

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1341

AN ACT

AMENDING SECTION 11-802, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING SECTION 11-811, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2010, CHAPTER 244, SECTION 7; AMENDING SECTIONS 11-814, 11-815 AND 11-816, ARIZONA REVISED STATUTES; AMENDING SECTION 28-6713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 16; AMENDING SECTION 28-8481, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 17; AMENDING LAWS 2010, CHAPTER 175, SECTION 2; RELATING TO COUNTY PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-802, Arizona Revised Statutes, as added by Laws
3 2010, chapter 244, section 7, is amended to read:

4 11-802. County planning and zoning commissions

5 A. The board of supervisors of a county, in order to conserve and
6 promote the public health, safety, convenience and general welfare and
7 pursuant to this chapter, shall plan and provide for the future growth and
8 improvement of its area of jurisdiction, coordinate all public improvements
9 pursuant to the plan, form a planning and zoning commission to consult with
10 and advise it regarding matters of planning, zoning and subdivision platting
11 and, in the manner provided in this chapter, adopt and enforce those rules,
12 regulations, ordinances and plans as may apply to the development of its area
13 of jurisdiction.

14 B. The commission shall act in an advisory capacity to the board and
15 may or, if requested by the board, shall make a report or recommendation in
16 connection with any matter relating to the development of the county under
17 the jurisdiction of the board. The commission shall make those
18 investigations, maps, reports and recommendations in connection with those
19 investigations, maps and reports as seem desirable within the limits of the
20 monies available.

21 C. In the counties having three supervisorial districts, each county
22 planning and zoning commission shall consist of nine members who shall be
23 qualified electors of the county. Three members shall be appointed from each
24 supervisorial district by the supervisor from that district, and not more
25 than one of the three may be a resident of an incorporated municipality.
26 Members of the commission shall serve without compensation except for
27 reasonable travel expenses.

28 D. Except as provided in subsection E of this section, in the counties
29 having five supervisorial districts, each county planning and zoning
30 commission shall consist of ten members who shall be qualified electors of
31 the county. Two members shall be appointed from each supervisorial district
32 by the supervisor from that district. Members shall be residents of the
33 district from which they are appointed. Members of the commission shall
34 serve without compensation except for reasonable travel expenses.

35 E. If any supervisorial district is at least ninety per cent Indian
36 reservation and at least ninety per cent of the district is not subject to
37 county zoning regulations, the supervisor from the district may appoint some
38 or all of the members to the commission from any supervisorial district in
39 the county if there is no appointee who is willing to serve within the
40 supervisorial district. These appointments are subject to the limitations on
41 residency required by subsections C and D of this section. Members appointed
42 to the commission pursuant to this subsection require the approval of the
43 board.

44 F. In counties with a population of less than one hundred seventy-nine
45 thousand persons, an alternate member may be appointed by the appointing

1 supervisor for each commission member appointed pursuant to subsections C, D
2 and E of this section to serve in the absence of that member. Alternate
3 members may be appointed from any supervisorial district in the county.
4 During any meeting of the commission, if the regularly appointed member
5 becomes available, the alternate member shall conclude any action on the
6 agenda item under consideration and the regularly appointed member shall be
7 seated for the remaining items.

8 G. The terms of the members of the commissions shall be for four years
9 except for those initially appointed. Of those members initially appointed
10 pursuant to subsection C of this section, five members shall be appointed to
11 a two year term and four members shall be appointed to a four year term. Of
12 those members initially appointed pursuant to subsection D of this section,
13 five members shall be appointed to a two year term and five members shall be
14 appointed to a four year term. Thereafter, each term shall be four years.
15 If a vacancy occurs otherwise than by expiration of term, the vacancy shall
16 be filled by appointment for the unexpired portion of the term. The board
17 may remove members of the commission for cause.

18 H. On a conversion from three to five supervisorial districts pursuant
19 to section 11-212, the board of supervisors, on expiration of the terms of
20 members of the commission serving on the date of the conversion, shall make
21 those appointments to fill the vacancies to conform to subsection D of this
22 section as soon as is practicable.

23 I. The county assessor, county engineer, county health officer and
24 county attorney shall serve in an advisory capacity to the commission and to
25 the boards of adjustment.

26 J. The commission shall:

27 1. Elect a chairperson from among its members for a term of one year
28 and those other officers as it determines.

29 2. By resolution fix the time and place within the district of regular
30 meetings, hold at least one regular meeting each month **WHEN THERE IS NEW**
31 **OFFICIAL BUSINESS TO TRANSACT** and hold additional meetings as the chairperson
32 or a majority of the commission deems necessary.

33 3. Adopt rules for the transaction of business and keep a record of
34 its resolutions, transactions, findings and determinations, which record
35 shall be a public record and be open to public inspection.

36 4. Transmit all of its recommendations, decisions, findings, reports
37 and official actions, regardless of vote, to the board of supervisors.

38 K. A majority of the commission constitutes a quorum for the
39 transaction of business and a majority vote of the quorum is required for any
40 official action.

41 Sec. 2. Section 11-811, Arizona Revised Statutes, as added by Laws
42 2010, chapter 244, section 7, is amended to read:

43 11-811. Zoning ordinance; zoning districts; definitions

44 A. Pursuant to this article, the board of supervisors may adopt a
45 zoning ordinance in order to conserve and promote the public health, safety,

1 convenience and general welfare. The zoning ordinance and all rezonings and
2 zoning regulations amendments adopted under this article shall be consistent
3 with and conform to the adopted comprehensive plan. In addition to the other
4 matters that are required or authorized under this section and article 1 of
5 this chapter, the zoning ordinance:

6 1. Shall show the zoning districts designated as appropriate for
7 various classes of residential, business and industrial uses and shall
8 provide for the establishment of setback lines and other plans providing for
9 adequate light, air and parking facilities and for expediting traffic within
10 the districts.

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

13 3. Shall consider access to incident solar energy.

14 4. May provide for retirement community zoning districts.

