

~~tiny homes; construction; requirements; exemptions~~
(now: cottage homes; construction; requirements; exemptions)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2096

AN ACT

AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 11-269.29; AMENDING SECTIONS 11-811, 11-812, 11-815, 11-861
AND 11-865, ARIZONA REVISED STATUTES; RELATING TO BUILDING PERMITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 11, chapter 2, article 4, Arizona Revised
3 Statutes, is amended by adding section 11-269.29, to read:

4 11-269.29. Cottage homes; accessory dwelling units; detached
5 garages; rural land; permits; inspections;
6 exemption; greenhouses; relief; applicability;
7 definitions

8 A. A COUNTY SHALL ENSURE THAT ITS LAND USE REQUIREMENTS, ZONING
9 RULES, BUILDING CODES AND HOUSING POLICIES MAXIMIZE THE EASE OF
10 CONSTRUCTING RESIDENCES ON RESIDENTIAL RURAL LAND AND THE AFFORDABILITY OF
11 RESIDING ON RESIDENTIAL RURAL LAND.

12 B. NOTWITHSTANDING ANY OTHER LAW, EXCEPT FOR SUBSECTION D OF THIS
13 SECTION, A COUNTY MAY NOT REQUIRE A BUILDING PERMIT FOR CONSTRUCTING ONE
14 SINGLE-FAMILY HOME, ONE ACCESSORY DWELLING UNIT OR ONE DETACHED GARAGE ON
15 A LOT IF ALL OF THE FOLLOWING APPLY:

16 1. THE LOT IS LOCATED ON RESIDENTIAL RURAL LAND.

17 2. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT EACH HAVE
18 SIX HUNDRED SQUARE FEET OR LESS OF INTERIOR SPACE THAT DOES NOT INCLUDE
19 LOFT SPACE AND FOUR HUNDRED SQUARE FEET OR LESS OF ATTACHED DECK, PORCH OR
20 PATIO SPACE.

21 3. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT ARE EACH
22 SINGLE-STORY STRUCTURES, NOT INCLUDING A LOFT.

23 4. ANY DETACHED GARAGE HAS FOUR HUNDRED SQUARE FEET OR LESS OF
24 INTERIOR SPACE.

25 5. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT OR
26 DETACHED GARAGE ARE ON A SEMI-PERMANENT OR PERMANENT FOUNDATION.

27 6. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT EACH HAVE
28 UTILITY CONNECTIONS TO AN OUTSIDE UTILITY SERVICE OR HAVE ALL OF THE
29 FOLLOWING:

30 (a) ON-SITE SOLAR, WIND OR OTHER ELECTRICAL GENERATION CAPACITY.

31 (b) AN ON-SITE WATER STORAGE TANK.

32 (c) AN ON-SITE WASTEWATER TREATMENT FACILITY OR A SYSTEM THAT IS
33 COMPLIANT WITH THE REQUIREMENTS OF SECTION 49-204.

34 7. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT AND
35 DETACHED GARAGE ARE EACH AT LEAST SIX FEET FROM EACH OTHER AND ARE EITHER
36 UNCONNECTED STAND-ALONE BUILDINGS OR ARE CONNECTED BY A GANGWAY THAT IS AT
37 LEAST SIX FEET AND NOT LONGER THAN EIGHTEEN FEET IN LENGTH.

38 8. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT COMPLY
39 WITH ANY COUNTY SETBACK REQUIREMENTS THAT ARE APPLICABLE TO RESIDENTIAL
40 BUILDINGS IN THE ZONING CLASSIFICATION OF THE LOT. A ZONING REQUIREMENT
41 MAY NOT PROHIBIT CONSTRUCTING A SINGLE-FAMILY HOME, ACCESSORY DWELLING
42 UNIT OR DETACHED GARAGE THAT ARE ADJACENT TO EACH OTHER IF THEY ARE AT
43 LEAST SIX FEET APART.

1 9. THE SINGLE-FAMILY HOME AND ANY ACCESSORY DWELLING UNIT OR
2 DETACHED GARAGE ARE BUILT PURSUANT TO SECTION 32-1121, SUBSECTION A,
3 PARAGRAPH 5.

4 10. THE OWNER CONSTRUCTED THE SINGLE-FAMILY HOME, ACCESSORY
5 DWELLING UNIT OR DETACHED GARAGE WITHOUT THE INTENT TO SELL OR RENT THE
6 SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE. OWNERS
7 ARE DEEMED TO HAVE CONSTRUCTED THE SINGLE-FAMILY HOME, ACCESSORY DWELLING
8 UNIT OR DETACHED GARAGE WITHOUT THE INTENT TO SELL OR RENT IF THE OWNER
9 DOES NOT SELL OR RENT THE SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR
10 DETACHED GARAGE FOR AT LEAST TWELVE MONTHS AFTER CONSTRUCTION IS COMPLETE.

11 C. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT REQUIRE A
12 BUILDING INSPECTION FOR ANY SINGLE-FAMILY HOME OR ACCESSORY DWELLING UNIT
13 THAT IS CONSTRUCTED IN SUBSTANTIAL COMPLIANCE WITH THIS SECTION, UNLESS
14 THE COUNTY HAS CLEAR AND CONVINCING EVIDENCE DEMONSTRATING NONCOMPLIANCE
15 WITH ANY OF THE REQUIREMENTS OF THIS SECTION OR THE SINGLE-FAMILY HOME OR
16 ACCESSORY DWELLING UNIT IS LOCATED IN A FLOODPLAIN AND SUBSECTION M OF
17 THIS SECTION APPLIES AND THE INSPECTION IS LIMITED TO FLOODPLAIN
18 RESTRICTIONS. THE COUNTY SHALL REQUIRE THAT THE OWNER DO BOTH OF THE
19 FOLLOWING:

20 1. FILE AN AFFIDAVIT STATING THE FOLLOWING:

