

ORDINANCE 2015-FC\_\_\_\_\_

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**AN ORDINANCE OF THE PIMA COUNTY BOARD OF SUPERVISORS AND THE BOARD OF DIRECTORS OF THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT AMENDING TITLE 2 OF THE PIMA COUNTY CODE TO ADD CHAPTER 2.32 – RULEMAKING PROCEDURE. (ALL DISTRICTS)**

**THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA AND THE BOARD OF DIRECTORS OF THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT, FIND THAT:**

This ordinance is adopted to comply with A.R.S. §§11-251.18, 48-3609.02.

**IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY AND THE BOARD OF DIRECTORS OF THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT AS FOLLOWS:**

**SECTION 1.** Pima County Code Title 2 is amended to add Chapter 2.32 – Rulemaking Procedure:

**CHAPTER 2.32 RULEMAKING PROCEDURE**

**2.32.010 - Definitions**

For purposes of this chapter:

- A. "Board" means the County Board of Supervisors acting in its own capacity or as the District Board of Directors.
- B. "County" means Pima County.
- C. "District" means the Pima County Regional Flood Control District.
- D. "Proponent" means any unit of the County or the District proposing a Rule.
- E. "Rule" means a statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the County or the District. Rule includes prescribing fees or the amendment or repeal of an

existing rule but does not include inter-agency memoranda that are not delegation agreements.

#### 2.32.020 – Exceptions.

This chapter does not apply to:

- A. Rules adopted under A.R.S. § 11-251.05, A.R.S. Title 11, Chapter 6, Article 2 (County Zoning), and Article 3 (County Subdivision Regulation), A.R.S. Title 42 (Taxation), A.R.S. Title 43 (Taxation of Income), or A.R.S. Title 49, Chapter 3, Article 3 (County Air Pollution Control).
- B. Rules adopted under Title 11, Chapter 6, Article 1 (County Planning) provided that the proposed rule is noticed as required by Pima County Code Title 18, Chapter 18.89, that the planning and Zoning Commission holds a hearing on the proposed rule, and that Development Services responds to public comments in its written report to the Board of Supervisors.
- C. Substantive policy statements, as defined in A.R.S. § 11-1601.
- D. Procedural documents that only affect the internal procedures of the County or District and do not impose additional requirements, conditions, or penalties on regulated parties.
- E. Use or adoption of any form or procedures for execution or use of a form whose contents or substantive requirements are consistent with an ordinance or statute.

#### 2.32.030 – Public Notice and Meeting

- A. Before any rulemaking, including the amendment or repeal of any existing Rule, the Proponent will file a notice of the proposed action with the Clerk of the Board. The notice will include:
  - 1. The exact wording of the proposed Rule.
  - 2. The date and location of scheduled public meetings on the proposed Rule.
  - 3. The closing date of the public comment period.
  - 4. The address for submission of public comments.
- B. The Clerk of the Board will post the notice of proposed action on the County website.
- C. The public comment period will begin the date the notice of proposed action is posted on the County website and will close seven calendar days following the last public meeting required by A.R.S. § 11-251.18(B)(1) or A.R.S. § 48-3609.02(B)(1).

- D. Not less than fourteen calendar days following posting of the notice of proposed action on the County website, the Proponent will conduct one or more public meetings to receive public comment on the proposed Rule.
- E. The Proponent may, with fourteen calendar days' notice, schedule additional public meetings or may extend the public comment period.
- F. The Proponent may meet informally with any interested party for the purpose of discussing any proposed Rule.

#### 2.32.040 – Response to Public Comment

- A. The Proponent will evaluate all public comments received before the close of the public comment period and will respond, in writing, to all written comments.
- B. The Proponent may respond to verbal comments received prior to close of the public comment period.
- C. Proponent's written response to public comments will be provided to the Board and will be posted on the County website at least seven calendar days prior to the date of the meeting at which the final text of the proposed Rule is considered by the Board.

#### 2.32.050 – Rule Adoption

- A. The Proponent will provide at least fourteen calendar days' notice on the County website and other required locations of any meeting at which the Board will consider the final text of a proposed Rule.
- B. If, during consideration of the final text of the proposed Rule, the Board determines the proposed Rule is adoptable but requires substantial change, it will issue a supplemental notice of the proposed changes and establish an additional public comment period.
- C. Upon closure of the additional comment period, the Board may consider the proposed Rule at a subsequent meeting.
- D. No Rule is enforceable without substantial compliance with this chapter.

#### 2.32.060 – Adoption of Emergency and Required Rules

- A. Notwithstanding this chapter, the Board may, upon a finding that an emergency exists and adoption of the Rule is necessary to protect the public health, safety or welfare, to avoid an imminent budget reduction or to avoid serious prejudice to the public interest, adopt a Rule without complying with the public notice requirements of this chapter. Within a reasonable time after adopting an emergency rule, the Board shall review the emergency rule to determine whether the rule should continue in effect or be terminated.
- B. Notwithstanding this chapter, the Board may, upon a finding that a Rule is required by state or federal law or regulation and, provided the requirement to adopt the Rule on an expedited basis is not the result of delay or inaction by the Board, adopt a Rule without complying with the public notice requirements of this chapter.

C. Notwithstanding this chapter, the Board may adopt, amend, or repeal Rules that do not increase the cost of regulatory compliance or reduce the procedural rights of regulated parties by complying with A.R.S. Title 38, Chapter 3, Article 3.1.

**SECTION 2.** This ordinance is effective 30 days after its adoption.

**PASSED AND ADOPTED** by the Board of Supervisors of Pima County, Arizona,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Chair, Pima County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors

**PASSED AND ADOPTED** by the Board of Directors of the Pima County Flood Control  
District, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Chair,  
Pima County Flood Control District Board of  
Directors

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors

APPROVED AS TO FORM

  
\_\_\_\_\_  
Civil Deputy County Attorney