15 5. May provide for the regulation and use of business licenses, adult
16 oriented business manager permits and adult service provider permits in
17 conjunction with the establishment or operation of adult oriented businesses
18 and facilities, including adult arcades, adult bookstores or video stores,
19 cabarets, adult live entertainment establishments, adult motion picture
20 theaters, adult theaters, massage establishments and nude model studios.
21 With respect to cabarets, the ordinance shall not conflict with specific
22 statutory or valid regulatory requirements applicable to persons licensed to
23 dispense alcoholic beverages, but the ordinance may include regulation of the
24 age and conduct of erotic entertainers in a manner at least as restrictive as
25 rules adopted under title 4. Notwithstanding section 11-812, a county in
26 regulating or licensing businesses and facilities pursuant to this paragraph
27 may impose reasonable operating requirements that affect the existing uses of
28 businesses and facilities.

29 6. Shall designate and zone appropriate areas of reasonable size in
30 which there may be established with reasonable permanency canneries,
31 fertilizer plants, refineries, commercial feed lots, meat packing plants,
32 tallow works and other like businesses. A DAIRY OPERATION, INCLUDING AREAS
33 DESIGNATED FOR THE RAISING OF REPLACEMENT HEIFERS OR BULLS OWNED BY THE SAME
34 DAIRY OPERATION, IS NOT SUBJECT TO THIS PARAGRAPH, AND IS A GENERAL
35 AGRICULTURAL PURPOSE UNDER SUBSECTION C, PARAGRAPH 2 OF THIS SECTION AND
36 SECTION 11-812, SUBSECTION A, PARAGRAPH 2. A REPLACEMENT HEIFER OR BULL
37 RAISING OPERATION OF A DAIRY THAT IS NOT ON CONTIGUOUS PROPERTY OF THE DAIRY
38 IS SUBJECT TO THIS PARAGRAPH UNLESS THE OPERATION BEGINS WITHIN ONE-QUARTER
39 MILE OF THE DAIRY.

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

1 regulations shall be adopted pursuant to section 11-813. The provisions of
2 overlay zoning shall apply retroactively to authorize overlay zoning
3 districts and regulations adopted before April 20, 1993.

4 C. This section does not authorize:

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

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

11 D. For the purposes of this section:

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

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

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

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

27 3. "Adult live entertainment establishment" means an establishment
28 that features either:

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

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

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

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

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

44 7. "Adult service" means dancing, serving food or beverages, modeling,
45 posing, wrestling, singing, reading, talking, listening or other performances

1 or activities conducted for any consideration in an adult oriented business
2 by a person who is nude or seminude during all or part of the time that the
3 person is providing the service.

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

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

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

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

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

21 (a) ~~Physicians~~ PERSONS who are licensed pursuant to title 32, chapter
22 7, 8, 13, 14 or 17.

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

26 (c) Registered nurse practitioners who are licensed pursuant to title
27 32, chapter 15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 Sec. 3. Section 11-814, Arizona Revised Statutes, is amended to read:

33 11-814. Rezoning; conditional zoning change; notice; hearing;
34 citizen review; definition

35 A. All rezonings adopted under this article shall be consistent with
36 and conform to the adopted comprehensive plan. In the case of uncertainty in
37 constructing or applying the conformity of any part of a proposed rezoning to
38 the adopted comprehensive plan, the rezoning shall be construed in a manner
39 that will further the implementation of, and not be contrary to, the goals,
40 policies and applicable elements of the comprehensive plan. A rezoning
41 conforms with the comprehensive plan if it proposes land uses, densities or
42 intensities within the range of identified uses, densities and intensities of
43 the comprehensive plan.

44 B. A property owner or authorized agent of a property owner desiring a
45 rezoning shall file an application for the rezoning.

1 C. The commission, on its own motion, may propose a rezoning and,
2 after holding a public hearing as required by this chapter, may transmit the
3 proposal to the board, which shall proceed as prescribed in this chapter for
4 any other rezoning.

5 D. On receipt of the application the board shall submit the
6 application to the commission for a report. Before reporting to the board,
7 the commission shall hold at least one public hearing after giving at least
8 fifteen days' notice of the hearing by one publication in a newspaper of
9 general circulation in the county seat and by posting of the area included in
10 the proposed rezoning. If the matter to be considered applies to territory
11 in a high noise or accident potential zone as defined in section 28-8461, the
12 notice shall include a general statement that the matter applies to property
13 located in the high noise or accident potential zone. The posting shall be
14 in no less than two places with at least one notice for each quarter mile of
15 frontage along perimeter public rights-of-way so that the notices are visible
16 from the nearest public right-of-way. The commission shall also send notice
17 by first class mail to each real property owner as shown on the last
18 assessment of the property within three hundred feet of the proposed rezoning
19 and each county and municipality that is contiguous to the area of the
20 proposed rezoning. In proceedings involving rezoning of land that is located
21 within territory in the vicinity of a military airport or ancillary military
22 facility as defined in section 28-8461, the commission shall send copies of
23 the notice of public hearing by first class mail to the military airport.
24 The notice sent by mail shall include, at a minimum, the date, time and place
25 of the hearing on the proposed rezoning including a general explanation of
26 the matter to be considered, ~~AND~~ a general description of the area of the
27 proposed rezoning. ~~FOR THOSE COUNTIES WITH FIVE OR MORE SUPERVISORS, THE~~
28 ~~NOTICE MUST INCLUDE A GENERAL DESCRIPTION OF~~ how the real property owners
29 within the zoning area may file approvals or protests of the proposed
30 rezoning, and notification that if twenty per cent of the property owners by
31 area and number within the zoning area file protests, an affirmative vote of
32 three-fourths of all members of the board will be required to approve the
33 rezoning. In proceedings that are initiated by the commission involving
34 rezoning, notice by first class mail shall be sent to each real property
35 owner, as shown on the last assessment of the property, of the area to be
36 rezoned and all property owners, as shown on the last assessment of the
37 property, within three hundred feet of the property to be rezoned.

