

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2056

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 9-462.01, Arizona Revised Statutes, is amended to
3 read:

4 9-462.01. Zoning regulations; public hearing; prohibition;
5 definitions

6 A. Pursuant to this article, the legislative body of any municipality
7 by ordinance may in order to conserve and promote the public health, safety
8 and general welfare:

9 1. Regulate the use of buildings, structures and land as between
10 agriculture, residence, industry, business and other purposes.

11 2. Regulate signs and billboards.

12 3. Regulate the location, height, bulk, number of stories and size of
13 buildings and structures, the size and use of lots, yards, courts and other
14 open spaces, the percentage of a lot ~~which~~ THAT may be occupied by a building
15 or structure, access to incident solar energy and the intensity of land use.

16 4. Establish requirements for off-street parking and loading.

17 5. Establish and maintain building setback lines.

18 6. Create civic districts around civic centers, public parks, public
19 buildings or public grounds and establish regulations therefor.

20 7. Require as a condition of rezoning public dedication of
21 rights-of-way as streets, alleys, public ways, drainage and public utilities
22 as are reasonably required by or related to the effect of the rezoning.

23 8. Establish floodplain zoning districts and regulations to protect
24 life and property from the hazards of periodic inundation. Regulations may
25 include variable lot sizes, special grading or drainage requirements, or
26 other requirements deemed necessary for the public health, safety or general
27 welfare.

28 9. Establish special zoning districts or regulations for certain lands
29 characterized by adverse topography, adverse soils, subsidence of the earth,
30 high water table, lack of water or other natural or man-made hazards to life
31 or property. Regulations may include variable lot sizes, special grading or

1 drainage requirements, or other requirements deemed necessary for the public
2 health, safety or general welfare.

3 10. Establish districts of historical significance provided that:

4 (a) The ordinances may require that special permission be obtained for
5 any development within the district if the legislative body has adopted a
6 plan for the preservation of districts of historical significance ~~which~~ THAT
7 meets the requirements of subdivision (b) of this paragraph, and the criteria
8 contained in the ordinance are consistent with the objectives set forth in
9 the plan.

10 (b) A plan for the preservation of districts of historical
11 significance shall identify districts of special historical significance,
12 state the objectives to be sought concerning the development or preservation
13 of sites, area and structures within the district, and formulate a program
14 for public action including the provision of public facilities and the
15 regulation of private development and demolition necessary to realize these
16 objectives.

17 (c) The ordinance establishing districts of historical significance
18 shall set forth standards necessary to preserve the historical character of
19 the area so designated.

20 (d) The ordinances may designate or authorize any committee,
21 commission, department or person to designate structures or sites of special
22 historical significance in accordance with criteria contained in the
23 ordinance, and no designation shall be made except after a public hearing
24 ~~upon~~ ON notice of the owners of record of the property so designated. The
25 ordinances may require that special permission be obtained for any
26 development respecting the structures or sites.

27 11. Establish age specific community zoning districts in which
28 residency is restricted to a head of a household or spouse who must be of a
29 specific age or older and in which minors are prohibited from living in the
30 home. Age specific community zoning districts shall not be overlaid over
31 property without the permission of all owners of property included as part of
32 the district unless all of the property in the district has been developed,
33 advertised and sold or rented under specific age restrictions. The
34 establishment of age specific community zoning districts is subject to all of
35 the public notice requirements and other procedures prescribed by this
36 article.

37 12. Establish procedures, methods and standards for the transfer of
38 development rights within its jurisdiction. Any proposed transfer of
39 development rights from the sending property or to the receiving property
40 shall be subject to the notice and hearing requirements of section 9-462.04

1 and shall be subject to the approval and consent of the property owners of
2 both the sending and receiving property. Before any transfer of development
3 rights, a municipality shall adopt an ordinance providing for:

4 (a) The issuance and recordation of the instruments necessary to sever
5 development rights from the sending property and to affix development rights
6 to the receiving property. These instruments shall be executed by the
7 affected property owners and lienholders.

8 (b) The preservation of the character of the sending property and
9 assurance that the prohibitions against the use and development of the
10 sending property shall bind the landowner and every successor in interest to
11 the landowner.

12 (c) The severance of transferable development rights from the sending
13 property and the delayed transfer of development rights to a receiving
14 property.

15 (d) The purchase, sale, exchange or other conveyance of transferable
16 development rights prior to the rights being affixed to a receiving property.

17 (e) A system for monitoring the severance, ownership, assignment and
18 transfer of transferable development rights.

