STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

INVESTIGATIVE REPORT By KRIS MAYES ATTORNEY GENERAL April 29, 2026	No. 26-002 Re: Whether Phoenix Administrative Regulation 5.32 violates A.R.S. § 11-1051 or other applicable state and federal law?

To: The Honorable Katie Hobbs, Governor
The Honorable Adrian Fontes, Secretary of State
The Honorable Warren Petersen, President of the Arizona State Senate
The Honorable Steve Montenegro, Speaker of the Arizona House of Representatives
The Honorable Quang Nguyen, Member of the Arizona Legislature

I. Summary

Pursuant to A.R.S. § 41-194.01, the Attorney General's Office (the "Office") has investigated whether City of Phoenix Administrative Regulation 5.32 ("Regulation") violates A.R.S. § 11-1051(A), which prohibits state agencies and political subdivisions from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law." Because the Regulation conforms to—and does not "limit or restrict" the enforcement of—federal immigration law, the Office concludes that the Regulation does not violate § 11-1051(A).

II. The Office's Investigation

Arizona law provides that "[a]t the request of one or more members of the legislature, the attorney general shall investigate any ordinance . . . or other official action adopted or taken by the

governing body of a . . . city . . . that the member alleges violates state law or the Constitution of Arizona." A.R.S. § 41-194.01(A). Upon completing its investigation, the Office must "make a written report of findings and conclusions" determining that the challenged ordinance "[v]iolates" state law or the Arizona Constitution, "[m]ay violate" state law or the Constitution, or "[d]oes not violate" state law or the Constitution. *Id*. at § 41-194.01(B).

On March 30, 2026, Representative Quang Nguyen requested that the Office investigate whether the Regulation "violate[s] A.R.S. § 11-1051 and other applicable state and federal law." (the "Request").[1] Specifically, Rep. Nguyen alleged that the Regulation unlawfully "withholds access to necessary infrastructure and subjects law enforcement activity to local discretionary approval" and "raises serious federal preemption concerns." Request, 2.[2] The Office asked the City for a voluntary response to the Request, and the City provided a letter on April 13, 2026 ("Response").[3] In accordance with its statutory duty, the Office then undertook an investigation in which it analyzed the Regulation, the City's response to the Office's request for information, and A.R.S. § 11-1051(A) and other applicable state and federal law.

[1] Rep. Nguyen's Request is available at https://www.azag.gov/sites/default/files/2026-04/2026-03-30%20Request%20for%20SB1487%20Investigation%20%20Phoenix%20Administrative%20Regulation%205-32.pdf.

[2] A.R.S. § 41-194.01 requires the Office to investigate only alleged violations of "state law or the Constitution of Arizona," not federal law. However, A.R.S. § 11-1051(A)—a state statute—incorporates federal law by prohibiting state agencies and political subdivisions from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent *permitted by federal law*." (Emphasis added.) Thus, we consider applicable federal law to the extent that this analysis informs our investigation of whether the Regulation violates A.R.S. § 11-1051(A).

[3] The City's Response is available at https://www.azag.gov/sites/default/files/2026-04/2026-04-13%20SB26-002%20City%20of%20Phoenix%20Response.pdf.

III. Background

A. The City adopts the Regulation.

The Phoenix City Council adopted the Regulation on March 26, 2026 for the purpose of providing "clear direction . . . as to the use of City property for civil law enforcement purposes." A.R. 5.32, § 1. The Regulation states that "City-Owned and City-Controlled property may be used only for authorized City purposes and shall not be used for any unauthorized or non-City purposes." A.R. 5.32, § II. One prohibited use is "using City property as a staging area, processing location or operations base for civil law enforcement actions, unless approved by the City Manager or their designee." *Id*.

The Regulation directs that "[t]he City Manager shall approve or deny any requests from local, state, or federal law enforcement agencies to engage in civil law enforcement on City-Owned and City-Controlled Property." A.R. 5.32, § V(B)(3). The City Manager must approve or deny requests "consistent with" both the Regulation itself and any recommendation from the Phoenix Police Chief. *Id*. The Regulation further instructs each City department to identify City-owned and City-controlled property within its purview, to develop a "Signage Plan" and "Access Control Plan" for that property, and, once approved by the City Manager, to implement those Plans. A.R. 5.32, § V(A) (1), (2), (5). While City employees are responsible for identifying and reporting any unauthorized uses of City property, the Regulation expressly forbids City employees from "engag[ing], obstruct[ing], or imped[ing] unauthorized users engaged in civil law enforcement without further direction from the City Manager or their designee." A.R. 5.32, § V(C).

