

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 140

## **SENATE BILL 1072**

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.16; AMENDING SECTION 9-462.01, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-819; RELATING TO LOCAL PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes, is  
3 amended by adding section 9-461.16, to read:

4 9-461.16. Residential housing; requirements; fees; prohibition

5 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A CITY OR TOWN  
6 SHALL NOT ADOPT A LAND USE REGULATION OR GENERAL OR SPECIFIC PLAN PROVISION,  
7 OR IMPOSE AS A CONDITION FOR APPROVING A BUILDING OR USE PERMIT, A  
8 REQUIREMENT OR FEE THAT HAS THE EFFECT OF ESTABLISHING THE SALES OR LEASE  
9 PRICE FOR A RESIDENTIAL HOUSING UNIT OR RESIDENTIAL DWELLING LOT OR PARCEL OR  
10 THAT REQUIRES A RESIDENTIAL HOUSING UNIT OR RESIDENTIAL DWELLING LOT OR  
11 PARCEL TO BE DESIGNATED FOR SALE OR LEASE TO ANY PARTICULAR CLASS OR GROUP OF  
12 RESIDENTS.

13 B. THIS SECTION DOES NOT LIMIT THE AUTHORITY OF A CITY OR TOWN TO  
14 ADOPT OR ENFORCE A LAND USE REGULATION, GENERAL OR SPECIFIC PLAN PROVISION OR  
15 CONDITION OF APPROVAL CREATING OR IMPLEMENTING AN INCENTIVE, DENSITY BONUS OR  
16 OTHER VOLUNTARY PROVISION OR CONDITION DESIGNED TO INCREASE THE SUPPLY OF  
17 MODERATE OR LOWER COST HOUSING.

18 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to  
19 read:

20 9-462.01. Zoning regulations; public hearing; definitions

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

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

26 2. Regulate signs and billboards.

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

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

32 5. Establish and maintain building setback lines.

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

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

38 8. Establish floodplain zoning districts and regulations to protect  
39 life and property from the hazards of periodic inundation. Regulations may  
40 include variable lot sizes, special grading or drainage requirements, or  
41 other requirements deemed necessary for the public health, safety or general  
42 welfare.

43 9. Establish special zoning districts or regulations for certain lands  
44 characterized by adverse topography, adverse soils, subsidence of the earth,  
45 high water table, lack of water or other natural or man-made hazards to life  
46 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 OF  
25 SPECIAL HISTORICAL SIGNIFICANCE. The ordinances may require that special  
26 permission be obtained for any development respecting the structures or  
27 sites.

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

38 12. Establish procedures, methods and standards for the transfer of  
39 development rights within its jurisdiction. Any proposed transfer of  
40 development rights from the sending property or to the receiving property  
41 shall be subject to the notice and hearing requirements of section 9-462.04  
42 and shall be subject to the approval and consent of the property owners of  
43 both the sending and receiving property. Before any transfer of development  
44 rights, a municipality shall adopt an ordinance providing for:

45 (a) The issuance and recordation of the instruments necessary to sever  
46 development rights from the sending property and to affix development rights

1 to the receiving property. These instruments shall be executed by the  
2 affected property owners and lienholders.

3 (b) The preservation of the character of the sending property and  
4 assurance that the prohibitions against the use and development of the  
5 sending property shall bind the landowner and every successor in interest to  
6 the landowner.

7 (c) The severance of transferable development rights from the sending  
8 property and the delayed transfer of development rights to a receiving  
9 property.

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

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

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

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

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

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

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

33 (a) Infrequency of use.

34 (b) High degree of traffic generation.

35 (c) Requirement of large land area.

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

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

1 E. The legislative body may approve a change of zone conditioned upon  
2 ON a schedule for development of the specific use or uses for which rezoning  
3 is requested. If at the expiration of this period the property has not been  
4 improved for the use for which it was conditionally approved, the legislative  
5 body, after notification by certified mail to the owner and applicant who  
6 requested the rezoning, shall schedule a public hearing to take  
7 administrative action to extend, remove or determine compliance with the  
8 schedule for development or take legislative action to cause the property to  
9 revert to its former zoning classification.

10 F. All zoning and rezoning ordinances or regulations adopted under  
11 this article shall be consistent with and conform to the adopted general plan  
12 of the municipality, if any, as adopted under article 6 of this chapter. In  
13 the case of uncertainty in construing or applying the conformity of any part  
14 of a proposed rezoning ordinance to the adopted general plan of the  
15 municipality, the ordinance shall be construed in a manner that will further  
16 the implementation of, and not be contrary to, the goals, policies and  
17 applicable elements of the general plan. A rezoning ordinance conforms with  
18 the land use element of the general plan if it proposes land uses, densities  
19 or intensities within the range of identified uses, densities and intensities  
20 of the land use element of the general plan.

