

House Engrossed Senate Bill

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 216

SENATE BILL 1354

AN ACT

AMENDING SECTIONS 9-1201, 9-1202, 11-1201 AND 11-1202, ARIZONA REVISED STATUTES; RELATING TO PROTECTED PROPERTY DEVELOPMENT RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-1201, Arizona Revised Statutes, is amended to
3 read:

4 9-1201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Landowner" means any owner of a legal or equitable interest in
7 real property, including the heirs, devisees, successors, assigns and
8 personal representative of the owner, or a representative authorized by a
9 landowner to submit to a city or town a development application for a
10 property for approval.

11 2. "Property" means all real property subject to zoning regulations
12 and restrictions by a city or town.

13 3. "Protected development right" means the right to undertake and
14 complete the development and use of property under the terms and conditions
15 of a protected development right plan and this article, without compliance
16 with subsequent changes in zoning regulations and development standards,
17 except as provided by section 9-1204.

18 4. "Protected development right plan" means a plan submitted by a
19 landowner to a city or town, that, if approved BY THE LEGISLATIVE BODY OF THE
20 CITY OR TOWN and IF identified as a protected development right plan at the
21 time of approval IT IS SUBMITTED, grants the landowner, for a specified
22 period of time, a protected development right to UNDERTAKE AND complete the
23 development as shown on the plan. The protected development right plan shall
24 be submitted to a city or town for site development approval. ~~and may be in~~
25 ~~the form of a planned unit or planned area development plan, a subdivision~~
26 ~~plat, a site plan, a general or final development plan or any other similar~~
27 ~~plans submitted. A PROTECTED DEVELOPMENT RIGHT PLAN FOR A PHASED DEVELOPMENT~~
28 ~~SHALL BE IN THE FORM OF A PLAN FOR A MASTER PLANNED DEVELOPMENT WHICH MAY~~
29 ~~INCLUDE A PLANNED UNIT DEVELOPMENT, PLANNED COMMUNITY DEVELOPMENT OR~~
30 ~~DISTRICT, PLANNED RESIDENTIAL DEVELOPMENT OR DISTRICT OR PLANNED AREA~~
31 ~~DEVELOPMENT OR DISTRICT IF SUCH LAND USE CATEGORY OR DISTRICT IS RECOGNIZED~~
32 ~~AND PROVIDED FOR IN THE ZONING ORDINANCE OF THE CITY OR TOWN. A protected~~
33 ~~development right plan for other than a phased A NONPHASED development must~~
34 ~~be a plan that provides PROVIDE the final site development approval needed~~
35 for issuance of a building permit.

36 Sec. 2. Section 9-1202, Arizona Revised Statutes, is amended to read:

37 9-1202. Protected development right; establishment; plan
38 requirements; variance

39 ~~A. A city or town that elects to exercise the authority granted in~~
40 ~~this chapter shall specify by ordinance or resolution which types of plans~~
41 ~~constitute protected development right plans.~~

42 A. A CITY OR TOWN MAY PROVIDE BY ORDINANCE OR RESOLUTION THE
43 REQUIREMENTS FOR A DEVELOPMENT TO BE A PHASED DEVELOPMENT. IF A CITY OR TOWN
44 DOES NOT ADOPT AN ORDINANCE OR RESOLUTION THAT INCLUDES THE REQUIREMENTS FOR

1 A DEVELOPMENT TO BE A PHASED DEVELOPMENT, A PLAN SUBMITTED AS A PROTECTED
2 DEVELOPMENT RIGHT PLAN MAY BE IDENTIFIED AS A PLAN FOR A PHASED DEVELOPMENT
3 AT THE TIME THE PLAN IS SUBMITTED.

4 B. A protected development right plan, at a minimum, shall describe
5 with a reasonable degree of certainty all of the following:

6 1. The proposed uses of the site.

7 2. The boundaries of the site.

8 3. Significant topographical and other natural features affecting
9 development of the site.

10 4. FOR OTHER THAN A PHASED DEVELOPMENT, the GENERAL location on the
11 site of the proposed buildings, structures and other improvements.

12 5. The number of dwelling units and, FOR OTHER THAN A PHASED
13 DEVELOPMENT, the square footage and height of the proposed buildings and
14 other structures.

15 6. The location of all existing and proposed utilities and A PROVISION
16 FOR other infrastructure on the site, including water, sewers, roads and
17 pedestrian walkways.