38 E. If the commission or hearing officer has held a public hearing, the
39 board may adopt the recommendations of the commission or hearing officer
40 through use of a consent calendar without holding a second public hearing if
41 there is no objection, request for public hearing or other protest. If there
42 is an objection, a request for public hearing or a protest, the board shall
43 hold a public hearing at least fifteen days' notice of which shall be given
44 by one publication in a newspaper of general circulation in the county seat
45 and by posting the area included in the proposed rezoning. In counties with

1 territory in the vicinity of a military airport or ancillary military
2 facility as defined in section 28-8461, the board shall hold a public hearing
3 if, after notice is mailed to the military airport pursuant to subsection D
4 of this section and before the public hearing, the military airport provides
5 comments or analysis concerning the compatibility of the proposed rezoning
6 with the high noise or accident potential generated by military airport or
7 ancillary military facility operations that may have an adverse impact on
8 public health and safety, and the board shall consider and analyze the
9 comments or analysis before making a final determination. After holding the
10 hearing the board may adopt the rezoning BY A MAJORITY VOTE OF THE BOARD FOR
11 THOSE COUNTIES WITH FEWER THAN FIVE SUPERVISORS, OR FOR THOSE COUNTIES WITH
12 FIVE OR MORE SUPERVISORS IF A PROTEST HAS NOT BEEN FILED. ~~, but~~ If twenty
13 per cent of the owners of property by area and number within the zoning area
14 file a protest to the proposed rezoning, the change shall not be made except
15 by a three-fourths vote of all members of the board FOR THOSE COUNTIES WITH
16 FIVE OR MORE SUPERVISORS. If any members of the board are unable to vote on
17 the question because of a conflict of interest, the required number of votes
18 for the passage of the question is three-fourths of the remaining membership
19 of the board FOR THOSE COUNTIES WITH FIVE OR MORE SUPERVISORS, except that
20 the required number of votes in no event shall be less than a majority of the
21 full membership of the board. In calculating the owners by area, only that
22 portion of a lot or parcel of record situated within three hundred feet of
23 the property to be rezoned shall be included. In calculating the owners by
24 number or area, county property and public rights-of-way shall not be
25 included.

26 F. The board of supervisors shall adopt by ordinance a citizen review
27 process that applies to all rezoning and specific zoning plan applications
28 that require a public hearing. The citizen review process shall include at
29 least the following requirements:

30 1. Adjacent landowners and other potentially affected citizens will be
31 notified of the application.

32 2. The county will inform adjacent landowners and other potentially
33 affected citizens of the substance of the proposed rezoning.

34 3. Adjacent landowners and other potentially affected citizens will be
35 provided an opportunity to express any issues or concerns that they may have
36 with the proposed rezoning before the public hearing.

37 G. The rezoning or subdivision plat of any unincorporated area
38 completely surrounded by a city or town shall use as a guideline the adopted
39 general plan and standards as prescribed in the subdivision and zoning
40 ordinances of the city or town after April 10, 1986.

41 H. The board or commission, before taking any action on a rezoning or
42 subdivision plat in an area as prescribed in subsection G of this section,
43 may require the affected city or town to supply information to allow the
44 county to meet the guideline. If an affected city or town objects to any
45 such proposed action the board or commission shall prescribe in the minutes

1 of the meeting specific reasons why in its opinion the guideline is actually
2 being followed or why it is not practicable to follow the guideline of the
3 general plan.

4 I. The board may approve a change of zone conditioned on a schedule
5 for development of the specific use or uses for which rezoning is requested.
6 If at the expiration of this period the property has not been improved for
7 the use for which it was conditionally approved, the board after notification
8 by certified mail to the owner and applicant who requested the rezoning shall
9 schedule a public hearing to grant an extension, determine compliance with
10 the schedule for development or cause the property to revert to its former
11 zoning classification.

12 J. The legislature finds that a rezoning of land that changes the
13 zoning classification of the land or that restricts the use or reduces the
14 value of the land is a matter of statewide concern. Such a change in zoning
15 that is initiated by the governing body or zoning body shall not be made
16 without the express written consent of the property owner. In applying an
17 open space element or a growth element of a comprehensive plan, a parcel of
18 land shall not be rezoned for open space, recreation, conservation or
19 agriculture unless the owner of the land consents to the rezoning in writing.
20 For the purposes of this subsection, rezoning does not include the creation
21 or expansion of overlay zones solely for the purpose of implementing airport
22 safety and protection. Rezoning also does not include the redesignation of
23 areas of the county to which the residential provisions of the county
24 building codes apply or do not apply. The county shall not adopt any change
25 in a zoning classification to circumvent the purpose of this subsection.

26 K. Notwithstanding title 19, chapter 1, article 4, a decision by the
27 governing body involving rezoning of land that is not owned by the county and
28 that changes the zoning classification of the land may not be enacted as an
29 emergency measure and such a change shall not be effective for at least
30 thirty days after final approval of the change in classification by the
31 board. Unless a resident files a written objection with the board of
32 supervisors, the rezoning may be enacted as an emergency measure that becomes
33 effective immediately by a four-fifths majority vote of the board for those
34 counties with five or more supervisors or a two-thirds majority vote of the
35 board for those counties with ~~less~~ FEWER than five supervisors.

36 L. For the purposes of this section, "zoning area" means the area
37 within three hundred feet of the proposed amendment or change.

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

39 11-815. Enforcement; county zoning inspector; deputies;
40 building permits; violations; classification; civil
41 penalties; hearing officers and procedures

42 A. The county zoning ordinance shall provide for its enforcement
43 within a zoned territory by means of withholding building permits, and for
44 such purposes may establish the position of county zoning inspector, and such
45 deputy inspectors as may be required, who shall be appointed by the board.