21 "I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE
22 SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE
23 CONSTRUCTED AT (ADDRESS) WAS BUILT IN SUBSTANTIAL CONFORMITY
24 WITH THE REQUIREMENTS OF SECTION 11-269.29, ARIZONA REVISED
25 STATUTES. I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE
26 STRUCTURE WAS BUILT IN SUBSTANTIAL CONFORMITY WITH THE
27 COUNTY'S BUILDING CODES OR A WIDELY RECOGNIZED STANDARD OR
28 CODE FOR TINY HOME CONSTRUCTION. I UNDERSTAND THAT NO
29 MUNICIPALITY, COUNTY OR STATE AGENCY HAS CONDUCTED ANY
30 INSPECTION OF THIS CONSTRUCTION OR HAS EVALUATED ITS QUALITY,
31 WORKMANSHIP OR FITNESS FOR USE OR HABITATION. I ACCEPT FULL
32 RESPONSIBILITY FOR RESIDING IN OR MAKING USE OF THIS
33 CONSTRUCTION. I AGREE TO RELEASE AND HOLD HARMLESS ALL
34 MUNICIPALITIES, COUNTIES AND STATE AGENCIES FROM ANY LIABILITY
35 FOR ANY INJURY OR DAMAGE THAT IS CAUSED BY THIS CONSTRUCTION,
36 AND I WAIVE ANY SUCH CLAIMS I MIGHT HAVE AGAINST THEM. I
37 ACCEPT FULL LIABILITY FOR ANY INJURY OR DAMAGE THAT IS CAUSED
38 BY THIS CONSTRUCTION TO MYSELF OR OTHERS AND THAT IS A RESULT
39 OF NEGLIGENT OR RECKLESS WORKMANSHIP OR CONSTRUCTION QUALITY.
40 THIS STRUCTURE WAS BUILT BY THE PROPERTY OWNER AND NOT BY A
41 LICENSED CONTRACTOR. THIS STRUCTURE WAS NOT INSPECTED FOR
42 SAFETY OR QUALITY OF WORKMANSHIP BY THE COUNTY OR ANY OTHER
43 PUBLIC AUTHORITY."

1 2. SUBMIT A SELF-PREPARED SITE PLAN THAT LISTS GENERAL INFORMATION
2 ABOUT THE SITE OF THE PLANNED CONSTRUCTION AND GENERAL INFORMATION ABOUT
3 THE MATERIALS TO BE USED. THE SITE PLAN SHALL SHOW ALL IMPROVEMENTS TO BE
4 MADE PURSUANT TO THIS SECTION, INCLUDING A SINGLE-FAMILY HOME, ACCESSORY
5 DWELLING UNIT, DETACHED GARAGE, GREENHOUSE, SOLAR OR WIND POWER EQUIPMENT
6 OR ON-SITE WASTEWATER TREATMENT EQUIPMENT. THE COUNTY MAY NOT PROHIBIT
7 CONSTRUCTION BECAUSE OF ANY PERCEIVED DEFICIENCY OF THE SITE PLAN IF THE
8 SITE PLAN SHOWS THE GEOGRAPHIC OUTLINE OF THE LOT WHERE CONSTRUCTION IS TO
9 TAKE PLACE AND PROVIDES A ROUGH SKETCH OF THE PLANNED CONSTRUCTION SHOWING
10 THE FLOOR PLAN AND THE OUTLINE AND MEASUREMENTS OF THE PLANNED
11 CONSTRUCTION'S FOOTPRINT THAT ARE SUFFICIENT TO SHOW THAT THE STRUCTURE
12 WILL FULFILL THE SQUARE FOOT RESTRICTIONS OF SUBSECTION B, PARAGRAPH 2 OR
13 4 OF THIS SECTION. THE COUNTY MAY NOT REQUIRE BLUEPRINTS OF THE STRUCTURE
14 OR REQUIRE THAT THE SITE PLAN BE PREPARED BY AN ENGINEER OR OTHER SIMILAR
15 PROFESSIONAL. THE SITE PLAN AND SKETCH MUST BE PREPARED ONLY TO THE LEVEL
16 OF DETAIL AND QUALITY THAT WOULD REASONABLY BE EXPECTED OF A
17 NONPROFESSIONAL WITH A HIGH SCHOOL EDUCATION. ON COMPLETION OF THE
18 CONSTRUCTION AND IMPROVEMENTS SHOWN ON THE SITE PLAN, THE PROPERTY OWNER
19 SHALL SUBMIT TO THE COUNTY ASSESSOR A COPY OF THE SITE PLAN AND A WRITTEN
20 NOTICE THAT THE CONSTRUCTION AND IMPROVEMENTS HAVE BEEN COMPLETED.

21 D. IF A PROPERTY OWNER BELIEVES THE SINGLE-FAMILY HOME, ACCESSORY
22 DWELLING UNIT OR DETACHED GARAGE IS IN COMPLIANCE WITH THE REQUIREMENTS OF
23 THIS SECTION AND, ABSENT CLEAR AND CONVINCING EVIDENCE SUBMITTED BY A
24 COUNTY THAT THE PROPERTY IS NONCOMPLIANT WITH THE REQUIREMENTS OF THIS
25 SECTION, THE COUNTY MAY REQUIRE THE OWNER TO SUBMIT A BUILDING PERMIT
26 APPLICATION. THE COUNTY'S REQUIREMENTS FOR A BUILDING PERMIT SHALL
27 CONFORM TO THIS SECTION AND MAY NOT REQUIRE ADDITIONAL REQUIREMENTS. IF
28 THE COUNTY FAILS TO APPROVE OR DENY THE BUILDING PERMIT APPLICATION WITHIN
29 FIFTEEN DAYS AFTER THE DATE OF THE APPLICATION SUBMISSION, THE APPLICATION
30 SHALL BE DEEMED APPROVED. IF THE COUNTY DENIES A BUILDING PERMIT
31 APPLICATION SUBMITTED PURSUANT TO THIS PARAGRAPH, THE COUNTY SHALL PROVIDE
32 THE APPLICANT WITH A DETAILED EXPLANATION OF THE REASONS FOR THE DENIAL.
33 THE APPLICANT HAS THE RIGHT TO APPEAL THE COUNTY'S DENIAL IN THE MANNER
34 PRESCRIBED IN SUBSECTION L OF THIS SECTION.

35 E. NOTWITHSTANDING ANY OTHER LAW, EXCEPT AS PROVIDED IN SUBSECTION
36 D OF THIS SECTION A COUNTY MAY NOT REQUIRE A BUILDING PERMIT OR ANY OTHER
37 TYPE OF PERMIT FOR SOLAR POWER OR WIND POWER EQUIPMENT THAT IS INSTALLED
38 AT ANY SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE THAT
39 IS CONSTRUCTED PURSUANT TO THIS SECTION IF THE SINGLE-FAMILY HOME,
40 ACCESSORY DWELLING UNIT OR DETACHED GARAGE IS NOT CONNECTED TO AN OUTSIDE
41 UTILITY SERVICE.

42 F. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT REQUIRE A
43 WASTEWATER, SEWAGE OR GRAY WATER PERMIT FOR ANY SINGLE-FAMILY HOME OR
44 ACCESSORY DWELLING UNIT THAT IS CONSTRUCTED PURSUANT TO THE REQUIREMENTS

1 OF THIS SECTION IF THE OWNER ATTESTS THAT THE RESIDENCE OR UNIT IS
2 COMPLIANT WITH SECTION 49-204, IS NOT REQUIRED TO HAVE AN ON-SITE
3 WASTEWATER TREATMENT FACILITY AS DEFINED IN SECTION 49-201, DOES NOT
4 CREATE ANY SEWAGE FLOW AND WILL NOT BE CONNECTED TO AN OUTSIDE UTILITY
5 SERVICE. A SINGLE-FAMILY HOME OR ACCESSORY DWELLING UNIT THAT RELIES ON A
6 GRAY WATER RECYCLING SYSTEM THAT IS COMPLIANT WITH SECTION 49-204 IS
7 EXEMPT FROM THE REQUIREMENT OF HAVING AN ON-SITE WASTEWATER TREATMENT
8 FACILITY IF THE BUILDING DOES NOT HAVE ANY FLUSHING TOILETS AND ONLY HAS
9 COMPOSTING TOILETS THAT DO NOT CREATE SEWAGE FLOW.