Finally, the Regulation does not apply, among other places, to City rights-of-way like streets and sidewalks, at the Airport, or at the Phoenix Municipal Court.

B. Representative Nguyen alleges that the Regulation violates Arizona law.

Rep. Nguyen claims that the Regulation violates A.R.S. § 11-1051(A) because it "affirmatively restricts the use of City property for core enforcement functions," "creates a substantial risk that enforcement will be delayed, impeded, or denied altogether," and could impede enforcement operations by denying "access to strategically necessary municipal property." Request, 1-2.

Rep. Nguyen also asserts that the Regulation may violate the U.S. Constitution because (1) it creates an "obstacle" to federal enforcement operation and (2) the approval requirements lack "clear criteria to ensure consistent and nondiscriminatory access" for federal law enforcement. *Id*. at 2.

C. The City contends that the Regulation is lawful because it is a property management directive governing matters of purely local concern.

In its Response, the City argues primarily that the Regulation is a lawful exercise of its authority as a charter city to manage its own property "free from state legislative override." Response, 2. The City's analysis is based on a provision of the Arizona Constitution, sometimes referred to as the "home rule charter provision," which authorizes eligible cities to adopt charters. Ariz. Const. art. 13, § 2. In very general terms, a city's charter supersedes state laws to the extent those laws "relate to purely municipal affairs" and not to matters of statewide concern. *Strode v. Sullivan*, 72 Ariz. 360, 365 (1951).

According to the City, the Regulation "governs only how City departments and employees administer access to Phoenix properties and facilities" and that it does so "pursuant to the City Manager's delegated operational authority under the City Charter." Response, 2. Thus, the City concludes, the Regulation addresses a matter of purely local concern —"the management and use

of City property"— and is therefore "not preempted by state law and can operate independently of any provision of state law, including A.R.S. § 11-1051." *Id*.

The City also argues that, even if the home rule charter provision does not apply, the Regulation is nonetheless a lawful "property-management directive" that was "carefully drafted" to "operate within the boundaries of state and federal law." Response, 4. The City offers three reasons why the Regulation achieves that objective.

First, the City contends that "A.R. 5.32 does not limit or restrict enforcement of federal immigration laws" because it regulates only access to property and "[n]o federal law entitles federal agents to use municipal property. . . for civil law enforcement purposes." Response, 3. Citing *U.S. v. California*, 921 F.3d 865, 888 (9th Cir. 2019), the City explains that the courts have consistently drawn a line between "active obstruction of federal enforcement" and a "decision not to affirmatively provide resources for federal purposes." Response, 3. Because federal law "does not impose any affirmative obligation to facilitate immigration enforcement" or otherwise require municipalities to make their property available, the City contends that the Regulation "falls outside" the limitations imposed by § 11-1051. Response, 3.

Second, the City argues that the Regulation does not implicate any federal preemption concerns because it is a "lawful exercise of the City's municipal authority over its own property" and does not regulate any federal decisions or activities. Response, 3-4 (citing *California*, 921 F.3d at 880-81). This sort of local property-management decision-making, the City claims, is part of the federal system, not at odds with it. Response, 3.

Third, the City contends that the Regulation does not discriminate against federal agents or the United States generally. Response, 4. Instead, the City argues, the Regulation applies to any "civil law enforcement activities" and is, therefore, "facially and operationally neutral." *Id*.

IV. Legal Analysis

A. Section 11-1051(A) does not impose any affirmative obligations beyond non-restriction of federal immigration enforcement.

A.R.S. § 11-1051(A) prohibits political subdivisions from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law." When it enacted S.B. 1070—including those provisions that became § 11-1051—the legislature declared "that there is a compelling interest in the cooperative enforcement of federal immigration laws through all of Arizona." 2010 Ariz. Legis. Serv. Ch. 113, § 1 (2d Reg. Sess. 2010). But section 1 of SB 1070 is not part of the enacted text. *See Cronin v. Sheldon*, 195 Ariz. 531, 538 ¶¶ 29-30 (1999) (a "preamble is not statutory text" and is therefore "devoid of operative effect"). The enacted text of § 11-1051(A) generally prohibits conduct, it does not require it. A.R.S. § 11-1051(A) ("No . . . political subdivision of this state may. . .").