19 (f) The right of a municipality to purchase development rights and to
20 hold them for resale.

21 (g) The right of a municipality at its discretion to enter into an
22 intergovernmental agreement with another municipality or a county for the
23 transfer of development rights between jurisdictions. The transfer shall
24 comply with this paragraph, except that if the sending property is located in
25 an unincorporated area of a county, the approval of the development rights to
26 be sent to a municipality shall comply with section 11-817.

27 B. For the purposes prescribed in subsection A of this section, the
28 legislative body may divide a municipality, or portion of a municipality,
29 into zones of the number, shape and area it deems best suited to carry out
30 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

31 C. All zoning regulations shall be uniform for each class or kind of
32 building or use of land throughout each zone, but the regulations in one type
33 of zone may differ from those in other types of zones as follows:

34 1. Within individual zones, there may be uses permitted on a
35 conditional basis under which additional requirements must be met, including
36 requiring site plan review and approval by the planning agency. The
37 conditional uses are generally characterized by any of the following:

38 (a) Infrequency of use.

39 (b) High degree of traffic generation.

40 (c) Requirement of large land area.

1 2. Within residential zones, the regulations may permit modifications
2 to minimum yard lot area and height requirements.

3 D. To carry out the purposes of this article and articles 6 and 6.2 of
4 this chapter, the legislative body may adopt overlay zoning districts and
5 regulations applicable to particular buildings, structures and land within
6 individual zones. For the purposes of this subsection, "overlay zoning
7 district" means a special zoning district that includes regulations ~~which~~
8 **THAT** modify regulations in another zoning district with which the overlay
9 zoning district is combined. Overlay zoning districts and regulations shall
10 be adopted pursuant to section 9-462.04.

11 E. The legislative body may approve a change of zone conditioned ~~upon~~
12 **ON** a schedule for development of the specific use or uses for which rezoning
13 is requested. If at the expiration of this period the property has not been
14 improved for the use for which it was conditionally approved, the legislative
15 body, after notification by certified mail to the owner and applicant who
16 requested the rezoning, shall schedule a public hearing to take
17 administrative action to extend, remove or determine compliance with the
18 schedule for development or take legislative action to cause the property to
19 revert to its former zoning classification.

20 F. All zoning and rezoning ordinances or regulations adopted under
21 this article shall be consistent with and conform to the adopted general plan
22 of the municipality, if any, as adopted under article 6 of this chapter. In
23 the case of uncertainty in construing or applying the conformity of any part
24 of a proposed rezoning ordinance to the adopted general plan of the
25 municipality, the ordinance shall be construed in a manner that will further
26 the implementation of, and not be contrary to, the goals, policies and
27 applicable elements of the general plan. A rezoning ordinance conforms with
28 the land use element of the general plan if it proposes land uses, densities
29 or intensities within the range of identified uses, densities and intensities
30 of the land use element of the general plan.

31 G. No regulation or ordinance under this section may prevent or
32 restrict agricultural composting on farmland that is five or more contiguous
33 acres and that meets the requirements of this subsection. An agricultural
34 composting operation shall notify in writing the legislative body of the city
35 or town and the nearest fire department of the location of the composting
36 operation. If the nearest fire department is located in a different city or
37 town from the agricultural composting operation, the agricultural composting
38 operation shall also notify in writing the fire department of the city or
39 town in which the operation is located. Agricultural composting is subject
40 to sections 3-112 and 49-141. Agricultural composting may not be conducted

1 within one thousand three hundred twenty feet of an existing residential use,
2 unless the operations are conducted on farmland or land leased in association
3 with farmland. Any disposal of manure shall comply with section 49-247. For
4 the purposes of this subsection:

5 1. "Agricultural composting" means the controlled biological
6 decomposition of organic solid waste under in-vessel anaerobic or aerobic
7 conditions where all or part of the materials are generated on the farmland
8 or will be used on the farmland associated with the agricultural composting
9 operation.

10 2. "Farmland" has the same meaning prescribed in section 3-111 and is
11 subject to regulation under section 49-247.