10 G. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT IMPOSE ON
11 SINGLE-FAMILY HOMES, ACCESSORY DWELLING UNITS OR DETACHED GARAGES BUILT IN
12 COMPLIANCE WITH THIS SECTION ANY ZONING OR CONSTRUCTION REQUIREMENTS THAT
13 ARE DIFFERENT FROM THOSE REQUIRED BY THIS SECTION.

14 H. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT REQUIRE A
15 BUILDING PERMIT FOR A GREENHOUSE BUILT ON RESIDENTIAL RURAL LAND IF THE
16 GREENHOUSE MEETS ALL OF THE FOLLOWING:

- 17 1. IS CONSTRUCTED OF LIGHT FRAMING MATERIALS AND METHODS.
- 18 2. IS NOT MORE THAN FOUR HUNDRED SQUARE FEET IN AREA.
- 19 3. WALL HEIGHTS ARE NOT MORE THAN EIGHT FEET WITH A MAXIMUM ROOF
20 PEAK HEIGHT OF EIGHTEEN FEET.

21 4. ELECTRICAL, PLUMBING OR MECHANICAL SYSTEMS ARE ONLY INSTALLED IF
22 THE PROPERTY IS NOT CONNECTED TO A PUBLIC ELECTRICAL OR WATER UTILITY AND
23 IF THE STRUCTURES AT THE PROPERTY ARE COMPLIANT WITH SECTION 49-204. IF
24 THE PROPERTY IS NOT COMPLIANT WITH SECTION 49-204, ONLY ONE WATER LINE MAY
25 BE INSTALLED AS A STAND-ALONE STANDPIPE.

26 I. THE COUNTY MAY REQUIRE THAT THE BUILDER OF A SINGLE-FAMILY HOME,
27 ACCESSORY DWELLING UNIT OR DETACHED GARAGE THAT IS CONSTRUCTED PURSUANT TO
28 THIS SECTION FILE AN AFFIDAVIT WITH THE COUNTY RECORDER IN THE COUNTY
29 WHERE THE SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE
30 IS LOCATED THAT ATTESTS THAT THE SINGLE-FAMILY HOME, ACCESSORY DWELLING
31 UNIT OR DETACHED GARAGE IS BUILT IN COMPLIANCE WITH THIS SECTION.

32 J. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY NOT CONDUCT CODE
33 ENFORCEMENT OR IMPOSE PENALTIES AGAINST ANY SINGLE-FAMILY HOME, ACCESSORY
34 DWELLING UNIT OR DETACHED GARAGE THAT COMPLIES WITH THIS SECTION BUT THAT
35 WAS CONSTRUCTED BEFORE THE EFFECTIVE DATE OF THIS SECTION. THE COUNTY MAY
36 REQUIRE THE OWNER OF A SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR
37 DETACHED GARAGE THAT WAS CONSTRUCTED BEFORE THE EFFECTIVE DATE OF THIS
38 SECTION TO COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS C, D AND I OF THIS
39 SECTION.

40 K. IF A PROPERTY OWNER HAS SUBMITTED AN AFFIDAVIT IN CONFORMITY
41 WITH SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, THE COUNTY SHALL PRESUME
42 THAT THE CONSTRUCTION REFERENCED IN THE AFFIDAVIT IS IN COMPLIANCE WITH
43 THIS SECTION AND THE COUNTY MAY NOT INSPECT THE PROPERTY OR TAKE ANY
44 ENFORCEMENT ACTION UNLESS THE COUNTY HAS CLEAR AND CONVINCING EVIDENCE

1 THAT DEMONSTRATES THAT THE SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR
2 DETACHED GARAGE IS NOT IN COMPLIANCE WITH THIS SECTION.

3 L. IF A COUNTY IMPOSES A PENALTY ON A PROPERTY OWNER OR TAKES AN
4 ENFORCEMENT ACTION RELATED TO THE CONSTRUCTION OF A SINGLE-FAMILY HOME,
5 ACCESSORY DWELLING UNIT OR DETACHED GARAGE THAT THE PROPERTY OWNER
6 BELIEVES TO BE IN COMPLIANCE WITH THIS SECTION, THE PROPERTY OWNER MAY
7 BRING A CIVIL ACTION IN A JUSTICE COURT OR SUPERIOR COURT IN THE COUNTY
8 WHERE THE PROPERTY IS LOCATED. THE PROPERTY OWNER MAY ELECT A JURY OR A
9 BENCH TRIAL. IF THE TRIER OF FACT DETERMINES THAT THE CONSTRUCTION WAS IN
10 COMPLIANCE WITH THIS SECTION:

11 1. THE COUNTY MAY NOT IMPOSE PENALTIES OR ENFORCEMENT AGAINST THE
12 PROPERTY OWNER.

13 2. THE COUNTY SHALL REIMBURSE THE PROPERTY OWNER FOR ACTUAL COSTS
14 INCURRED BY THE PROPERTY OWNER IN DEFENDING AGAINST THE ENFORCEMENT ACTION
15 OR ATTEMPTED ENFORCEMENT ACTION, PLUS \$100 PER DAY BEGINNING WHEN
16 ENFORCEMENT MEASURES WERE TAKEN UNTIL THE CONCLUSION OF THE
17 ACTION. ACTUAL COSTS INCLUDE COSTS RELATED TO THE PROPERTY, LEGAL COSTS
18 AND FEES AND WAGES AND INCOME LOST AS A RESULT OF RESPONDING TO THE
19 COUNTY'S ENFORCEMENT ACTIONS. THE ACTUAL COSTS INCURRED BY THE PROPERTY
20 OWNER SHALL BE DETERMINED BY THE TRIER OF FACT.

21 M. THIS SECTION DOES NOT EXEMPT A SINGLE-FAMILY HOME, ACCESSORY
22 DWELLING UNIT OR DETACHED GARAGE FROM ANY APPLICABLE FLOODPLAIN
23 RESTRICTIONS.