We therefore understand § 11-1051(A) to do only that which its plain text states—it prohibits Arizona political subdivisions from adopting policies that "limit or restrict" federal immigration enforcement to less than what federal law permits, but does not mandate that political subdivisions do more than what federal law requires.

B. The Regulation conforms with federal immigration law and the U.S. Constitution.

Because A.R.S. § 11-1051(A) forbids cities from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law," we must consider what it is that federal law permits immigration officials to do.

1. Federal law does not require local cooperation with federal immigration enforcement.

As a general matter, whether to use state resources to implement the federal immigration scheme is reserved to the states according to the Tenth Amendment. *See Printz v. United States*,

521 U.S. 898, 925 (1997). Federal law permits the federal government to contract with state and local governments to further federal immigration enforcement, *see* 8 U.S.C. §§ 1357(g), 1103(a)(11)(b), but does not *require* it. *California*, 921 F.3d at 891 (federal government cannot require state cooperation "without running afoul of the Tenth Amendment"). Thus, as a matter of federal law, localities like cities and counties can refuse cooperation with federal immigration enforcement efforts, unless a specific statute lawfully compels their assistance. *See, e.g.*, 8 U.S.C. § 1373(a) (purporting to require localities to share citizenship and immigration information by prohibiting state and local governments from restricting the practice). As the Ninth Circuit explained in *California*, "refusing to help is not the same as impeding." 921 F.3d at 888.

District courts have routinely upheld states' authority to refuse cooperation with federal immigration enforcement on Tenth Amendment grounds, "even if those policies frustrate the federal government's civil immigration enforcement efforts." *See United States v. Illinois*, 796 F. Supp. 3d 494, 532 (N.D. Ill. 2025) (concluding that state and local regulations prohibiting those governmental units "from taking any action in response to an administrative warrant or immigration detainer" did not impermissibly disrupt or conflict with federal requirements because the Immigration and Nationality Act permits inaction); *see also United States v. New York*, 810 F. Supp. 3d 329, 355 (N.D.N.Y. 2025) (holding that state executive order requiring judicial warrant to execute civil immigration arrests within state facilities reflected the state's "decision to not participate in enforcing civil immigration law – a decision protected by the Tenth Amendment" and that "[f]inding that these same provisions constitute discrimination or impermissible regulation would provide an end-run around the Tenth Amendment") .

With limited exceptions, federal law does not purport to compel the states' participation in immigration enforcement, and therefore generally permits localities to refuse cooperation with

immigration enforcement activities. Thus, the only way that § 11-1051(A) could be read to require cooperation beyond what federal law requires would be via express statutory language so directing Arizona's political subdivisions. But § 11-1051(A) contains no such language and, instead, only prohibits measures which restrict immigration enforcement "to less than the full extent permitted by federal law."

2. Immigration officials must obtain a judicial warrant or consent to demand access to non-public areas.

Federal agents may issue administrative or "arrest" warrants for civil immigration enforcement. *See* 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, an alien may be arrested and detained. . . "). As the name indicates, administrative warrants—Form I-200 (Warrant for Arrest of Alien) or Form I-205 (Warrant of Removal/Deportation)—are executed by the executive agency, not a judge. *See* U.S. Immigr. & Customs Enf't, Policy No. 10074.2, Issuance of Immigration Detainers by ICE Immigration Officers, § 2.4 (Mar. 24, 2017). Thus, an administrative warrant issued by federal authorities does not "compel[] any action by a state or local official." *California*, 921 F.3d at 887.

Like other law enforcement, federal immigration officials are bound by general Fourth Amendment principles. *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 824 (9th Cir. 2020). This means that, absent exigent circumstances, immigration enforcement agents must obtain either a judicial warrant or voluntary consent for entry into a non-public area. *Katz v. United States*, 389 U.S. 347, 357 (1967) (executive-issued administrative warrants do not "adhere[ ] to judicial processes" and cannot thereby authorize officers' entry where there is a reasonable expectation of privacy); *see also* 8 C.F.R. § 287.8(f)(2) (except as provided in 8 U.S.C. § 1357(a)(3), immigration officers cannot enter into non-public areas without "a warrant or consent of the owner or other person in control of the site to be inspected") and *Kidd v. Mayorkas*,

734 F. Supp. 3d 967, 984 (C.D. Cal. 2024) (government's "systematic conduct of entering persons' curtilage without a judicial warrant with the intent to arrest the occupant violates 8 C.F.R. § 287.8(f)(2)").

