttocks, anus or female breast.

33 (d) Excretory functions as part of or in connection with any of the
34 activities under subdivision (a), (b) or (c) of this paragraph.

35 Sec. 3. Amendment of general and comprehensive plans

36 On or before December 31, 2010, the governing body of each city, town
37 and county shall amend its general plan or comprehensive plan as necessary to
38 comply with the requirements of the water resources element as prescribed by
39 section 9-461.05 or 11-821, Arizona Revised Statutes, as amended by this
40 act. An amendment of the general plan or comprehensive plan for this purpose
41 is not considered to be a major amendment for the purposes of the adoption
42 process.