24 N. THIS SECTION APPLIES TO A COUNTY WITH A POPULATION OF LESS THAN
25 FOUR HUNDRED THOUSAND PERSONS.

26 O. PRIOR TO THE CLOSE OF ANY SALE OF ANY PROPERTY WITH A STRUCTURE
27 THAT WAS BUILT IN CONFORMITY WITH THIS SECTION, THE PROPERTY OWNER SHALL
28 PROVIDE A COPY OF THE SWORN AFFIDAVIT REQUIRED PURSUANT TO SUBSECTION C,
29 PARAGRAPH 1 OF THIS SECTION TO ANY PROSPECTIVE BUYERS. THE PROPERTY OWNER
30 SHALL INCLUDE A COPY OF THE AFFIDAVIT REQUIRED PURSUANT TO SUBSECTION C,
31 PARAGRAPH 1 OF THIS SECTION WITH THE SELLER'S AFFIDAVIT OF DISCLOSURE
32 REQUIRED PURSUANT TO SECTION 33-422.

33 P. FOR THE PURPOSES OF THIS SECTION:

34 1. "ACCESSORY DWELLING UNIT" MEANS A BUILDING OR STRUCTURE THAT IS
35 DESIGNED FOR ONE OR MORE PERSONS WHO MAINTAIN A COMMON HOUSEHOLD, THAT
36 INCLUDES AT LEAST ONE BATHROOM AND ONE BEDROOM AND THAT IS LOCATED ON THE
37 SAME LOT AS A SINGLE-FAMILY HOME.

38 2. "DETACHED GARAGE" MEANS A ROOFED AND ENCLOSED STRUCTURE THAT IS
39 NOT CONNECTED TO A HOUSE OR ACCESSORY DWELLING UNIT OTHER THAN THROUGH A
40 GANGWAY, THAT HAS A PRINCIPAL PURPOSE OF ACCOMMODATING MOTOR VEHICLES AND
41 TOOLS, THAT IS NOT CLIMATE CONTROLLED OR USED FOR HUMAN HABITATION AND
42 THAT IS LOCATED ON THE SAME LOT AS A SINGLE-FAMILY HOME.

1 3. "GANGWAY" MEANS A COMPLETELY ENCLOSED ABOVE-GROUND PASSAGEWAY
2 THAT HAS A CEILING HEIGHT OF BETWEEN SEVEN AND NINE FEET AND A WIDTH OF
3 NOT MORE THAN FIVE FEET AND THAT CONNECTS ENTRANCES OF SEPARATE BUILDINGS.

4 4. "LOFT" MEANS A HABITABLE ROOM OR SPACE WITHIN A SINGLE-FAMILY
5 HOUSE OR ACCESSORY DWELLING UNIT THAT IS ABOVE THE MAIN FLOOR, THAT IS
6 OPEN TO THE MAIN FLOOR ON ONE OR MORE SIDES, THAT HAS A CEILING HEIGHT OF
7 LESS THAN SIX FEET, EIGHT INCHES AND THAT IS USED AS A LIVING OR SLEEPING
8 SPACE.

9 5. "ON-SITE WASTEWATER TREATMENT FACILITY" HAS THE SAME MEANING
10 PRESCRIBED IN SECTION 49-201.

11 6. "RESIDENTIAL RURAL LAND" MEANS ANY PROPERTY THAT IS IN AN
12 UNINCORPORATED AREA OF A COUNTY WITH A ZONING CLASSIFICATION THAT ALLOWS
13 FOR THE CONSTRUCTION OF A PRIVATE RESIDENCE, THAT IS AT LEAST TWO ACRES,
14 THAT DOES NOT DIRECTLY ABUT A MUNICIPALITY AND THAT IS NOT LOCATED IN A
15 COUNTY ISLAND AS DEFINED IN SECTION 11-251.12.

16 7. "SINGLE-FAMILY HOME" MEANS A BUILDING OR STRUCTURE THAT IS
17 DESIGNED FOR ONE OR MORE PERSONS WHO MAINTAIN A COMMON HOUSEHOLD AND THAT
18 INCLUDES A KITCHEN AND AT LEAST ONE BATHROOM AND ONE BEDROOM.

19 Sec. 2. Section 11-811, Arizona Revised Statutes, is amended to
20 read:

21 11-811. Zoning ordinance; zoning districts; definitions

22 A. Pursuant to this article, the board of supervisors may adopt a
23 zoning ordinance in order to conserve and promote the public health,
24 safety, convenience and general welfare. The zoning ordinance and all
25 rezonings and zoning regulations amendments adopted under this article
26 shall be consistent with and conform to the adopted comprehensive plan.
27 In addition to the other matters that are required or authorized under
28 this section and article 1 of this chapter, the zoning ordinance:

29 1. Shall show the zoning districts designated as appropriate for
30 various classes of residential, business and industrial uses and shall
31 provide for the establishment of setback lines and other plans providing
32 for adequate light, air and parking facilities and for expediting traffic
33 within the districts.

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

36 3. Shall consider access to incident solar energy.

37 4. May provide for retirement community zoning districts.

38 5. May provide for the regulation and use of business licenses,
39 adult oriented business manager permits and adult service provider permits
40 in conjunction with the establishment or operation of adult oriented
41 businesses and facilities, including adult arcades, adult bookstores or
42 video stores, cabarets, adult live entertainment establishments, adult
43 motion picture theaters, adult theaters, massage establishments and nude
44 model studios. With respect to cabarets, the ordinance shall not conflict

1 with specific statutory or valid regulatory requirements applicable to
2 persons licensed to dispense alcoholic beverages, but the ordinance may
3 include regulation of the age and conduct of erotic entertainers in a
4 manner at least as restrictive as rules adopted under title 4.
5 Notwithstanding section 11-812, a county in regulating or licensing
6 businesses and facilities pursuant to this paragraph may impose reasonable
7 operating requirements that affect the existing uses of businesses and
8 facilities.

9 6. Shall designate and zone appropriate areas of reasonable size in
10 which there may be established with reasonable permanency canneries,
11 fertilizer plants, refineries, commercial feedlots, meat packing plants,
12 tallow works and other like businesses. A dairy operation, including
13 areas designated for the raising of replacement heifers or bulls owned by
14 the same dairy operation, is not subject to this paragraph, and is a
15 general agricultural purpose under subsection D, paragraph 2 of this
16 section and section 11-812, subsection A, paragraph 2. A replacement
17 heifer or bull raising operation of a dairy that is not on contiguous
18 property of the dairy is subject to this paragraph unless the operation
19 begins within one-quarter mile of the dairy.

20 7. IN A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
21 PERSONS, MAY NOT IMPOSE ANY PENALTIES BEYOND THE PROVISIONS OF SECTION
22 11-269.29 FOR SINGLE-FAMILY HOMES, ACCESSORY DWELLING UNITS OR DETACHED
23 GARAGES THAT ARE CONSTRUCTED IN COMPLIANCE WITH THE REQUIREMENTS OF
24 SECTION 11-269.29.