1 B. After the establishment and filling of the position, it is unlawful
2 to erect, construct, reconstruct, alter or use any building or other
3 structure within a zoning district covered by the ordinance without first
4 obtaining a building permit from the inspector and for that purpose the
5 applicant shall provide the zoning inspector with a sketch of the proposed
6 construction containing sufficient information for the enforcement of the
7 zoning ordinance. A permit is not required for repairs or improvements of a
8 value not exceeding five hundred dollars. Reasonable fees may be charged for
9 the issuance of a permit. The inspector shall recognize the limitations
10 placed on the inspector's authority by sections 11-804 and 11-811, and shall
11 issue the permit when it appears that the proposed erection, construction,
12 reconstruction, alteration or use fully conforms to the zoning ordinance. In
13 any other case the inspector shall withhold the permit.

14 C. It is unlawful to erect, construct, reconstruct, maintain or use
15 any land in any zoning district in violation of any regulation or any
16 provision of any ordinance pertaining ~~thereto~~ TO THE LAND and any violation
17 constitutes a public nuisance. Any person, firm or corporation violating an
18 ordinance, or any part of ~~the~~ AN ordinance, is guilty of a class 2
19 misdemeanor. Each day during which the illegal erection, construction,
20 reconstruction, alteration, maintenance or use continues is a separate
21 offense.

22 D. A county may establish civil penalties for a violation of any
23 zoning regulation or ordinance. Civil penalties shall not exceed the amount
24 of the maximum fine for a class 2 misdemeanor. Each day of continuance of
25 the violation constitutes a separate violation. If an alleged violator is
26 served with a notice of violation pursuant to subsection E of this section,
27 the alleged violator is not subject to a criminal charge arising out of the
28 same facts.

29 E. A county that establishes a civil penalty for violation of a zoning
30 regulation or ordinance may appoint hearing officers to hear and determine
31 zoning violations. If the zoning inspector reports a zoning violation to the
32 hearing officer, the hearing officer shall hold a hearing after serving
33 notice of the hearing on the alleged violator. The notice shall be
34 personally served on the alleged violator by the zoning inspector at least
35 five days before the hearing. If the zoning inspector is unable to
36 personally serve the notice, the notice may be served in the same manner
37 prescribed for alternative methods of service by the Arizona rules of civil
38 procedure. A notice served on the alleged violator other than by personal
39 service shall be served at least thirty days before the hearing.

40 F. At the hearing, the zoning inspector shall present evidence showing
41 the existence of a zoning violation and the alleged violator or the alleged
42 violator's attorney or other designated representative shall be given a
43 reasonable opportunity to present evidence. The county attorney may present
44 evidence on behalf of the zoning inspector. At the conclusion of the
45 hearing, the hearing officer shall determine whether a zoning violation

1 exists and, if a violation is found to exist, may impose civil penalties
2 pursuant to subsection D of this section.

3 G. A hearing officer may be an employee of the county and shall be
4 appointed by the board of supervisors. A review of decisions of the hearing
5 officer by the board of supervisors shall be available to any party to the
6 hearing. ~~THE BOARD OF SUPERVISORS MAY DELEGATE THIS REVIEW TO A COUNTY BOARD~~
7 ~~OF ADJUSTMENT. IF THE BOARD OF SUPERVISORS ELECTS TO DELEGATE THIS REVIEW,~~
8 ~~THE BOARD OF SUPERVISORS SHALL DELEGATE ALL REQUESTED REVIEWS TO THE BOARD OF~~
9 ~~ADJUSTMENT.~~ The board of supervisors shall adopt written rules of procedure
10 for the hearing and review of hearings, which shall be adopted in the same
11 manner as zoning ordinances. Judicial review of the final decisions of the
12 board of supervisors ~~OR A BOARD OF ADJUSTMENT~~ shall be pursuant to title 12,
13 chapter 7, article 6. A county that establishes civil penalties for a
14 violation of a zoning regulation or ordinance is not precluded from pursuing
15 the remedies as provided for in subsection H of this section.

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

26 Sec. 5. Section 11-816, Arizona Revised Statutes, is amended to read:
27 11-816. Boards of adjustment; powers; appeals

28 A. There shall be one or more boards of adjustment ~~IN EACH COUNTY.~~
29 ~~THE BOARD OF SUPERVISORS MAY ESTABLISH ONE BOARD OF ADJUSTMENT THAT HAS~~
30 ~~JURISDICTION COUNTYWIDE AND THAT IS COMPOSED OF ONE MEMBER WHO IS A RESIDENT~~
31 ~~OF EACH SUPERVISORIAL DISTRICT OR ONE BOARD OF ADJUSTMENT IN EACH~~
32 ~~SUPERVISORIAL DISTRICT THAT HAS JURISDICTION IN THAT SUPERVISORIAL DISTRICT~~
33 ~~AND THAT IS~~ composed of not less than three nor more than five members,
34 ~~each, one of which shall be appointed in and shall have jurisdiction in each~~
35 ~~supervisorial district in which the zoning ordinance has been applied OF WHOM~~
36 ~~IS A RESIDENT OF THAT SUPERVISORIAL DISTRICT.~~ The members of each board
37 shall be appointed for staggered terms of four years each. ~~They shall be~~
38 ~~residents and taxpayers of the district from which they are appointed.~~

39 B. The board of adjustment may:

40 1. Interpret the zoning ordinance if the meaning of any word, phrase
41 or section is in doubt, if there is dispute between the appellant and
42 enforcing officer or if the location of a district boundary is in doubt.

43 2. Allow a variance from the terms of the ordinance if, owing to
44 peculiar conditions, a strict interpretation would work an unnecessary

1 hardship and if in granting the variance the general intent and purposes of
2 the zoning ordinance will be preserved.

3 3. IF AUTHORIZED BY THE BOARD OF SUPERVISORS, REVIEW DECISIONS BY A
4 HEARING OFFICER WHO HEARS AND DETERMINES ZONING VIOLATIONS PURSUANT TO
5 SECTION 11-815 AND RENDER A FINAL DECISION. SUBSECTIONS C AND D OF THIS
6 SECTION DO NOT APPLY TO THIS PARAGRAPH. JUDICIAL REVIEW OF THE FINAL
7 DECISION BY THE BOARD OF ADJUSTMENT SHALL BE PURSUANT TO TITLE 12, CHAPTER 7,
8 ARTICLE 6.

