

Senate Engrossed House Bill

certificate; environmental compatibility; zoning; exemption

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE BILL 2494

AN ACT

AMENDING SECTIONS 11-812, 40-360.03 AND 48-3609.01, ARIZONA REVISED
STATUTES; RELATING TO LAND USE REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-812, Arizona Revised Statutes, is amended to
3 read:

4 11-812. Restriction on regulation; exceptions; aggregate
5 mining regulation; definitions

6 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
7 ~~shall~~ MAY NOT:

8 1. Affect existing uses of property or the right to its continued
9 use or the reasonable repair or alteration of the property for the purpose
10 for which used at the time the ordinance affecting the property takes
11 effect.

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

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

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

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

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

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

28 3. Prevent, restrict or otherwise regulate the use or occupation of
29 land or improvements for agricultural composting, if the tract is five or
30 more contiguous commercial acres. An agricultural composting operation
31 shall notify in writing the board of supervisors and the nearest fire
32 department of the location of the composting operation. If the nearest
33 fire department is located in a city, town or fire district where the
34 agricultural composting is not located, the agricultural composting
35 operation shall also notify in writing the fire district in which the
36 operation is located. Agricultural composting is subject to sections
37 3-112 and 49-141. For the purposes of this paragraph, "agricultural
38 composting" has the same meaning prescribed in section 9-462.01,
39 subsection G.

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

44 5. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
45 LAND OR IMPROVEMENTS FOR THE CONSTRUCTION AND OPERATION OF A THERMAL OR

1 NONTHERMAL ELECTRIC GENERATING UNIT IF THE OWNER OR OPERATOR OF THE
2 ELECTRIC GENERATING UNIT HAS APPLIED FOR AND RECEIVED A CERTIFICATE OF
3 ENVIRONMENTAL COMPATIBILITY FOR THE PROPOSED ELECTRIC GENERATING UNIT FROM
4 THE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE, AND THE
5 CERTIFICATE IS AFFIRMED AND APPROVED BY AN ORDER OF THE CORPORATION
6 COMMISSION PURSUANT TO TITLE 40, CHAPTER 2, ARTICLE 6.2. THE CONSTRUCTION
7 AND OPERATION OF A THERMAL OR NONTHERMAL ELECTRIC GENERATING UNIT PURSUANT
8 TO THIS PARAGRAPH SHALL COMPLY WITH ALL AIR QUALITY STANDARDS PRESCRIBED
9 BY TITLE 49, CHAPTER 3 AND WITH ALL DECOMMISSIONING, SITE RESTORATION,
10 FINANCIAL ASSURANCE AND LIABILITY INSURANCE REQUIREMENTS PRESCRIBED BY
11 TITLE 30.

12 B. THE OWNER OR OPERATOR OF A PROPOSED NONTHERMAL ELECTRIC
13 GENERATING UNIT THAT IS NOT SUBJECT TO THE REQUIREMENTS OF TITLE 40,
14 CHAPTER 2, ARTICLE 6.2 MAY VOLUNTARILY APPLY FOR A CERTIFICATE OF
15 ENVIRONMENTAL COMPATIBILITY PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS
16 SECTION, IF THE PROPOSED NONTHERMAL ELECTRIC GENERATING UNIT WILL BE
17 LOCATED IN EITHER OF THE FOLLOWING AREAS:

18 1. ON PRIVATE LAND THAT IS LOCATED IN A COUNTY WITH A POPULATION OF
19 MORE THAN FOUR HUNDRED THOUSAND PERSONS BUT LESS THAN SIX HUNDRED THOUSAND
20 PERSONS. IF THE PRIVATE LAND IS FORMER STATE LANDS AS DEFINED IN SECTION
21 37-101, THE OWNER OR OPERATOR OF THE PROPOSED NONTHERMAL ELECTRIC
22 GENERATING UNIT MUST HAVE ACQUIRED THE FORMER STATE LANDS AT A PUBLIC
23 AUCTION THAT WAS OPEN TO ALL ELIGIBLE BIDDERS FROM ALL INDUSTRIES AND
24 COMMERCIAL LAND USES AND THE COMMISSIONER OF THE STATE LAND DEPARTMENT MAY
25 NOT HAVE TAKEN, AT ANY POINT DURING THE PUBLIC AUCTION OR BEFORE THE
26 PUBLIC AUCTION, ANY ACTION, INCLUDING IMPOSING ANY RESTRICTIONS OR
27 QUALIFICATIONS ON ELIGIBLE BIDDERS OR IMPOSING ANY REQUIREMENTS OR
28 MINIMUMS ON APPRAISALS, THAT HAD THE EFFECT OF INCREASING THE PROBABILITY
29 OF A BIDDER FROM ONE INDUSTRY OR COMMERCIAL LAND USE WINNING THE PUBLIC
30 AUCTION INSTEAD OF A BIDDER FROM ANOTHER INDUSTRY OR COMMERCIAL LAND USE.