25 B. To carry out the purposes of this article, the board may adopt
26 overlay zoning districts and regulations applicable to particular
27 buildings, structures and land within individual zones. For the purposes
28 of this subsection, "overlay zoning district" means a special zoning
29 district that includes regulations that modify regulations in another
30 zoning district with which the overlay zoning district is combined.
31 Overlay zoning districts and regulations shall be adopted pursuant to
32 section 11-813. The provisions of overlay zoning shall apply
33 retroactively to authorize overlay zoning districts and regulations
34 adopted before April 20, 1993.

35 C. In accordance with article II, sections 1 and 2, Constitution of
36 Arizona, the board shall consider the individual property rights and
37 personal liberties of the residents of the county before adopting any
38 zoning ordinance.

39 D. This section does not authorize:

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

42 2. The regulation or restriction of the use or occupation of land
43 or improvements for railroad, mining, metallurgical, grazing or general
44 agricultural purposes, if the tract concerned is five or more contiguous

1 commercial acres. For the purposes of this paragraph, general
2 agricultural purposes do not include the cultivation of cannabis as
3 defined in section 13-3401 or marijuana as defined in section 13-3401 or
4 36-2801.

5 E. For the purposes of this section:

6 1. "Adult arcade" means any place to which the public is ~~permitted~~
7 ~~ALLOWED~~ or invited and in which coin-operated or slug-operated or
8 electronically, electrically or mechanically controlled still or motion
9 picture machines, projectors or other ~~image-producing~~ ~~IMAGE-PRODUCING~~
10 devices are maintained to show images involving specific sexual activities
11 or specific anatomical areas to persons in booths or viewing rooms.

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

15 (a) Books, magazines, periodicals or other printed matter,
16 photographs, films, motion pictures, videocassettes or reproductions or
17 slides or other visual representations that depict or describe specific
18 sexual activities or specific anatomical areas.

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

21 3. "Adult live entertainment establishment" means an establishment
22 that features either:

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

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

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

31 5. "Adult oriented business" means adult arcades, adult bookstores
32 or video stores, cabarets, adult live entertainment establishments, adult
33 motion picture theaters, adult theaters, massage establishments that offer
34 adult service or nude model studios.

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

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

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

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

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

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

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

17 (a) Persons who are licensed pursuant to title 32, chapter 7, 8,
18 13, 14 or 17.

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

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

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

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

28 13. "Nude model studio":

29 (a) Means a place in which a person who appears in a state of
30 nudity or who displays specific anatomical areas is observed, sketched,
31 drawn, painted, sculptured, photographed or otherwise depicted by other
32 persons who pay money or other consideration. ~~Nude model studio~~

33 (b) Does not include a proprietary school that is licensed by this
34 state, a college, community college or university that is supported
35 entirely or in part by taxation, a private college or university that
36 maintains and operates educational programs in which credits are
37 transferable to a college, community college or university that is
38 supported entirely or in part by taxation or a structure to which the
39 following apply:

40 ~~(a)~~ (i) A sign is not visible from the exterior of the structure
41 and no other advertising appears indicating that a nude person is
42 available for viewing.

43 ~~(b)~~ (ii) A student must enroll at least three days in advance of a
44 class in order to participate.

1 ~~(c)~~ (iii) ~~to~~ NOT more than one nude or seminude model is on the
2 premises at any time.

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

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

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

10 15. "Principal business purposes" means that a commercial
11 establishment derives fifty percent or more of its gross income from the
12 sale or rental of items listed in paragraph 2 of this subsection.

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

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

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

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

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

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

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

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

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

31 Sec. 3. Section 11-812, Arizona Revised Statutes, is amended to
32 read:

33 11-812. Restriction on regulation; exceptions; aggregate
34 mining regulation; definitions

35 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
36 shall NOT:

37 1. Affect existing uses of property or the right to its continued
38 use or the reasonable repair or alteration of the property for the purpose
39 for which used at the time the ordinance affecting the property takes
40 effect.

41 2. Prevent, restrict or otherwise regulate the use or occupation of
42 land or improvements for railroad, mining, metallurgical, grazing or
43 general agricultural purposes, if the tract concerned is five or more
44 contiguous commercial acres. For the purposes of this paragraph:

1 (a) "General agricultural purposes" includes agritourism as defined
2 in section 3-111, but does not include any of the following:

3 (i) Food establishments THAT ARE under the authority of the
4 department of health services pursuant to section 36-136, subsection I AND
5 that are associated with an agritourism business.

6 (ii) Rodeo events that are open to the general public and that sell
7 tickets for admission. For the purposes of this item, rodeo events do not
8 include generally accepted agricultural practices associated with
9 livestock and equine operations.

10 (iii) The cultivation of cannabis as defined in section 13-3401 or
11 marijuana as defined in section 13-3401 or 36-2801.

12 (b) "Mining" has the same meaning prescribed in section 27-301.

13 3. Prevent, restrict or otherwise regulate the use or occupation of
14 land or improvements for agricultural composting, if the tract is five or
15 more contiguous commercial acres. An agricultural composting operation
16 shall notify in writing the board of supervisors and the nearest fire
17 department of the location of the composting operation. If the nearest
18 fire department is located in a city, town or fire district where the
19 agricultural composting is not located, the agricultural composting
20 operation shall also notify in writing the fire district in which the
21 operation is located. Agricultural composting is subject to sections
22 3-112 and 49-141. For the purposes of this paragraph, "agricultural
23 composting" has the same meaning prescribed in section 9-462.01,
24 subsection G.

25 4. Prevent, restrict or otherwise regulate the otherwise lawful
26 discharge of a firearm or air gun or use of archery equipment on a private
27 lot or parcel of land that is not open to the public on a commercial or
28 membership basis.

29 5. IN A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
30 PERSONS, PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
31 LAND OR IMPROVEMENTS ON LAND THAT CONFORM TO SECTION 11-269.29.

32 B. A nonconforming business use within a district may expand if the
33 expansion does not exceed one hundred ~~per cent~~ PERCENT of the area of the
34 original business.