Conversely, an immigration official does not need a judicial warrant or consent to enter into a public area, *i.e.*, an area where there is not a reasonable expectation of privacy. *Katz*, 389 U.S. at 351 ("What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection."); *see also* 8 C.F.R. § 287.8(f)(4) ("Nothing in this section prohibits an immigration officer from entering into any area of a business or other activity to which the general public has access or onto open fields that are not farms or other outdoor agricultural operations without a warrant, consent, or any particularized suspicion in order to question any person whom the officer believes to be an alien concerning his or her right to be or remain in the United States.").

3. Localities can restrict the federal government's access to property in accordance with the Supremacy Clause.

Rep. Nguyen also challenges the Regulation on constitutional grounds. Request, 2. Specifically, Rep. Nguyen contends that the Regulation "raises serious federal preemption concerns" and "restrict[s]" access to City-controlled property in a way that "interfere[s] with or stand[s] as an obstacle against the execution of federal law." *Id*. So stated, Rep. Nguyen's constitutional concerns implicate both the Supremacy Clause, U.S. Const. art. VI, cl. 2, and provisions of the Arizona Constitution incorporating the same. *See* Ariz. Const. art 2, § 3(A). Modern Supremacy Clause cases discuss two separate doctrines: intergovernmental immunity and

preemption. *See California*, 921 F.3d at 878–79. Neither doctrine prohibits all local regulation of federal activities.

a) Intergovernmental Immunity

"The Constitution's Supremacy Clause generally immunizes the Federal Government from state laws that [1] directly regulate or [2] discriminate against it." *United States v. Washington*, 596 U.S. 832, 835 (2022) (bracketed numbers added).

Direct regulation can take many forms, including taxing the federal government or prohibiting the federal government from taking a particular action. "[T]he key question is whether state law seeks to improperly 'control' the employee's federal duties, or whether the law only 'might affect incidentally the mode of carrying out the employment — as, for instance, a statute or ordinance regulating the mode of turning at the corners of streets.'" *Texas v. U.S. Dep't of Homeland Sec.*, 123 F.4th 186, 206 (5th Cir. 2024) (quoting *Johnson v. Maryland*, 254 U.S. 51, 56-57 (1920)). When a locality acts "as a proprietor" to adopt otherwise generally applicable regulations governing what activities are permissible in its own facilities, there is no impermissible "regulation" of the federal government, even if the regulation might "incidentally" affect how federal officials do their jobs. *Id.*; *see also New York*, 810 F. Supp. 3d at 352-53 ("New York is not attempting to regulate federal agents and it is not prohibiting the federal government from enforcing immigration law. Rather, it is simply defining, as a proprietor, what activities are not permissible in state-owned facilities. Such conduct does not run afoul of the intergovernmental immunity doctrine.").

Local laws also may not discriminate against the federal government by setting it apart for less favorable treatment based on its federal governmental status. *Washington*, 596 U.S. at 838. "A state law or regulation discriminates against the federal government if it treats comparable

classes of federal and state employees differently, advantaging the state employees," *Nwauzor v. GEO Grp., Inc.,* 127 F.4th 750, 763 (9th Cir. 2025) (citing *Dawson v. Steager*, 586 U.S. 171, 175-76 (2019)), and "no 'significant differences between the two classes' justify the differential treatment." *Dawson*, 586 U.S. at 175 (quotation and other citation omitted). But "[t]he mere fact that the [local law] touches on an exclusively federal sphere is not enough to establish discrimination." *McHenry Cnty. v. Kwame Raoul*, 44 F.4th 581, 594 (7th Cir. 2022) (citing *California*, 921 F.3d at 881). If there are no "similarly situated" actors who receive better treatment, the local law is not discriminatory, even if it necessarily applies only to the federal government.

b) Federal Preemption

Under the doctrine of obstacle preemption (the only preemption doctrine that Rep. Nguyen has raised, *see* Request, 2), a state law is preempted if it "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress*." Arizona v. United States*, 567 U.S. 387, 399 (2012). A presumption against preemption applies "when a state regulates in an area of historic state power." *Knox v. Brnovich*, 907 F.3d 1167, 1174 (9th Cir. 2018) (citation omitted).