9 C. Appeals to a board of adjustment may be taken by any person who
10 feels that there is error or doubt in the interpretation of the ordinance or
11 that due to unusual circumstances attaching to the person's property an
12 unnecessary hardship is being inflicted on the person. The appeal shall
13 state whether it is a plea for an interpretation or a variance and the
14 grounds for the appeal.

15 D. Any person aggrieved in any manner by an action of a board of
16 adjustment may appeal within thirty days to the superior court, and the
17 matter shall be heard de novo.

18 Sec. 6. Section 28-6713, Arizona Revised Statutes, as amended by Laws
19 2010, chapter 244, section 16, is amended to read:

20 28-6713. Bids for construction, reconstruction, equipment or
21 supplies; procedure; bond; exceptions

22 A. Except as provided in subsection G of this section, in a county
23 with a population of two hundred fifty thousand persons or more as determined
24 by the most recent United States decennial census or the most recent special
25 census as provided in section 28-6532, bids for all items of construction or
26 reconstruction involving an expenditure equal to or greater than the amount
27 determined pursuant to subsection B of this section, all purchases or other
28 acquisition of equipment involving an expenditure of more than five thousand
29 dollars and all purchases of supplies and materials involving an expenditure
30 of two thousand five hundred dollars or more shall be called for by
31 advertising in a newspaper of general circulation in the county for two
32 consecutive publications if it is a weekly newspaper, or for two publications
33 of at least six but not more than ten days apart if it is a daily newspaper.
34 The advertisement shall state specifically the character of the work to be
35 done and the kind and quality of materials or supplies to be furnished.

36 B. Bids shall be called pursuant to subsection A of this section for
37 all items of construction or reconstruction involving an expenditure of:

38 1. In fiscal year 1985-1986, thirty-five thousand dollars.

39 2. In fiscal year 1986-1987 and each fiscal year thereafter, the
40 amount provided in paragraph 1 of this subsection adjusted by the annual
41 percentage change in the GDP price deflator as defined in section 41-563.

42 C. If the board of supervisors receives a satisfactory bid, it shall
43 contract with the lowest responsible bidder after the contractor or supplier
44 gives any bond required by title 34, chapter 2, article 2, except that in
45 counties with a population of more than one million persons according to the

1 most recent United States decennial census, in determining the lowest
2 responsible bidder under this section, the board may consider, for no more
3 than five projects, the time of completion proposed by the bidder, the value
4 over time of completed services and facilities and the value over time of
5 interrupted services, if the board determines that this procedure will serve
6 the public interest by providing a substantial fiscal benefit or that the use
7 of the traditional awarding of contracts is not practicable for meeting
8 desired construction standards or delivery schedules and if the formula for
9 considering the time of completion is specifically stated in the bidding
10 information. The board may reject any or all bids and readvertise.

11 D. The board of supervisors, a member of the board of supervisors or
12 any other official or agent of a county affected by this section shall not
13 segregate or divide into separate units a contiguous or continuous portion of
14 highway construction or reconstruction or divide into separate portions an
15 item of equipment or generally recognized unit of supplies or material to
16 avoid the restrictions imposed by subsection A of this section.

17 E. The board of supervisors, a member of the board of supervisors or
18 any other official or agent of a county affected by this section shall make
19 every effort to combine the following:

20 1. Separate portions of highway construction or reconstruction
21 projects.

22 2. Items of equipment, supplies and materials.

23 F. After a contract has been awarded, the board of supervisors'
24 authorized representative may authorize change orders to the contract if
25 necessary pursuant to guidelines set by the board of supervisors. This
26 authority does not permit the board of supervisors' authorized representative
27 to act independently to award new contracts.

28 G. A building, structure, addition or alteration may be constructed
29 without complying with the bidding requirements of this section if the
30 construction, including construction of buildings or structures on public or
31 private property, is required as a condition of development of private
32 property and is authorized by section 9-463.01 or ~~11-821 or~~ 11-822. For the
33 purposes of this subsection, building does not include any police, fire,
34 school, library or other public building.

35 H. Subsections A, B and C of this section do not apply to procurement
36 of construction-manager-at-risk, design-build and job-order-contracting
37 construction services pursuant to title 34, chapter 6.

38 Sec. 7. Section 28-8481, Arizona Revised Statutes, as amended by Laws
39 2010, chapter 244, section 17, is amended to read:

40 28-8481. Planning and zoning; military airport and ancillary
41 military facility's operation compatibility;
42 compliance review; penalty; definitions

43 A. A political subdivision that has territory in the vicinity of a
44 military airport or ancillary military facility that includes property in a
45 high noise or accident potential zone shall adopt comprehensive and general

1 plans and school district development plans, if applicable, for property in
2 the high noise or accident potential zone to assure development compatible
3 with the high noise and accident potential generated by military airport and
4 ancillary military facility operations that have or may have an adverse
5 effect on public health and safety. Each political subdivision, excluding
6 school districts, shall adopt and enforce zoning regulations for property in
7 the high noise or accident potential zone to assure development compatible
8 with the high noise and accident potential generated by military airport and
9 ancillary military facility operations that have or may have an adverse
10 effect on public health and safety.

11 B. A political subdivision that has territory in the vicinity of a
12 military airport or ancillary military facility shall incorporate sound
13 attenuation standards pursuant to section 28-8482 into any building code in
14 existence on or adopted after July 1, 2001 or after July 1 of the year in
15 which the land becomes territory in the vicinity of a military airport or
16 ancillary military facility. This section does not affect or require the
17 modification of any building permit issued before July 1, 2001 or before July
18 1 of the year in which the land becomes territory in the vicinity of a
19 military airport or ancillary military facility.