35 C. For the purposes of subsection A, paragraph 2 of this section,
36 mining does not include aggregate mining operations in an aggregate mining
37 operations zoning district established pursuant to this section. The
38 board of supervisors of any county with a population of more than two
39 million persons shall designate and establish the boundaries of an
40 aggregate mining operations zoning district on the petition of at least
41 one hundred persons who reside within one-half mile of an existing
42 aggregate mining operation. In addition, the board of supervisors of any
43 county may establish, in its discretion and on the board's initiative, one
44 or more aggregate mining operations zoning districts. Aggregate mining

1 operations zoning districts may only be located in areas that are
2 inventoried and mapped as areas of known reserves or in areas with
3 existing aggregate mining operations. Subject to subsections E and F of
4 this section, a county and the state mine inspector may jointly adopt, as
5 internal administrative regulations, reasonable aggregate mining
6 operations zoning district standards limited to permitted uses, procedures
7 for approval of property development plans and site development standards
8 for dust control, height regulations, setbacks, days and hours of
9 operation, off-street parking, screening, noise, vibration and air
10 pollution control, signs, roadway access lanes, arterial highway
11 protection and property reclamation for which aggregate mining operations
12 are not otherwise subject to federal, state or local regulation or a
13 governmental contractual obligation. Regulations **THAT ARE** jointly adopted
14 pursuant to this subsection by the county and the state mine inspector
15 shall not prohibit the activities included in the definition of mine
16 pursuant to section 27-301, paragraph 8 or duplicate, conflict with or be
17 more stringent than applicable federal, state or local laws.

18 D. The board of supervisors of any county that establishes an
19 aggregate mining operations zoning district shall appoint an aggregate
20 mining operations recommendation committee for the district. The
21 committee consists of not more than seven operators, or representatives of
22 operators, of active aggregate mining operations in any district within
23 the county and an equal number of private citizens, who are not operators,
24 who are not employed by operators and who do not represent operators,
25 residing within three miles of the boundaries of aggregate mining
26 operations or a proposed aggregate mining operation in the district for
27 which the committee is established. The initial members appointed to the
28 committee shall be deemed the primary members, and the board of
29 supervisors shall appoint not more than five alternate members who
30 represent operators and shall appoint not more than five alternate members
31 who are private citizens. Alternate members may serve at meetings of the
32 committee when a primary member is unable to attend. An aggregate mining
33 operator may serve on more than one committee in the same county. The
34 board of supervisors shall determine the length of terms of members of the
35 committee and shall stagger the initial appointments so that not all
36 members' terms expire at the same time. Members of the committee who no
37 longer qualify for membership as provided by this subsection are subject
38 to removal and replacement by the board of supervisors. The committee
39 shall elect a member who is an aggregate mining operator to serve as
40 chairperson for the first year in which the committee is created. For
41 each year thereafter, the chairperson shall be elected by the members of
42 the committee with a member who is a private citizen and a member who is
43 an aggregate mining operator serving as chairperson in alternate years.

1 The committee is subject to the open meeting requirements of title 38,
2 chapter 3, article 3.1.

3 E. Within ninety days after an aggregate mining operations
4 recommendation committee is established, the committee shall notify all
5 existing aggregate mining operators in the district of the application of
6 this section and title 27, chapter 3, article 6 to the aggregate mining
7 operation. In addition, the committee shall:

8 1. By a majority vote of all members make recommendations to the
9 board of supervisors for aggregate mining zoning districts and
10 administrative regulations as provided in this section. The board of
11 supervisors may adopt or reject the recommendations but may not make any
12 modifications to the recommendations unless the modification is approved
13 by a majority of the members of the recommendation committee.

14 2. Serve as a forum for mediation of disputes between members of
15 the public and aggregate mining owners or operators. If the committee is
16 unable to resolve a dispute, the committee shall transmit the matter to
17 the state mine inspector, with written findings and recommendations, for
18 further action.

19 3. Hear written complaints filed with the state mine inspector
20 regarding alleged material deviations from approved community notices for
21 aggregate mining operations and make written recommendations to the state
22 mine inspector pursuant to section 27-446.

23 F. Any administrative regulations adopted by a board of supervisors
24 pursuant to this section are not effective until the regulations are
25 approved by the state mine inspector. The STATE MINE inspector may
26 disapprove the administrative regulations adopted by the board of
27 supervisors only if they duplicate, conflict with or are more stringent
28 than applicable federal, state or local laws, rules or regulations. If
29 the STATE MINE inspector disapproves the administrative regulations, the
30 STATE MINE inspector must provide written reasons for the disapproval.
31 The STATE MINE inspector shall not make any modification to the
32 administrative regulations as adopted by the board of supervisors unless
33 the modification is approved by a majority of the members of the board of
34 supervisors.

35 G. A person or entity is subject to this chapter if the use or
36 occupation of land or improvements by the person or entity consists of or
37 includes changing, remanufacturing or treating human sewage or sludge for
38 distribution or resale. These activities are not exempt from this chapter
39 under subsection A, paragraph 2 of this section.

40 H. A county shall not require as a condition for a permit or for
41 any approval, or otherwise cause, an owner or possessor of property to
42 waive the right to continue an existing nonconforming outdoor advertising
43 use or structure without acquiring the use or structure by purchase or
44 condemnation and paying just compensation unless the county, at its

1 option, allows the use or structure to be relocated to a comparable site
2 in the county with the same or a similar zoning classification, or to
3 another site in the county acceptable to both the county and the owner of
4 the use or structure, and the use or structure is relocated to the other
5 site. The county shall pay for relocating the outdoor advertising use or
6 structure, including the cost of removing and constructing the new use or
7 structure that is at least the same size and height. This subsection does
8 not apply to county rezoning of property at the request of the property
9 owner to a more intensive zoning district.

10 I. For the purposes of this section:

11 1. "Aggregate" has the same meaning prescribed in section 27-441.

12 2. "Aggregate mining" has the same meaning prescribed in section
13 27-441.

14 3. "Aggregate mining operation" means property that is owned,
15 operated or managed by the same person for aggregate mining.

16 4. "Operators" means persons who are actively engaged in aggregate
17 mining operations within the zoning district or proposed zoning district
18 and who have given notice to the state mine inspector pursuant to section
19 27-303.

20 Sec. 4. Section 11-815, Arizona Revised Statutes, is amended to
21 read:

22 11-815. Enforcement; county zoning inspector; deputies;
23 building permits; violations; classification; civil
24 penalties; hearing officers and procedures

25 A. The county zoning ordinance shall provide for its enforcement
26 within a zoned territory by means of withholding building permits, and for
27 those purposes may establish the position of county zoning inspector and
28 deputy inspectors as may be required, who shall be appointed by the board.

29 B. After ~~the establishment~~ ESTABLISHING and filling ~~of~~
30 position, it is unlawful to erect, construct, reconstruct, alter or use
31 any building or other structure within a zoning district covered by the
32 ordinance without first obtaining a building permit from the inspector,
33 and for that purpose the applicant shall provide the zoning inspector with
34 a sketch of the proposed construction containing sufficient information
35 for the enforcement of the zoning ordinance. A permit is not required for
36 repairs or improvements of a value ~~OF not exceeding five hundred dollars~~
37 MORE THAN \$500 OR, IN A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED
38 THOUSAND PERSONS, FOR CONSTRUCTING A SINGLE-FAMILY HOME, ACCESSORY
39 DWELLING UNIT OR DETACHED GARAGE THAT COMPLIES WITH SECTION 11-269.29
40 UNLESS A BUILDING PERMIT IS REQUIRED PURSUANT TO SECTION 11-269.29,
41 SUBSECTION D. Reasonable fees may be charged for the issuance of a
42 permit. The inspector shall recognize the limitations placed on the
43 inspector's authority by sections 11-804 and 11-811, and shall issue the
44 permit when it appears that the proposed erection, construction,

1 reconstruction, alteration or use fully conforms to the zoning ordinance.
2 In any other case the inspector shall withhold the permit.

