

11-811. Zoning ordinance; zoning districts; definitions

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

1. Shall show the zoning districts designated as appropriate for various classes of residential, business and industrial uses and shall provide for the establishment of setback lines and other plans providing for adequate light, air and parking facilities and for expediting traffic within the districts.
2. May establish the percentage of a lot or parcel that may be covered by buildings and the size of yards, courts and other open spaces.
3. Shall consider access to incident solar energy.
4. May provide for retirement community zoning districts.
5. May provide for the regulation and use of business licenses, adult oriented business manager permits and adult service provider permits in conjunction with the establishment or operation of adult oriented businesses and facilities, including adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, massage establishments and nude model studios. With respect to cabarets, the ordinance shall not conflict with specific statutory or valid regulatory requirements applicable to persons licensed to dispense alcoholic beverages, but the ordinance may include regulation of the age and conduct of erotic entertainers in a manner at least as restrictive as rules adopted under title 4. Notwithstanding section 11-812, a county in regulating or licensing businesses and facilities pursuant to this paragraph may impose reasonable operating requirements that affect the existing uses of businesses and facilities.
6. Shall designate and zone appropriate areas of reasonable size in which there may be established with reasonable permanency canneries, fertilizer plants, refineries, commercial feedlots, meat packing plants, tallow works and other like businesses. A dairy operation, including areas designated for the raising of replacement heifers or bulls owned by the same dairy operation, is not subject to this paragraph, and is a general agricultural purpose under subsection D, paragraph 2 of this section and section 11-812, subsection A, paragraph 2. A replacement heifer or bull raising operation of a dairy that is not on contiguous property of the dairy is subject to this paragraph unless the operation begins within one-quarter mile of the dairy.

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

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

D. This section does not authorize:

1. The imposition of dedications, exactions, fees or other requirements that are not otherwise authorized by law.
2. The regulation or restriction of the use or occupation of land or improvements for railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five or more contiguous

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

E. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. "Massage establishment" means an establishment in which a person, firm, association or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading,

rubbing, tapping, pounding, vibrating or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This paragraph does not apply to:

- (a) Persons who are licensed pursuant to title 32, chapter 7, 8, 13, 14 or 17.
- (b) Registered nurses, licensed practical nurses or technicians who are acting under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.
- (c) Registered nurse practitioners who are licensed pursuant to title 32, chapter 15.
- (d) Persons who are employed or acting as trainers for a bona fide amateur, semiprofessional or professional athlete or athletic team.
- (e) Persons who are licensed pursuant to title 32, chapter 3 or 5 if the activity is limited to the head, face or neck.

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

- (a) A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
- (b) A student must enroll at least three days in advance of a class in order to participate.
- (c) No more than one nude or seminude model is on the premises at any time.

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

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

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

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

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

- (a) A human anus, genitals, the pubic region or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
- (b) Male genitals in a discernibly turgid state even if completely and opaquely covered.

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

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

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

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

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