18 C. ~~A city or town may allow a phased development plan showing less~~
19 ~~than all of the information required in subsection B to be designated as a~~
20 ~~protected development right plan if the phased development plan indicates the~~
21 ~~type and intensity of uses for each development parcel within the phased~~
22 ~~project. NOTHING IN THIS SECTION IS INTENDED TO OR SHALL PRECLUDE A CITY OR~~
23 ~~TOWN FROM ESTABLISHING ADDITIONAL REQUIREMENTS FOR SUBMITTAL OR APPROVAL OF~~
24 ~~DEVELOPMENT PLANS FOR ANY LAND USE CATEGORY OR DISTRICT AND SUCH REQUIREMENTS~~
25 ~~MAY INCLUDE TRAFFIC REPORTS OR STUDIES, DRAINAGE REPORTS OR STUDIES, MASTER~~
26 ~~STREET PLANS, DEVELOPMENT PHASING SCHEDULES AND PHASED PUBLIC INFRASTRUCTURE~~
27 ~~SCHEDULES. A city or town shall require submission of a more detailed plan~~
28 ~~for each phase of a phased development in order to obtain final site~~
29 ~~development approval to develop the property.~~

30 D. ~~A city or town may allow a final subdivision plat that does not~~
31 ~~meet MEETS the requirements of subsection B, paragraph 4, 5 or 6 to be~~
32 ~~designated as AND SECTION 9-463.01 SHALL BE a protected development right~~
33 ~~plan.~~

34 E. A protected development right is established only for the
35 development as SPECIFIC ELEMENTS OF THE DEVELOPMENT OR OTHER SPECIFIC MATTERS
36 shown on the approved protected development right plan. A protected
37 development right is not established for any elements OR OTHER MATTERS, or
38 portions of a development ANY ELEMENTS OF THE DEVELOPMENT OR OTHER MATTERS
39 not shown on the approved protected development right plan.

40 F. ~~A protected development right plan designation for a plan for a~~
41 ~~property, and the period of time a property has a protected development~~
42 ~~right, shall be determined at the time the plan is approved and shall be~~
43 ~~noted on the protected development right plan.~~

1 F. THE LEGISLATIVE BODY OF A CITY OR TOWN MAY DESIGNATE BY ORDINANCE
2 OR RESOLUTION A DEVELOPMENT PLAN THAT IS NOT IDENTIFIED AS A PROTECTED
3 DEVELOPMENT RIGHT PLAN AT THE TIME IT IS SUBMITTED AS A PROTECTED DEVELOPMENT
4 RIGHT PLAN UPON A FINDING BY SUCH LEGISLATIVE BODY THAT GRANTING A PROTECTED
5 DEVELOPMENT RIGHT TO UNDERTAKE AND COMPLETE THE DEVELOPMENT SHOWN ON THE PLAN
6 WILL PROMOTE REASONABLE CERTAINTY, STABILITY AND FAIRNESS IN THE LAND USE
7 PLANNING AND REGULATORY PROCESS AND SECURE THE REASONABLE INVESTMENT-BACKED
8 EXPECTATIONS OF THE LANDOWNER.

9 G. A protected development right shall be deemed established with
10 respect to a property on the effective date of a valid approval of a
11 protected development right plan. The protected development right confers
12 on the landowner the right to undertake and complete the development and use
13 of the property under the terms and conditions of the protected development
14 right plan and this article.

15 H. A city or town shall not require a landowner to waive a protected
16 development right as a condition of development approval.

17 I. A protected development right is subject to the terms and
18 conditions imposed by the city or town on the protected development right
19 plan approval AND NOTHING IN THIS SECTION IS INTENDED TO OR SHALL PRECLUDE
20 A CITY OR TOWN FROM ESTABLISHING SUCH TERMS AND CONDITIONS.

21 J. A protected development right plan approved with a condition or
22 stipulation that a variance be obtained does not confer a protected
23 development right until the necessary variance is obtained. Approval of a
24 protected development right plan does not guarantee approval of a variance.

25 Sec. 3. Section 11-1201, Arizona Revised Statutes, is amended to read:
26 11-1201. Definitions

27 In this chapter, unless the context otherwise requires:

28 1. "Landowner" means any owner of a legal or equitable interest in
29 real property, including the heirs, devisees, successors, assigns and
30 personal representative of the owner, or a representative authorized by a
31 landowner to submit to a county a development application for a property for
32 approval.

33 2. "Property" means all real property subject to zoning regulations
34 and restrictions by a county.

35 3. "Protected development right" means the right to undertake and
36 complete the development and use of property under the terms and conditions
37 of a protected development right plan established pursuant to this article,
38 without compliance with subsequent changes in zoning regulations and
39 development standards, except as provided by section 11-1204.