3 C. It is unlawful to erect, construct, reconstruct, maintain or use
4 any land in any zoning district in violation of any regulation or any
5 ordinance pertaining to the land and any violation constitutes a public
6 nuisance. Any person, firm or corporation violating an ordinance, or any
7 part of an ordinance, is guilty of a class 2 misdemeanor. Each day during
8 which the illegal erection, construction, reconstruction, alteration,
9 maintenance or use continues is a separate offense.

10 D. A county may establish civil penalties for a violation of any
11 zoning regulation or ordinance. Civil penalties shall not exceed the
12 amount of the maximum fine for a class 2 misdemeanor. Each day of
13 continuance of the violation constitutes a separate violation. If an
14 alleged violator is served with a notice of violation pursuant to
15 subsection E of this section, the alleged violator is not subject to a
16 criminal charge arising out of the same facts.

17 E. A county that establishes a civil penalty for a violation of a
18 zoning regulation or ordinance may appoint hearing officers to hear and
19 determine zoning violations. If the ~~zoning~~ inspector reports a zoning
20 violation to the hearing officer, the hearing officer shall hold a hearing
21 after notice of the hearing has been served on the alleged violator. The
22 ~~zoning~~ inspector shall cause the notice to be personally served on the
23 alleged violator at least five days before the hearing. Personal service
24 may be made by ~~a zoning~~ AN inspector or by any person authorized to
25 perform personal service by the Arizona rules of civil procedure. If it
26 is impracticable for the ~~zoning~~ inspector to cause the notice to be
27 personally served, the notice may be served in the same manner prescribed
28 for alternative methods of service by the Arizona rules of civil
29 procedure. A notice served on the alleged violator other than by personal
30 service shall be served at least thirty days before the hearing. For the
31 purposes of this subsection, "impracticable" includes service of the
32 notice outside the boundaries of the county or in situations in which the
33 hearing officer reasonably determines that personal service on the alleged
34 violator would jeopardize the safety of the ~~zoning~~ inspector or other
35 persons authorized to perform personal service by the Arizona rules of
36 civil procedure.

37 F. At the hearing, the ~~zoning~~ inspector shall present evidence
38 showing the existence of a zoning violation and the alleged violator or
39 the alleged violator's attorney or other designated representative shall
40 be given a reasonable opportunity to present evidence. The county
41 attorney may present evidence on behalf of the ~~zoning~~ inspector. At the
42 conclusion of the hearing, the hearing officer shall determine whether a
43 zoning violation exists and, if a violation is found to exist, may impose
44 civil penalties pursuant to subsection D of this section.

1 G. A hearing officer may be an employee of the county and shall be
2 appointed by the board of supervisors. A review of decisions of the
3 hearing officer by the board of supervisors shall be available to any
4 party to the hearing. The board of supervisors may delegate this review
5 to a county board of adjustment. If the board of supervisors elects to
6 delegate this review, the board of supervisors shall delegate all
7 requested reviews to the board of adjustment. The board of supervisors
8 shall adopt written rules of procedure for the hearing and review of
9 hearings, which shall be adopted in the same manner as zoning ordinances.
10 Judicial review of the final decisions of the board of supervisors or a
11 board of adjustment shall be pursuant to title 12, chapter 7, article 6.
12 A county that establishes civil penalties for a violation of a zoning
13 regulation or ordinance is not precluded from pursuing the remedies ~~as~~
14 ~~provided for~~ in subsection H of this section.

15 H. If any building or structure is or is proposed to be erected,
16 constructed, reconstructed, altered, maintained or used or any land is or
17 is proposed to be used in violation of this chapter or any ordinance,
18 regulation or provision enacted or adopted by the board under the
19 authority granted by this chapter, the board, the county attorney, the
20 inspector or any adjacent or neighboring property owner who is specially
21 damaged by the violation, in addition to the other remedies provided by
22 law, may institute injunction, mandamus, abatement or any other
23 appropriate action or proceedings to prevent, abate or remove the unlawful
24 erection, construction, reconstruction, alteration, maintenance or use.

25 Sec. 5. Section 11-861, Arizona Revised Statutes, is amended to
26 read:

27 11-861. Adoption of codes by reference; limitations; method
28 of adoption; fire sprinklers; fire apparatus access
29 roads or approved routes; intent; state preemption;
30 fire watch requirements; pool barrier gates;
31 refrigerants

32 A. In any county that has adopted zoning pursuant to this chapter,
33 the board of supervisors may adopt and enforce, for the unincorporated
34 areas of the county so zoned, a building code and other related codes to
35 regulate the quality, type of material and workmanship of all aspects of
36 construction of buildings or structures, except that the board may
37 authorize that areas zoned rural or unclassified may be exempt from ~~the~~
38 ~~provisions of~~ the code adopted. ~~THE ADOPTED CODE DOES NOT APPLY TO A~~
39 ~~SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE THAT IS~~
40 ~~CONSTRUCTED IN COMPLIANCE WITH SECTION 11-269.29, THAT WAS BUILT IN~~
41 ~~SUBSTANTIAL COMPLIANCE WITH THE COUNTY'S BUILDING CODE OR ANOTHER WIDELY~~
42 ~~RECOGNIZED STANDARD OR CODE FOR TINY HOME CONSTRUCTION AND THAT IS LOCATED~~
43 ~~IN A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND PERSONS.~~
44 The codes may be adopted by reference after notice and hearings before the

1 county planning and zoning commission and board of supervisors as provided
2 in this chapter for amendments to the zoning ordinance of the county.

3 B. The board of supervisors may adopt a fire prevention code in the
4 unincorporated areas of the county in which a fire district has not
5 adopted a nationally recognized fire code pursuant to section 48-805. Any
6 fire code adopted by a board of supervisors pursuant to this subsection
7 shall remain in effect until a fire district is established and adopts a
8 code applicable within the boundaries of the district.

9 C. For the purposes of this article, codes authorized by
10 subsections A and B of this section shall be limited to the following:

11 1. Any building, electrical, plumbing or mechanical code that has
12 been adopted by any national organization or association that is organized
13 and conducted for the purpose of developing codes or that has been adopted
14 by the largest city in that county. If the board of supervisors adopts a
15 city code, it shall adopt, within ninety days after receiving a written
16 notification of a change to the city code, the same change or shall
17 terminate the adopted city code.