Once triggered, the presumption against preemption applies "even if the law 'touch[es] on' an area of significant federal presence." *Knox*, 907 F.3d at 1174. The presumption applies to state laws that affect areas of exclusive federal regulation, such as immigration enforcement, even if those state laws have "incidental effects in an area of federal interest." *DeCanas v. Bica*, 424 U.S. 351, 355 (1976) ("[T]he Court has never held that every state enactment which in any way deals with [noncitizens] is a regulation of immigration and thus per se preempted by this constitutional power."); *Puente Ariz. v. Arpaio*, 821 F.3d 1098, 1104 (9th Cir. 2016) ("[W]hile the [challenged]

laws certainly have effects in the area of immigration, the text of the laws regulate for the health and safety of the people of Arizona.").

The Ninth Circuit has held that a state statute prohibiting operation of private detention facilities within the state was preempted by federal immigration law. *Geo Grp., Inc. v. Newsom*, 50 F.4th 745, 763 (9th Cir. 2022). In *Newsom*, the court found that (1) "Congress sought to delegate to the DHS Secretary the responsibility to arrange for appropriate places of detention" and (2) the California statute banned private detention facilities altogether, thereby creating a conflict between state law and Congress's direction that DHS Secretary decide where and how to house immigration detainees. *Id*. at 762.

But more recently, the Ninth Circuit considered whether federal law preempted Washington's Minimum Wage Act such that a federal contractor could continue to pay civil immigration detainees $1 per day for worked performed operating their own detention facility. *Nwauzor*, 127 F.4th at 757. The Court concluded that (1) Washington's Minimum Wage Act was entitled to a presumption against preemption because it fell "squarely within the states' historic police powers to establish and require payment of a minimum wage" and (2) the government failed to identify any federal law demonstrating that Congress intended to "preempt the application of the [Minimum Wage Act] to civil detainees held in private for-profit detention centers." *Id*. at 768.

C. The Regulation comports with federal law authorizing immigration enforcement and with the Supremacy Clause.

The Regulation prohibits the use of City property "for civil law enforcement actions, unless approved by the City Manager or their designee." A.R. 5.32, § II. But there are several material exceptions.

The Regulation contains an express exception for judicial warrants and exigent circumstances. A.R. 5.32, § III. It also exempts City property where the public, including federal agents, would expect to be able to move freely, *i.e.*, public rights-of-way, the Airport, and Phoenix Municipal Court. *Id*. This means that federal immigration officials are not presumptively prohibited from staging an enforcement operation on, for example, Phoenix sidewalks, and need not seek the City Manager's advanced approval before commencing such operations. The Regulation also expressly forbids City employees from "engag[ing], obstruct[ing], or imped[ing] unauthorized users engaged in civil law enforcement without further direction from the City manager." A.R. 5.32, § V(C). In this way, the Regulation simply designates how the City will decide whether to grant the consent to access non-public areas of City-owned property that federal law already requires immigration officials to obtain; it delegates that decision to the City Manager, in consultation with the Police Chief. A.R. 5.32, §§ II, V(B)(3). On its face, then, the Regulation comports with federal law.

Rep. Nguyen contends that the Regulation is nonetheless unlawful because it "provides no clear criteria to ensure consistent and nondiscriminatory access" to City-owned property and is therefore unconstitutional. But the fact that the City Manager *might* ultimately withhold consent

in a discriminatory way does not mean that the Regulation necessarily impedes or restricts federal immigration enforcement in an unconstitutional way.

Taking the discrimination aspects first, the Regulation is facially neutral and does not single out the federal government, or even immigration enforcement activities. Rather, the Regulation presumptively prohibits all unauthorized "civil law enforcement actions" on City property. A.R. 5.32, § II. On this basis, we can conclude that, on its face, the Regulation is not discriminatory to the federal government. It is, of course, possible that the City Manager could implement the Regulation in a way that is discriminatory toward the federal government by, for example, denying all requests from the Department of Homeland Security and granting all others. But, as it stands, we are not aware that any agency—federal or otherwise—has requested to use City property for civil law enforcement actions. And this investigation concerns the Regulation itself, as it must under § 41-194.01, and we therefore offer no opinion as to the merits of any hypothetical as-applied challenge.

Although the Regulation would require federal immigration officials to seek and obtain City Manager approval before using non-exempt City property for civil law enforcement purposes, it does not regulate the federal government in a way that violates the intergovernmental immunity doctrine. As discussed above, any impact that the Regulation has on how the federal government conducts immigration enforcement within Phoenix is merely "incidental" to the Regulation's stated purpose, which is to limit access to City property to those with "authorized City purposes." A.R. 5.32, § II.

