



December 12, 2025

***Via E-mail & U.S. Mail***

Supervisor Rex Scott, Chairman  
Pima County Board of Supervisors  
33 North Stone Avenue, Eleventh Floor  
Tucson, AZ 85701  
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Subj: Ordinance to Regulate Certain Unpaved Roads to Maintain Healthy Air Quality

Dear Chairman Scott and Members of the Board:

We understand that the Board of Supervisors is considering an ordinance that would, among other things, (1) restrict the number of heavy duty trucks to no more than 75 average daily trips (ADT) for heavy duty truck trips; and (2) require a permit for all persons, firms or entities driving or causing heavy duty trucks to be driven among other changes. *See* Agenda Item 13, Board of Supervisors' Meeting (Dec. 16, 2025). We write to express our serious concern with the legality of these changes. Both of these provisions exceed the Board's statutory authority and, if adopted, would create legal vulnerabilities for the County.

Pima County is a subdivision of the state and has "only such legislative powers as have been expressly, or by necessary implication, delegated to [it] by constitution or by the legislature." *Vangilder v. Arizona Dep't of Revenue*, 252 Ariz. 481, 488 ¶ 24 (2022). What's more, "[t]hese powers will be strictly construed." *Id.* (citation omitted). Further, [i]mplied powers do not exist independently of the grant of express powers and the only function of an implied power is to aid in carrying into effect a power expressly granted." *Associated Dairy Prods. Co. v. Page*, 68 Ariz 393, 395 (1949).

No statute gives Pima County the authority to limit the number of heavy duty trucks nor require a permit before operating such trucks on roads.

The Draft Ordinance cites a single Arizona statute, A.R.S. § 28-1106(C), as the basis for limiting heavy duty truck traffic to no more than 75 ADT. But that statute does not support the County's position. In fact, it provides no authority for the type of trip-cap the Draft Ordinance proposes.

A.R.S. § 28-1106, grants counties limited authority to regulate highway use. Subsection C allows a county to "prohibit by ordinance or resolution the operation of trucks or other commercial

vehicles or may impose limitations as to the weight of vehicles on designated highways.” In other words, the Legislature gave Pima County two powers: (1) to ban certain trucks or commercial vehicles altogether, or (2) to set weight limits. No more.

Nothing in § 28-1106 authorizes the County to limit the number of heavy-duty trucks using a roadway, nor does it permit the County to require a special permit for their operation. These proposed restrictions fall outside the statute’s express scope.

Moreover, A.R.S. § 28-1106(E) places an additional, explicit limitation on county authority. A county “may only restrict or prohibit a vehicle of legal size from operating on a highway that is a major arterial street that connects two or more local jurisdictions if the department or the local authority conducts a test drive or applies a vehicle template on the highway that shows that a vehicle of a legal size may not safely operate on the highway.” Santa Rita Road is a major arterial street. We are unaware of whether the County conducted such an analysis, and in any event, no objective analysis could show that heavy trucks cannot “safely operate on the highway.” The statute therefore bars the County from imposing the proposed trip cap.

The Draft Ordinance’s permit requirement fares no better. No Arizona law permits the County to impose a permitted scheme of this type.

To prevent ongoing and future violations of state law, we respectfully request that the Pima County Board of Supervisors reject the proposed ordinance in so far as it limits the number of heavy duty trucks to no more than 75 ADT or requires a permit for operating heavy-duty trucks.

I am available at any time to discuss the issues raised in this matter. Should you have any questions, please do not hesitate to contact me directly at (602) 462-5000 or [ashelton@goldwaterinstitute.org](mailto:ashelton@goldwaterinstitute.org).

Regards,



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