20 C. A political subdivision that has territory in the vicinity of a
21 military airport or ancillary military facility that includes property in a
22 high noise or accident potential zone shall adopt, administer and enforce the
23 zoning regulations or school district development plans authorized by
24 subsection A of this section in the same manner as the comprehensive zoning
25 ordinance or school district development plans of the political subdivision
26 as provided by law, except that a variance shall not be granted without a
27 specific finding that the purpose of military airport or ancillary military
28 facility compatibility is preserved.

29 D. This section does not affect the existing authority of a political
30 subdivision to plan and zone on the basis of noise or accident potential in
31 the vicinity of an airport owned or controlled by the political subdivision
32 or to adopt restrictions or limitations in addition to those required by this
33 section applicable to territory in the vicinity of a military airport or
34 ancillary military facility.

35 E. This section does not restrict, limit or modify, or authorize or
36 require any political subdivision to restrict, limit or modify, the right of
37 a landowner to undertake and complete development and use of any property
38 under the terms and conditions of a development plan or school district
39 development plan approved on or before December 31, 2000, or on or before
40 December 31 of the year in which the development's property becomes territory
41 in the vicinity of a military airport or ancillary military facility or
42 pursuant to a written determination of compatibility issued by the military
43 airport or ancillary military facility on or before December 31, 2004, by the
44 political subdivision in whose territory or area of jurisdiction the property
45 is located, except that the development must comply with the sound

1 attenuation standards and specifications incorporated into any building code
2 adopted pursuant to section 28-8482 by the political subdivision in whose
3 territory or area of jurisdiction the development is located.

4 F. This section does not restrict, limit or modify, or authorize or
5 require any political subdivision to restrict, limit or modify, the right of
6 a landowner to undertake and complete development and use of any property
7 located in a high noise or accident potential zone that is appurtenant to an
8 ancillary military facility under the terms and conditions of a development
9 plan or school district development plan approved on or before December 31,
10 2004 by the political subdivision in whose territory or area of jurisdiction
11 the property is located or pursuant to a written determination of
12 compatibility issued by the military airport or ancillary military facility
13 on or before December 31, 2004, except that the development shall comply with
14 the sound attenuation standards and specifications incorporated into any
15 building code adopted pursuant to section 28-8482 by the political
16 subdivision in whose territory or area of jurisdiction the development is
17 located.

18 G. On or after July 1, 2001 or on or after December 31 of the year in
19 which the property becomes territory in a high noise or accident potential
20 zone, a political subdivision that has property in a high noise or accident
21 potential zone shall notify the owner or owners of property in the high noise
22 and accident potential zone of any additions or changes under this section to
23 the general plan, comprehensive plan, zoning regulations or school district
24 development plan of the political subdivision applicable to property in the
25 high noise or accident potential zone. The political subdivision shall
26 provide a notice of such additions or changes by publication as provided in
27 section 9-462.04, subsection A or section ~~11-829, subsection C~~ 11-814,
28 **SUBSECTION D**, including a statement that the property is located in a high
29 noise or accident potential zone, at least thirty days before final approval
30 of the addition to or change in the general plan, permitted land uses, zoning
31 regulation or school district development plan and within thirty days
32 following the final approval of such an addition to or change in the general
33 plan, permitted land uses, zoning regulation or school district development
34 plan.

35 H. Any property owner described in subsection G of this section shall
36 notify potential purchasers of the property and any potential lessees or
37 renters that the property is located in a high noise and accident potential
38 zone and is subject to the requirements of this section.

39 I. If a political subdivision includes property in the high noise or
40 accident potential zone of a military airport or ancillary military facility,
41 the political subdivision shall send notice to the attorney general of any
42 approval, adoption or readoption of, or major amendment to, the general or
43 comprehensive plan that impacts property in the high noise or accident
44 potential zone of a military airport or ancillary military facility within
45 three business days after the approval, adoption or readoption. If the

1 attorney general determines the approval, adoption or readoption of the
2 general or comprehensive plan or the major amendment to the general or
3 comprehensive plan is not in compliance with subsection J of this section,
4 the attorney general shall notify the political subdivision by certified
5 mail, return receipt requested, of the determination of noncompliance.
6 Within thirty days after the receipt of a determination of noncompliance by
7 the attorney general as prescribed by this section, the governing body of the
8 political subdivision shall reconsider any approval, adoption or readoption
9 of, or major amendment to, the general or comprehensive plan that impacts
10 property in the high noise or accident potential zone of a military airport
11 or ancillary military facility. If the governing body reaffirms a prior
12 action subject to an attorney general's determination of noncompliance
13 pursuant to this section, the attorney general may institute a civil action
14 pursuant to subsection L of this section. If a political subdivision timely
15 sends notice pursuant to this subsection and the attorney general fails to
16 timely notify the political subdivision of a determination of noncompliance,
17 the general or comprehensive plan or major amendment to the general or
18 comprehensive plan shall be deemed to comply with subsection J of this
19 section.

20 J. The attorney general shall determine compliance with this section
21 in accordance with the following requirements applicable to zoning and
22 development in a high noise or accident potential zone and to zoning and
23 development in accident potential zone one and accident potential zone
24 two. Compliance with respect to territory located in the arrival and
25 departure corridor but outside the accident potential zone one, two and noise
26 contour lines as described in section 28-8461, paragraph 9, subdivision (c)
27 shall be determined in accordance with the requirements applicable to
28 territory located in the 65-69 day-night sound level as listed below.
29 Compliance with respect to the property described in section 28-8461,
30 paragraph 9, subdivision (b) shall be determined in accordance with the
31 compatible land use plan in the joint land use study completed in February
32 2004. If the political subdivision and the military airport mutually agree
33 that an individual use is compatible and consistent with the high noise or
34 accident potential of the military airport or ancillary military facility, as
35 applicable, the use shall be deemed to comply with this subsection.
36 Alternatively, for an individual use or a plan for development submitted to a
37 military airport or ancillary military facility before December 31, 2004,
38 this subsection does not preclude the military airport from determining that
39 the individual use or plan for development is compatible and consistent with
40 the high noise or accident potential zone of the military airport or
41 ancillary military facility.