Nor does federal immigration law preempt the Regulation. In *Nwauzor*, the Ninth Circuit concluded that Washington's minimum wage act applied to civil detainees working in an immigration detention center and was not preempted because (1) minimum wage is among the

states' historic powers and applicable statutes and (2) applicable immigration statutes did not evince a "clear and manifest purpose of Congress" to preempt state minimum wage laws with respect to detainees. 127 F.4th at 768. So too, here. Federal law governing immigration enforcement does not indicate any Congressional intent to preempt Phoenix's authority to regulate access to its own property via the Regulation. To the contrary, the statutory scheme contemplates that ICE administrative warrants would yield to private property rights. *See* 8 C.F.R. § 287.8(f)(2) (immigration officers cannot enter non-public areas to search without a judicial warrant or consent).

Whether the local regulation "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Arizona*, 567 U.S. at 399, is essentially the same question as deciding whether the local regulation imposes a "limit" or "restrict[ion]" on federal immigration laws. A.R.S. § 11-1051(A); *see also Illinois*, 796 F. Supp. 3d at 527 (state inaction is not a frustration of purpose because the INA permits inaction). And, in this way, both inquiries are resolved by the ample case law which concludes that (1) the federal immigration scheme does not require localities' affirmative cooperation and (2) localities can deny access to federal agents, so long as they do so in accordance with the Supremacy Clause. Because the plain text of the Regulation comports with federal law and the Constitution and does not purport to impose a limitation that federal law prohibits, we conclude that the Regulation does not "restrict or limit federal immigration laws" in violation of A.R.S. § 11-1051(A).

D. Because we find no conflict between the Regulation and A.R.S. § 11-1051(A), we do not address the Home Rule Charter Provision.

Since statehood, Arizona's Constitution has included a provision authorizing eligible cities to adopt charters. Ariz. Const. art. 13, § 2. Phoenix is a charter city, and its charter grants the City authority to "establish, maintain, equip, own and operate" property. Phoenix City Charter, Ch. II,

§ 2; *see also* A.R.S. § 9-494(A) ("A city or town may establish and maintain public parks, and acquire, hold and improve real property for that purpose.").

By statute, a city charter prevails over any conflicting law relating to charter cities in force when the charter was adopted and approved. A.R.S. § 9-284(A). The charter, however, "shall be consistent with and subject to the state constitution, and not in conflict with. . . general laws of the state not relating to cities." A.R.S. § 9-284(B); *see also Strode v. Sullivan*, 72 Ariz. 360, 365 (1951) (a city's charter supersedes state laws to the extent those laws "relate to purely municipal affairs" and not to matters of statewide concern). From these authorities, the Arizona Supreme Court has articulated the following rule:

> Where the legislature has enacted a law affecting municipal affairs, but which is also of state concern, the law takes precedence over any municipal action taken under the home rule charter. But where the legislative act deals with a strictly local municipal concern, it can have no application to a city which has adopted a home rule charter. Whether or not an act of the legislature pertains to a matter of local or state-wide concern becomes a question for the courts when a conflict of authority rises.

City of Tucson v. Walker, 60 Ariz. 232, 239 (1943) (emphasis added). Importantly, "the assertedly competing provisions in question must be actually conflicting, rather than capable of peaceful coexistence." *Jett v. City of Tucson*, 180 Ariz. 115, 121 (1994).

"[W]hether state law prevails over conflicting charter provisions under Article 13, Section 2 is a question of constitutional interpretation." *City of Tucson v. State*, 229 Ariz. 172, 178 ¶ 34 (2012). In general, we endeavor to avoid answering constitutional questions whenever possible. *See Fragoso v. Fell*, 210 Ariz. 427, 430 ¶ 6 (App. 2005) ("Courts should decide cases on nonconstitutional grounds if possible, avoiding resolution of constitutional issues, when other

principles of law are controlling and the case can be decided without ruling on the constitutional questions.") (quoting *In re U.S. Currency of $315,900*, 183 Ariz. 208, 211 (App. 1995)).

Because we conclude that the Regulation is consistent with § 11-1051(A), there is no "conflict" which would require us to consider whether § 11-1051(A) supersedes a Regulation that the City adopted pursuant to its charter authority. We can resolve this investigation without reaching the constitutional question presented by the City's home rule charter arguments and, therefore, decline to reach those arguments.

V. Conclusion

Phoenix Administrative Regulation 5.32 does not violate A.R.S. § 11-1051(A).

Kris Mayes
Attorney General