18 2. Any fire prevention code that has been adopted by a national
19 organization or association organized or conducted for the purpose of
20 developing fire prevention codes and that is as stringent as the state
21 fire code adopted pursuant to section 37-1383.

22 D. The board of supervisors may adopt a current wildland-urban
23 interface code. The code may be adapted from a model code adopted by a
24 national or international organization or association for mitigating the
25 hazard to life and property. The board must follow written public
26 procedures in developing and adopting the code and any revisions to the
27 code to provide effective, early and continuous public participation
28 through:

29 1. The broad dissemination and publicity of the proposed code and
30 any revisions to the code.

31 2. The opportunity for submission and consideration of written
32 public comments.

33 3. Open discussions, communications programs and information
34 services.

35 4. Consultation with federal agencies and state and local
36 officials.

37 E. The board of supervisors shall not adopt a code or ordinance or
38 part of a uniform code or ordinance that prohibits a person or entity from
39 choosing to install or equip or not install or equip fire sprinklers in a
40 single-family detached residence or any residential building that contains
41 not more than two dwelling units. The board of supervisors shall not
42 impose any fine, penalty or other requirement on any person or entity for
43 choosing to install or equip or not install or equip fire sprinklers in
44 such a residence. This subsection does not apply to any code or ordinance

1 that requires fire sprinklers in a residence and that was adopted before
2 December 31, 2009. The provisions of this subsection shall be included on
3 all fire sprinkler permit applications that are for a single-family
4 detached residence or any residential building that contains not more than
5 two dwelling units.

6 F. A fire sprinkler permit application may be in either print or
7 electronic format.

8 G. A board of supervisors may not adopt any, or part of any, fire
9 code, ordinance, stipulation or other legal requirement for an approved
10 fire apparatus access road or a fire apparatus access road extension, or
11 both, or an approved route or a route extension, or both, that directly or
12 indirectly requires a one or two family residence or a utility or
13 miscellaneous accessory building or structure to install fire sprinklers.
14 A fire code official may increase or extend an approved fire apparatus
15 access road or a fire apparatus access road extension, or both, or an
16 approved route or a route extension, or both, to comply with this
17 subsection. Compliance with this subsection is not grounds to deny or
18 suspend a license or permit. This subsection may be enforced in a private
19 civil action and relief, including an injunction, may be awarded against a
20 county. The court shall award reasonable attorney fees, damages, lost
21 opportunity costs, interest and the cost of the sprinkler system to a
22 party that prevails in an action against a county for a violation of this
23 subsection. The legislature finds and determines that property rights are
24 a matter of statewide concern and a fundamental element of freedom. A
25 property owner's right to use the property owner's property must be
26 protected from unreasonable abridgment by county regulation and
27 enforcement. This subsection supersedes and preempts any regulation
28 adopted by a county regarding an approved fire apparatus access road, fire
29 apparatus access road extension, approved route or route extension. For
30 the purposes of this subsection:

31 1. "Fire code" includes the international fire code, however
32 denominated.

33 2. "Utility or miscellaneous accessory building or structure"
34 includes an agricultural building, aircraft hangar, accessory to a
35 residence, barn, carport, fence that is more than six feet high, grain
36 silo, greenhouse, livestock shelter, private garage, retaining wall, shed,
37 stable, tank or tower.

38 H. If a fire code adopted by a board of supervisors requires the
39 use of a fire watch, an employee who works at the building in which a fire
40 watch is required may serve as the fire watch. A person who is designated
41 as a fire watch shall be equipped with means to contact the local fire
42 department, and the person's only duty while keeping watch for fires shall
43 be to perform constant patrols of the protected premises. The county
44 shall provide the fire watch with printed instructions from the office of

1 the state fire marshal and may provide a free training session before the
2 person's deployment as the fire watch begins. For the purposes of this
3 subsection, "fire watch" means a person who is stationed in a building or
4 in a place relative to a building to observe the building and its openings
5 when the fire protection system for the building is temporarily
6 nonoperational or absent.

7 I. From and after December 31, 2014, a code or ordinance or part of
8 a uniform code or ordinance that is adopted by the board of supervisors
9 applies to locking devices for pool barrier gates used for means of
10 ingress or egress for semipublic swimming pools. Any new construction or
11 major renovation of a semipublic swimming pool from and after December 31,
12 2014 must meet the requirements of the code or ordinance or part of the
13 uniform code or ordinance that is adopted by the board of supervisors.
14 This subsection does not apply to a locking device for a pool barrier gate
15 used for means of ingress or egress for a semipublic swimming pool that
16 was installed before January 1, 2015, if the locking device meets the
17 requirements prescribed in section 36-1681, subsection B, paragraph 3.

18 J. Any code, ordinance or general or specific plan provision or
19 part of a code, ordinance or general or specific plan provision adopted by
20 a county may not prohibit the use of refrigerants that are listed as
21 acceptable pursuant to the clean air act (69 Stat. 322; 42 United States
22 Code section 7671k) if the equipment used is listed and installed in
23 accordance with the use conditions prescribed in the clean air act.

24 Sec. 6. Section 11-865, Arizona Revised Statutes, is amended to
25 read:

26 11-865. Exemptions; exception

27 A. This article does not apply to:

28 1. Construction or operation incidental to construction and repair
29 to irrigation and drainage ditches or appurtenances thereto, of regularly
30 constituted districts or reclamation districts, or to farming, dairying,
31 agriculture, viticulture, horticulture or stock or poultry raising, or
32 clearing or other work on land in rural areas for fire prevention
33 purposes.

34 2. Devices used in manufacturing, processing or fabricating
35 normally considered as involved in industry and construction, operation
36 and maintenance of electric, gas or other public utility systems operated
37 by public service corporations operating under a franchise or certificate
38 of convenience and necessity.

39 3. A SINGLE-FAMILY HOME, ACCESSORY DWELLING UNIT OR DETACHED GARAGE
40 THAT IS CONSTRUCTED IN COMPLIANCE WITH SECTION 11-269.29 AND THAT IS
41 LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND
42 PERSONS.

1 B. Notwithstanding subsection A of this section, the requirements
2 of this article apply to the use or occupation of land or improvements by
3 a person or entity consisting of or including changing, remanufacturing or
4 treating human sewage or sludge for distribution or resale.

5 C. If an owner of property that is classified as ~~two(R)~~ CLASS TWO
6 (R) agricultural property pursuant to section 42-12002, paragraph 1,
7 subdivision (a), (b) or (d) and that is exempt pursuant to this section
8 desires to change the agricultural use of all or part of the property, the
9 property owner shall not implement a change endangering public health or
10 safety.

11 Sec. 7. Short title

12 This act may be cited as the "Cottage Homes Act".