	Day-night sound level in decibels high noise or accident potential zone (18)						
	65-69	70-74	75-79	80-84	85 or over	APZ one	APZ two
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1	Automotive and marine	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No/Yes ⁽¹⁷⁾
2	Apparel and accessories-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
3	Eating and drinking places	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
4	Furniture and home	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No/Yes ⁽¹⁷⁾
5	furnishings-retail							
6	Other retail trade	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
7	<u>Personal and business services</u>							
8	Finance, insurance and real estate	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
9	Personal services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
10	Business services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
11	Repair services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
12	Contract construction services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
13	Indoor recreation services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
14	Other services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
15	<u>Industrial/manufacturing</u>							
16	Food and kindred products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
17	Textile mill products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
18	Apparel	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
19	Lumber and wood products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
20	Furniture and fixtures	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
21	Paper and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
22	Printing and publishing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
23	Chemicals and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
24	Petroleum refining and	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No
25	related industries							
26	Rubber and miscellaneous plastic	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
27	Stone, clay and glass products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
28	Primary metal industries	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
29	Fabricated metal products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
30	Professional, scientific and	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No
31	controlling instruments							
32	Miscellaneous manufacturing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽¹⁶⁾
33	<u>Public and quasi-public</u>							
34	<u>services</u>							
35	Government services	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽²⁾	No	No	No	Yes ⁽¹⁶⁾
36	Cultural activities,	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
37	including churches							
38	Medical and other health							
39	services	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
40	Cemeteries	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	Yes
41	Nonprofit organizations	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes
42	Correctional facilities	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽³⁾	Yes ⁽⁴⁾	No	No	Yes
43	Other public and quasi-public	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes ⁽¹⁶⁾
44	services							

1	<u>Outdoor recreation</u>							
2	Playgrounds and neighborhood							
3	parks	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
4	Community and regional	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
5	Nature exhibits	Yes	No	No	No	No	No	No
6	Spectator sports, including							
7	arenas	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No	No
8	Golf courses and riding stables	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	Yes ⁽¹⁵⁾	Yes
9	Water based recreational areas	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No
10	Resort and group camps	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
11	Auditoriums and concert halls	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	No	No
12	Outdoor amphitheaters and	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
13	music shells							
14	Other outdoor recreation	Yes	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
15	<u>Resource production,</u>							
16	<u> extraction and open space</u>							
17	Agriculture (except livestock)	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
18	Livestock farming and animal	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
19	breeding							
20	Forestry activities	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	No	Yes
21	Fishing activities and	Yes	Yes	No	No	No	No	No
22	related services							
23	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes ⁽¹⁶⁾
24	Permanent open space	Yes						
25	Water areas (not incidental to	Yes	Yes	No	No	No	No	No
26	farming)							

27 (1) Measures to achieve an outdoor to indoor noise reduction level of
 28 twenty-five decibels pursuant to an ordinance adopted under section 28-8482
 29 must be incorporated into the design and construction of all buildings and
 30 the political subdivision must make an express finding, as part of approval,
 31 that use of noise reduction level criteria will not alleviate outdoor noise.

32 (2) Measures to achieve an outdoor to indoor noise reduction level of
 33 thirty decibels pursuant to an ordinance adopted under section 28-8482 must
 34 be incorporated into the design and construction of all buildings and the
 35 political subdivision must make an express finding, as part of approval, that
 36 use of noise reduction level criteria will not alleviate outdoor noise.

37 (3) Measures to achieve an outdoor to indoor noise reduction level of
 38 thirty-five decibels pursuant to an ordinance adopted under section 28-8482
 39 must be incorporated into the design and construction of all buildings and
 40 the political subdivision must make an express finding, as part of the
 41 approval, that use of noise reduction level criteria will not alleviate
 42 outdoor noise.

43 (4) Measures to achieve an outdoor to indoor noise reduction level of
 44 forty decibels pursuant to an ordinance adopted under section 28-8482 must be
 45 incorporated into the design and construction of all buildings and the

1 political subdivision must make an express finding, as part of the approval,
2 that use of noise reduction level criteria will not alleviate outdoor noise.

3 (5) Measures to achieve an outdoor to indoor noise reduction level of
4 twenty-five decibels must be incorporated into the design and construction of
5 portions of buildings where the public is received, office areas, noise
6 sensitive areas or where normal noise level is low.

7 (6) Measures to achieve an outdoor to indoor noise reduction level of
8 thirty decibels must be incorporated into the design and construction of
9 portions of buildings where the public is received, office areas, noise
10 sensitive areas or where normal noise level is low.

11 (7) Measures to achieve an outdoor to indoor noise reduction level of
12 thirty-five decibels must be incorporated into the design and construction of
13 portions of buildings where the public is received, office areas, noise
14 sensitive areas or where normal noise level is low.

15 (8) Measures to achieve an outdoor to indoor noise reduction level of
16 forty decibels must be incorporated into the design and construction of
17 portions of buildings where the public is received, office areas, noise
18 sensitive areas or where normal noise level is low.

19 (9) Measures to achieve an outdoor to indoor noise reduction level of
20 twenty-five decibels must be incorporated into the design and construction of
21 new residential buildings or expansions of existing residential buildings.

22 (10) Measures to achieve an outdoor to indoor noise reduction level of
23 thirty decibels must be incorporated into the design and construction of new
24 residential buildings or expansions of existing residential buildings.

25 (11) Measures to achieve an outdoor to indoor noise reduction level of
26 thirty-five decibels must be incorporated into the design and construction of
27 new residential buildings or expansions of existing residential buildings.

28 (12) Measures to achieve an outdoor to indoor noise reduction level of
29 forty decibels must be incorporated into the design and construction of new
30 residential buildings or expansions of existing residential buildings.