40 4. "Protected development RIGHT plan" means a plan submitted by a
41 landowner to a county, which, if approved BY THE BOARD OF SUPERVISORS OF THE
42 COUNTY and IF identified as a protected development right plan at the time
43 of approval IT IS SUBMITTED, grants the landowner, for a specified period of
44 time, a protected development right to UNDERTAKE AND complete the development

1 as shown on the plan. The protected development right plan shall be
2 submitted to a county for site development approval. ~~and may be in the form~~
3 ~~of a planned unit or planned area development plan, subdivision plat, a site~~
4 ~~plan, a general or final development plan or other similar plan or document~~
5 ~~submitted to a county for site development approval.~~ A PROTECTED DEVELOPMENT
6 RIGHT PLAN FOR A PHASED DEVELOPMENT SHALL BE IN THE FORM OF A PLAN FOR A
7 MASTER PLAN DEVELOPMENT WHICH MAY INCLUDE A PLAN FOR A PLANNED UNIT
8 DEVELOPMENT, PLANNED COMMUNITY DEVELOPMENT OR DISTRICT, PLANNED RESIDENTIAL
9 DEVELOPMENT OR DISTRICT OR PLANNED AREA DEVELOPMENT OR DISTRICT IF SUCH LAND
10 USE CATEGORY OR DISTRICT IS RECOGNIZED AND PROVIDED FOR IN THE ZONING
11 ORDINANCE OF THE COUNTY. A protected development right plan for other than
12 a phased NONPHASED development must be a plan which provides PROVIDE the
13 final site development approval needed for issuance of a building permit.

14 Sec. 4. Section 11-1202, Arizona Revised Statutes, is amended to read:
15 11-1202. Protected development right; establishment; plan
16 requirements; variance

17 A. ~~A county may specify which types of plans constitute protected~~
18 ~~development right plans.~~

19 A. A COUNTY MAY PROVIDE BY ORDINANCE OR RESOLUTION THE REQUIREMENTS
20 FOR A DEVELOPMENT TO BE A PHASED DEVELOPMENT. IF A COUNTY DOES NOT ADOPT AN
21 ORDINANCE OR RESOLUTION THAT INCLUDES THE REQUIREMENTS FOR A DEVELOPMENT TO
22 BE A PHASED DEVELOPMENT, A PLAN SUBMITTED AS A PROTECTED DEVELOPMENT RIGHT
23 PLAN MAY BE IDENTIFIED AS A PLAN FOR A PHASED DEVELOPMENT PLAN AT THE TIME
24 THE PLAN IS SUBMITTED.

25 B. A protected development right plan, at a minimum, shall describe
26 with a reasonable degree of certainty all of the following:

- 27 1. The proposed uses of the site.
- 28 2. The boundaries of the site.
- 29 3. Significant topographical and other natural features affecting
30 development of the site.
- 31 4. FOR OTHER THAN A PHASED DEVELOPMENT, the GENERAL location on the
32 site of the proposed buildings, structures and other improvements.
- 33 5. The number of dwelling units and, FOR OTHER THAN A PHASED
34 DEVELOPMENT, the square footage and height of the proposed buildings and
35 other structures.
- 36 6. The location of all existing and proposed utilities and PROVISION
37 FOR other infrastructure on the site, including water, sewer, roads and
38 pedestrian walkways.

39 C. ~~A county may allow a phased development plan showing less than all~~
40 ~~of the information required in subsection B, to be designated as a protected~~
41 ~~development right plan if the phased development plan indicates the type and~~
42 ~~intensity of uses for each development parcel within the phased project.~~
43 NOTHING IN THIS SECTION IS INTENDED TO OR SHALL PRECLUDE A COUNTY FROM
44 ESTABLISHING ADDITIONAL REQUIREMENTS FOR SUBMITTAL OR APPROVAL OF DEVELOPMENT

1 PLANS FOR ANY LAND USE CATEGORY OR DISTRICT AND SUCH REQUIREMENTS MAY INCLUDE
2 TRAFFIC REPORTS OR STUDIES, DRAINAGE REPORTS OR STUDIES, MASTER STREET PLANS,
3 DEVELOPMENT PHASING SCHEDULES AND PHASED PUBLIC INFRASTRUCTURE SCHEDULES. A
4 county shall require submission of a more detailed plan for each phase of a
5 phased development in order to obtain final site development approval to
6 develop the property.

7 ~~D. A county may allow a final subdivision plat which does not meet~~
8 ~~MEETS~~ the requirements of subsection B, paragraph 4, 5 or 6 to be designated
9 ~~as a protected development right plan.~~ MAY BE DESIGNATED AS A PROTECTED
10 DEVELOPMENT RIGHT PLAN BY ORDINANCE OR RESOLUTION OF THE BOARD OF SUPERVISORS
11 UPON A FINDING BY THE BOARD OF SUPERVISORS THAT GRANTS A PROTECTED
12 DEVELOPMENT RIGHT TO UNDERTAKE AND COMPLETE THE DEVELOPMENT SHOWN ON THE
13 FINAL SUBDIVISION PLAT WILL PROMOTE REASONABLE CERTAINTY, STABILITY AND
14 FAIRNESS IN THE LAND USE PLANNING AND REGULATORY PROCESS AND SECURE THE
15 REASONABLE INVESTMENT-BACKED EXPECTATIONS OF THE LANDOWNER.