12 H. A ZONING ORDINANCE ADOPTED PURSUANT TO THIS ARTICLE MAY NOT ALLOW A
13 MARIJUANA CULTIVATION FACILITY OR MARIJUANA INFUSION PRODUCTION FACILITY TO
14 BE LOCATED WITHIN TWO THOUSAND FIVE HUNDRED FEET OF AN AREA ZONED FOR
15 RESIDENTIAL USE, A PLACE OF WORSHIP OR A PUBLIC OR PRIVATE SCHOOL OR THE
16 ACCOMPANYING GROUNDS. FOR THE PURPOSES OF THIS SUBSECTION, MEASUREMENTS
17 SHALL BE MADE FROM THE EXTERIOR WALLS OF THE BUILDING OR PORTION OF THE
18 BUILDING IN WHICH THE MARIJUANA CULTIVATION OR MARIJUANA INFUSION PRODUCTION
19 IS CONDUCTED TO THE ZONING BOUNDARY LINE OF AN AREA ZONED FOR RESIDENTIAL USE
20 OR THE PROPERTY LINE OF A PARCEL THAT CONTAINS A PLACE OF WORSHIP OR A PUBLIC
21 OR PRIVATE SCHOOL OR THE ACCOMPANYING GROUNDS.

22 ~~H.~~ I. For the purposes of this section:

23 1. "Development rights" means the maximum development that would be
24 allowed on the sending property under any general or specific plan and local
25 zoning ordinance of a municipality in effect on the date the municipality
26 adopts an ordinance pursuant to subsection A, paragraph 12 of this section
27 respecting the permissible use, area, bulk or height of improvements made to
28 the lot or parcel. Development rights may be calculated and allocated in
29 accordance with factors including dwelling units, area, floor area, floor
30 area ratio, height limitations, traffic generation or any other criteria that
31 will quantify a value for the development rights in a manner that will carry
32 out the objectives of this section.

33 2. "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY THAT CULTIVATES,
34 PREPARES OR PACKAGES AND SELLS MARIJUANA TO NONPROFIT MEDICAL MARIJUANA
35 DISPENSARIES, MARIJUANA INFUSION PRODUCTION FACILITIES AND OTHER MARIJUANA
36 CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

37 3. "MARIJUANA INFUSION PRODUCTION FACILITY" MEANS AN ENTITY THAT
38 ACQUIRES, POSSESSES, MANUFACTURES, PREPARES OR PACKAGES AND SELLS MARIJUANA
39 PRODUCTS BY THE MEANS OF COOKING, BLENDING OR INCORPORATING MARIJUANA INTO

1 CONSUMABLE, EDIBLE OR TRANSDERMAL PRODUCTS TO NONPROFIT MEDICAL MARIJUANA
2 DISPENSARIES OR OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

3 ~~2.~~ 4. "Receiving property" means a lot or parcel within which
4 development rights are increased pursuant to a transfer of development
5 rights. Receiving property shall be appropriate and suitable for development
6 and shall be sufficient to accommodate the transferable development rights of
7 the sending property without substantial adverse environmental, economic or
8 social impact to the receiving property or to neighboring property.

9 ~~3.~~ 5. "Sending property" means a lot or parcel with special
10 characteristics, including farmland, woodland, desert land, mountain land,
11 floodplain, natural habitats, recreation or parkland, including golf course
12 area, or land that has unique aesthetic, architectural or historic value that
13 a municipality desires to protect from future development.

14 ~~4.~~ 6. "Transfer of development rights" means the process by which
15 development rights from a sending property are affixed to one or more
16 receiving properties.

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

18 11-811. Zoning ordinance; zoning districts; prohibition;
19 definitions

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

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

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

34 3. Shall consider access to incident solar energy.

35 4. May provide for retirement community zoning districts.

36 5. May provide for the regulation and use of business licenses, adult
37 oriented business manager permits and adult service provider permits in
38 conjunction with the establishment or operation of adult oriented businesses
39 and facilities, including adult arcades, adult bookstores or video stores,
40 cabarets, adult live entertainment establishments, adult motion picture

1 theaters, adult theaters, massage establishments and nude model studios.
2 With respect to cabarets, the ordinance shall not conflict with specific
3 statutory or valid regulatory requirements applicable to persons licensed to
4 dispense alcoholic beverages, but the ordinance may include regulation of the
5 age and conduct of erotic entertainers in a manner at least as restrictive as
6 rules adopted under title 4. Notwithstanding section 11-812, a county in
7 regulating or licensing businesses and facilities pursuant to this paragraph
8 may impose reasonable operating requirements that affect the existing uses of
9 businesses and facilities.

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

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

30 C. This section does not authorize:

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

33 2. The regulation or restriction of the use or occupation of land or
34 improvements for railroad, mining, metallurgical, grazing or general
35 agricultural purposes, if the tract concerned is five or more contiguous
36 commercial acres. For the purposes of this paragraph, general agricultural
37 purposes do not include the cultivation of cannabis as defined in section
38 13-3401 or marijuana as defined in section 13-3401 or 36-2801.