31 2. ON STATE LANDS AS DEFINED IN SECTION 37-101 THAT ARE LOCATED IN
32 A GROUNDWATER BASIN FROM WHICH GROUNDWATER MAY BE TRANSPORTED PURSUANT TO
33 TITLE 45, CHAPTER 2, ARTICLE 8.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 ~~F.~~ J. For the purposes of this section:

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

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

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

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

19 Sec. 2. Section 40-360.03, Arizona Revised Statutes, is amended to
20 read:

21 40-360.03. Application for certificate of environmental
22 compatibility before construction of facilities;
23 electronic format; rules; exception

24 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this
25 section, every utility that plans to construct a plant or transmission
26 line, or both, in this state shall first file with the commission an
27 application for a certificate of environmental compatibility. The
28 application shall be in a form prescribed by the commission and shall be
29 accompanied by information with respect to the proposed type of facilities
30 and description of the site, including the areas of jurisdiction affected
31 and the estimated cost of the proposed facilities and site. The
32 application shall also be accompanied by a receipt that evidences payment
33 of the appropriate fee required by section 40-360.09. The commission shall
34 promptly refer the application and accompanying information to the
35 chairman of the committee for the committee's review and decision. The
36 application and accompanying information may be submitted to the
37 commission in an electronic format. The commission may adopt rules to
38 accept electronic filings under this section and to ensure that proper
39 notice is provided electronically to interested parties.

40 B. A utility may replace a conductor or wire on a transmission line
41 or may replace an existing transmission line structure or structures with
42 a new transmission line structure or structures without seeking a new
43 certificate of environmental compatibility and without holding a hearing
44 under this article if the replacement is on a transmission line that
45 previously received a certificate of environmental compatibility or that

1 was in use or authorized before August 13, 1971. All replacement
2 conductors or structures shall comply with the terms and conditions of the
3 applicable existing certificate of environmental compatibility.

4 C. A UTILITY MAY REPLACE AN EXISTING PLANT WITH A REPLACEMENT PLANT
5 OR CONSTRUCT A NEW PLANT IMMEDIATELY ADJACENT TO AN EXISTING PLANT WITHOUT
6 FILING FOR OR RECEIVING A NEW CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY
7 FOR THE NEW OR REPLACEMENT PLANT IF ALL OF THE FOLLOWING CONDITIONS ARE
8 MET:

9 1. THE UTILITY PROVIDES TO THE COMMISSION THIRTY DAYS' WRITTEN
10 NOTICE AND HOLDS AT LEAST ONE PUBLIC COMMENT SESSION IN THE COUNTY WHERE
11 THE EXISTING PLANT IS LOCATED.

12 2. THE NEW OR REPLACEMENT PLANT IS LOCATED ON OR IMMEDIATELY
13 ADJACENT TO THE SITE OF A PLANT THAT HAS PREVIOUSLY RECEIVED A CERTIFICATE
14 OF ENVIRONMENTAL COMPATIBILITY PURSUANT TO THIS ARTICLE OR THAT WAS IN USE
15 OR AUTHORIZED BEFORE AUGUST 13, 1971.

16 3. THE AGGREGATE NAMEPLATE RATING OF ALL PLANTS THAT WILL BE
17 LOCATED ON AND IMMEDIATELY ADJACENT TO THE SITE AFTER CONSTRUCTION WILL BE
18 EQUAL TO OR GREATER THAN THE AGGREGATE NAMEPLATE RATING OF ALL EXISTING
19 PLANTS LOCATED ON AND IMMEDIATELY ADJACENT TO THE SITE BEFORE
20 CONSTRUCTION.

21 Sec. 3. Section 48-3609.01, Arizona Revised Statutes, is amended to
22 read:

23 48-3609.01. Watercourse master plans; definition

24 A. If a district organized pursuant to this chapter has completed a
25 watercourse master plan ~~which~~ THAT includes one or more watercourses, and
26 if the plan has been adopted by the board or by any other jurisdiction in
27 that river or drainage system, the board and the governing body of each
28 jurisdiction may adopt and shall enforce uniform rules for that river or
29 drainage system within the jurisdiction using criteria that meet or exceed
30 criteria adopted by the director of water resources pursuant to section
31 48-3605, subsection A.

32 B. During the preparation of a watercourse master plan, record
33 owners of real property in and immediately contiguous to the watercourse
34 or watercourses included in the planning shall be publicly notified by the
35 board or its agents so that the owners may have input to the planning
36 process. In addition, aggregate mining operations recommendation
37 committees organized pursuant to section 11-812, subsection ~~D~~ E, if any,
38 shall be notified.

39 C. All watercourse master plans shall consider recharge techniques,
40 including gabions, swales, dry wells, sand tanks and small dams.

41 D. This section does not apply to any city or town ~~which~~ THAT has
42 adopted a resolution assuming floodplain management and regulation within
43 its area of jurisdiction as provided in section 48-3610 ~~prior to~~ BEFORE
44 July 1, 1990.

1 E. A district that has prepared a watercourse master plan for a
2 river may participate in the planning, establishment and operation of a
3 recreational corridor channelization district established pursuant to
4 chapter 35 of this title.

5 F. For the purposes of this section, "watercourse master plan"
6 means a hydraulic plan for a watercourse that examines the cumulative
7 impacts of existing development and future encroachment in the floodplain
8 and future development in the watershed on potential flood damages and
9 that establishes technical criteria for subsequent development so as to
10 minimize potential flood damages for all flood events up to and including
11 the one hundred-year flood.