16 E. A protected development right is established only for the
17 development as SPECIFIC ELEMENTS OF THE DEVELOPMENT OR OTHER SPECIFIC MATTERS
18 shown on the approved protected development right plan. A protected
19 development right is not established for any elements OR OTHER MATTERS, or
20 portions of a ANY ELEMENTS OF THE development OR OTHER MATTERS not shown on
21 the approved protected development right plan.

22 ~~F. A protected development right plan designation for a plan for a~~
23 ~~property and the period of time a property has a protected development right~~
24 ~~shall be determined at the time the plan is approved and shall be noted on~~
25 ~~the protected development right plan.~~

26 F. THE BOARD OF SUPERVISORS OF A COUNTY MAY DESIGNATE BY ORDINANCE OR
27 RESOLUTION A DEVELOPMENT PLAN THAT IS NOT IDENTIFIED AS A PROTECTED
28 DEVELOPMENT RIGHT PLAN AT THE TIME IT IS SUBMITTED AS A PROTECTED DEVELOPMENT
29 RIGHT PLAN UPON A FINDING BY THE BOARD OF SUPERVISORS THAT GRANTING A
30 PROTECTED DEVELOPMENT RIGHT TO UNDERTAKE AND COMPLETE THE DEVELOPMENT SHOWN
31 ON THE PLAN WILL PROMOTE REASONABLE CERTAINTY, STABILITY AND FAIRNESS IN THE
32 LAND USE PLANNING AND REGULATORY PROCESS AND SECURE THE REASONABLE
33 INVESTMENT-BACKED EXPECTATIONS OF THE LANDOWNER.

34 G. A protected development right shall be deemed established with
35 respect to a property on the effective date of a valid approval of a
36 protected development right plan. The protected development right confers
37 on the landowner the right to undertake and complete the development and use
38 of the property under the terms and conditions of the protected development
39 right plan and this article.

40 H. A county shall not require a landowner to waive a protected
41 development right as a condition of development approval.

42 I. A protected development right is subject to the terms and
43 conditions imposed by the county on the protected development right plan
44 approval.

1 J. A protected development right plan approved with a condition or
2 stipulation that a variance be obtained does not confer a protected
3 development right until the necessary variance is obtained. Approval of a
4 protected development right plan does not guarantee approval of a variance.

5 Sec. 5. Applicability of act

6 A. For cities and towns that have adopted or amended their general
7 plans and for counties that have adopted or amended their comprehensive plans
8 after August 1, 2000 but before the effective date of this act in accordance
9 with the growing smarter provisions of title 9, chapter 4, article 6 or title
10 11, chapter 2, article 6, Arizona Revised Statutes, this act applies on its
11 effective date.

12 B. For cities and towns that have adopted or amended their general
13 plans and for counties that have adopted or amended their comprehensive plans
14 after the effective date of this act but before December 31, 2003, in
15 accordance with the growing smarter provisions of title 9, chapter 4, article
16 6 or title 11, chapter 2, article 6, Arizona Revised Statutes, this act
17 applies on the effective date of the adoption or revision of the general plan
18 by the city or town or the comprehensive plan by the county.

19 C. For cities and towns that have not adopted or amended their general
20 plans and for counties that have not adopted or amended their comprehensive
21 plans by December 31, 2003, in accordance with the growing smarter provisions
22 of title 9, chapter 4, article 6 or title 11, chapter 2, article 6, Arizona
23 Revised Statutes, this act applies from and after December 31, 2003.

APPROVED BY THE GOVERNOR MAY 15, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2002.

Passed the House May 6, 2002,

by the following vote: 39 Ayes,

18 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Norman L. Moore
Chief Clerk of the House

Passed the Senate March 28, 2002,

by the following vote: 23 Ayes,

4 Nays, 3 Not Voting

[Signature]
Randall Strout
President of the Senate

[Signature]
Norma Lowe
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

S.B. 1354

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 9, 2002

by the following vote: 19 Ayes,

8 Nays, 3 Not Voting

Randall Smart
President of the Senate

Charmine Bealight
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9 day of May, 2002

at 2:48 o'clock P M.

Sandra Ramsey
Secretary to the Governor

Approved this 15 day of

May, 2002,

at 12:40 o'clock P M.

Jane Doolittle
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of May, 2002

at 4:39 o'clock P M.

Robert Taylor
Secretary of State