1 D. NOTWITHSTANDING SECTION 11-812, A ZONING ORDINANCE ADOPTED PURSUANT
2 TO THIS ARTICLE MAY NOT ALLOW A MARIJUANA CULTIVATION FACILITY OR MARIJUANA
3 INFUSION PRODUCTION FACILITY TO BE LOCATED WITHIN TWO THOUSAND FIVE HUNDRED
4 FEET OF AN AREA ZONED FOR RESIDENTIAL USE, A PLACE OF WORSHIP OR A PUBLIC OR
5 PRIVATE SCHOOL OR THE ACCOMPANYING GROUNDS. FOR THE PURPOSES OF THIS
6 SUBSECTION, MEASUREMENTS SHALL BE MADE FROM THE EXTERIOR WALLS OF THE
7 BUILDING OR PORTION OF THE BUILDING IN WHICH THE MARIJUANA CULTIVATION OR
8 MARIJUANA INFUSION PRODUCTION IS CONDUCTED TO THE ZONING BOUNDARY LINE OF AN
9 AREA ZONED FOR RESIDENTIAL USE OR THE PROPERTY LINE OF A PARCEL THAT CONTAINS
10 A PLACE OF WORSHIP OR A PUBLIC OR PRIVATE SCHOOL OR THE ACCOMPANYING GROUNDS.

11 ~~D.~~ E. 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.

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

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

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

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

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

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

20 12. "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY THAT CULTIVATES,
21 PREPARES OR PACKAGES AND SELLS MARIJUANA TO NONPROFIT MEDICAL MARIJUANA
22 DISPENSARIES, MARIJUANA INFUSION PRODUCTION FACILITIES AND OTHER MARIJUANA
23 CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

24 13. "MARIJUANA INFUSION PRODUCTION FACILITY" MEANS AN ENTITY THAT
25 ACQUIRES, POSSESSES, MANUFACTURES, PREPARES OR PACKAGES AND SELLS MARIJUANA
26 PRODUCTS BY THE MEANS OF COOKING, BLENDING OR INCORPORATING MARIJUANA INTO
27 CONSUMABLE, EDIBLE OR TRANSDERMAL PRODUCTS TO NONPROFIT MEDICAL MARIJUANA
28 DISPENSARIES OR OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

29 ~~12.~~ 14. "Massage establishment" means an establishment in which a
30 person, firm, association or corporation engages in or permits massage
31 activities, including any method of pressure on, friction against, stroking,
32 kneading, rubbing, tapping, pounding, vibrating or stimulating of external
33 soft parts of the body with the hands or with the aid of any mechanical
34 apparatus or electrical apparatus or appliance. This paragraph does not
35 apply to:

36 (a) Persons who are licensed pursuant to title 32, chapter 7, 8, 13,
37 14 or 17.

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

1 (c) Registered nurse practitioners who are licensed pursuant to title
2 32, chapter 15.

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

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

7 ~~13.~~ 15. "Nude model studio" means a place in which a person who
8 appears in a state of nudity or who displays specific anatomical areas is
9 observed, sketched, drawn, painted, sculptured, photographed or otherwise
10 depicted by other persons who pay money or other consideration. Nude model
11 studio does not include a proprietary school that is licensed by this state,
12 a college, community college or university that is supported entirely or in
13 part by taxation, a private college or university that maintains and operates
14 educational programs in which credits are transferable to a college,
15 community college or university that is supported entirely or in part by
16 taxation or a structure to which the following apply:

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

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

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

24 ~~14.~~ 16. "Nude", "nudity" or "state of nudity" means any of the
25 following:

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

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

31 ~~15.~~ 17. "Principal business purposes" means that a commercial
32 establishment derives fifty ~~per cent~~ PERCENT or more of its gross income from
33 the sale or rental of items listed in paragraph 2 of this subsection.

34 ~~16.~~ 18. "Seminude" means a state of dress in which clothing covers no
35 more than the genitals, pubic region and female breast below a point
36 immediately above the top of the areola, as well as portions of the body that
37 are covered by supporting straps or devices.

38 ~~17.~~ 19. "Specific anatomical areas" means any of the following:

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

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

6 ~~18.~~ 20. "Specific sexual activities" means any of the following:

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

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

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

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

14 Amend title to conform

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