31 (13) No new residential buildings or expansions of existing residential
32 buildings are permitted.

33 (14) Compatible if special sound reinforcement systems are installed.

34 (15) No aboveground buildings or structures.

35 (16) No new buildings or improvements or expansion of nonagriculture
36 buildings or improvements for uses that result in the release of any
37 substance into the air that would impair visibility or otherwise interfere
38 with operating aircraft, such as any of the following:

39 (a) Steam, dust and smoke.

40 (b) Direct or indirect reflective light emissions.

41 (c) Electrical emissions that would interfere with aircraft and air
42 force communications or navigational aid systems or aircraft navigational
43 equipment.

1 (d) The attraction of birds or waterfowl such as operation of sanitary
2 landfills or maintenance of feeding stations.

3 (e) Explosives facilities or similar activities.

4 (17) If located in the extended portion of accident potential zone two
5 in territory of a political subdivision described in section 28-8461,
6 paragraph 9, subdivision (a).

7 (18) Uses not listed are presumed to not be compatible. If the
8 political subdivision and the military airport mutually agree that an
9 individual use is compatible and consistent with the high noise or accident
10 potential of the military airport or ancillary military facility, the use
11 shall be presumed to be compatible.

12 K. Pursuant to subsection I of this section, the attorney general
13 shall notify a political subdivision by certified mail, return receipt
14 requested, if the attorney general has probable cause to believe that the
15 political subdivision has not complied with the requirements set forth in
16 subsection J of this section. Nothing in this section shall authorize or
17 permit a finding of probable cause of noncompliance with respect to property
18 that is the subject of a development plan.

19 L. The following apply to enforcement actions brought under this
20 section:

21 1. The attorney general may institute a civil action in the name of
22 this state in the superior court in the county of the alleged violation
23 against a political subdivision that is required to notify the attorney
24 general pursuant to subsection I of this section to restrain, enjoin, correct
25 or abate a violation of this section, to collect a civil penalty ordered
26 pursuant to this section and to collect attorney fees and costs ordered
27 pursuant to this section if the attorney general has probable cause to
28 believe that an action to reaffirm an approval, adoption or readoption of, or
29 major amendment to, the general or comprehensive plan made by a political
30 subdivision is not in compliance with subsection J of this section.

31 2. If the attorney general institutes a civil action pursuant to
32 subsection I of this section, the civil action shall be filed within thirty
33 days after the action to reaffirm an approval, adoption or readoption of, or
34 major amendment to, the general plan or comprehensive plan.

35 3. The court shall award reasonable attorney fees and other costs in
36 favor of the prevailing party for any civil enforcement action brought under
37 this section. If the attorney general prevails, monies awarded pursuant to
38 this paragraph shall be retained by the attorney general and are continuously
39 appropriated.

40 4. The court may assess civil penalties in favor of this state to be
41 deposited in the state general fund. The political subdivision may be liable
42 for a civil penalty of up to five hundred dollars for each day for the first
43 ten days and up to five thousand dollars for each subsequent day up to a
44 maximum of fifty thousand dollars.

1 M. A political subdivision that has territory in the vicinity of a
2 military airport or ancillary military facility that includes property in a
3 high noise or accident potential zone shall submit any proposed comprehensive
4 or general plan amendments that are applicable to property within the high
5 noise or accident potential zone to the attorney general at least fifteen
6 days before the first public hearing required pursuant to section 9-461.06 or
7 11-805.

8 N. A political subdivision shall not permit or approve a division of
9 land zoned for residential use that is in a high noise or accident potential
10 zone of an ancillary military facility if the division would result in a lot,
11 parcel or fractional interest being four acres or less unless the land
12 division is part of a development plan or a development agreement approved
13 before July 30, 2004 or is determined by the military airport or ancillary
14 military facility to be compatible with its operations before December 31,
15 2004. A political subdivision may grant a waiver from this subsection.

16 O. For purposes of determining the fair market value of property
17 located in a high noise or accident potential zone, or the development rights
18 appurtenant to the property, for acquisition by an agency or instrumentality
19 of the United States, this state or a political subdivision of this state,
20 property located in a high noise or accident potential zone that is not the
21 subject of a development plan under subsection E or F of this section shall
22 be deemed to have zoning allowing at least one residential dwelling per acre.

23 P. For the purposes of this section:

24 1. "Development plan":

25 (a) Means a plan that is submitted to and approved by the governing
26 body of the political subdivision pursuant to a zoning ordinance or
27 regulation adopted pursuant to title 9, chapter 4, article 6.1 or title 11,
28 chapter 6 and that describes with reasonable certainty the density and
29 intensity of use for a specific parcel or parcels of property.

30 (b) Includes a planned community development plan, a planned area
31 development plan, a planned unit development plan, a development plan that is
32 the subject of a development agreement adopted pursuant to section 9-500.05
33 or 11-1101, a site plan, a subdivision plat or any other land use approval
34 designation that is the subject of a zoning ordinance adopted pursuant to
35 title 9, chapter 4, article 6.1 or title 11, chapter 6.

36 (c) Means a conceptual plan for development that generally depicts
37 densities on a particular property that a military airport, as described in
38 section 28-8461, paragraph 9, subdivision (a), deems is compatible with the
39 operation of the ancillary military facility.

40 2. "Major amendment" means a substantial alteration of a political
41 subdivision's land use mixture or balance as established in the political
42 subdivision's existing general or comprehensive plan land use element.

1 Sec. 8. Laws 2010, chapter 175, section 2 is amended to read:

2 Sec. 2. Suspension of action on county comprehensive plan

3 Notwithstanding section ~~11-824~~ 11-805, subsection ~~B~~ M, Arizona Revised
4 Statutes, a county board of supervisors is not required to readopt an
5 existing comprehensive plan or adopt a new comprehensive plan until July 1,
6 2015.

7 Sec. 9. Effective date

8 This act is effective from and after September 30, 2011.