21 G. No regulation or ordinance under this section may prevent or  
22 restrict agricultural composting on farmland that is five or more contiguous  
23 acres and that meets the requirements of this subsection. An agricultural  
24 composting operation shall notify in writing the legislative body of the city  
25 or town and the nearest fire department of the location of the composting  
26 operation. If the nearest fire department is located in a different city or  
27 town from the agricultural composting operation, the agricultural composting  
28 operation shall also notify in writing the fire department of the city or  
29 town in which the operation is located. Agricultural composting is subject  
30 to sections 3-112 and 49-141. Agricultural composting may not be conducted  
31 within one thousand three hundred twenty feet of an existing residential use,  
32 unless the operations are conducted on farmland or land leased in association  
33 with farmland. Any disposal of manure shall comply with section 49-247. For  
34 the purposes of this subsection:

35 1. "Agricultural composting" means the controlled biological  
36 decomposition of organic solid waste under in-vessel anaerobic or aerobic  
37 conditions where all or part of the materials are generated on the farmland  
38 or will be used on the farmland associated with the agricultural composting  
39 operation.

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

42 H. A CITY OR TOWN MAY NOT ADOPT A LAND USE REGULATION OR IMPOSE ANY  
43 CONDITION FOR ISSUANCE OF A BUILDING OR USE PERMIT OR OTHER APPROVAL THAT  
44 VIOLATES SECTION 9-461.16.

1 H- I. For the purposes of this section:

2 1. "Development rights" means the maximum development that would be  
3 allowed on the sending property under any general or specific plan and local  
4 zoning ordinance of a municipality in effect on the date the municipality  
5 adopts an ordinance pursuant to subsection A, paragraph 12 of this section  
6 respecting the permissible use, area, bulk or height of improvements made to  
7 the lot or parcel. Development rights may be calculated and allocated in  
8 accordance with factors including dwelling units, area, floor area, floor  
9 area ratio, height limitations, traffic generation or any other criteria that  
10 will quantify a value for the development rights in a manner that will carry  
11 out the objectives of this section.

12 2. "Receiving property" means a lot or parcel within which development  
13 rights are increased pursuant to a transfer of development rights. Receiving  
14 property shall be appropriate and suitable for development and shall be  
15 sufficient to accommodate the transferable development rights of the sending  
16 property without substantial adverse environmental, economic or social impact  
17 to the receiving property or to neighboring property.

18 3. "Sending property" means a lot or parcel with special  
19 characteristics, including farmland, woodland, desert land, mountain land,  
20 floodplain, natural habitats, recreation or parkland, including golf course  
21 area, or land that has unique aesthetic, architectural or historic value that  
22 a municipality desires to protect from future development.

23 4. "Transfer of development rights" means the process by which  
24 development rights from a sending property are affixed to one or more  
25 receiving properties.

26 Sec. 3. Title 11, chapter 6, article 2, Arizona Revised Statutes, is  
27 amended by adding section 11-819, to read:

28 11-819. Residential housing; requirements; fees; prohibition

29 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A COUNTY SHALL  
30 NOT ADOPT A LAND USE REGULATION OR GENERAL PLAN PROVISION, OR IMPOSE AS A  
31 CONDITION FOR APPROVING A BUILDING OR USE PERMIT, A REQUIREMENT OR FEE THAT  
32 HAS THE EFFECT OF ESTABLISHING THE SALES OR LEASE PRICE FOR A RESIDENTIAL  
33 HOUSING UNIT OR RESIDENTIAL DWELLING LOT OR PARCEL OR THAT REQUIRES A  
34 RESIDENTIAL HOUSING UNIT OR RESIDENTIAL DWELLING LOT OR PARCEL TO BE  
35 DESIGNATED FOR SALE OR LEASE TO ANY PARTICULAR CLASS OR GROUP OF RESIDENTS.

36 B. THIS SECTION DOES NOT LIMIT THE AUTHORITY OF A COUNTY TO ADOPT OR  
37 ENFORCE A LAND USE REGULATION, GENERAL OR SPECIFIC PLAN PROVISION OR  
38 CONDITION OF APPROVAL CREATING OR IMPLEMENTING AN INCENTIVE, DENSITY BONUS OR  
39 OTHER VOLUNTARY PROVISION OR CONDITION DESIGNED TO INCREASE THE SUPPLY OF  
40 MODERATE OR LOWER COST HOUSING.

41 Sec. 4. Retroactivity

42 This act is effective retroactively to from and after December 31,  
43 2014.

~~APPROVED BY THE GOVERNOR APRIL 1, 2015.~~

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.

Passed the House March 23, 2015,

by the following vote: 37 Ayes,

20 Nays, 3 Not Voting

*[Signature]*

Speaker of the House

*[Signature]*

Chief Clerk of the House

Passed the Senate February 9, 2015,

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

*[Signature]*

President of the Senate

*[Signature]*

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

**S.B. 1072**

**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

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 20, 20 15

by the following vote: 24 Ayes,

4 Nays, 2 Not Voting

NSZigg  
President of the Senate

Chermin Bellenton  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

20<sup>th</sup> day of March, 20 15

at 4:28 o'clock P. M.

Krista Lyngma  
Secretary to the Governor

Approved this 1<sup>st</sup> day of

April

at 4:01 o'clock P. M.

Janet D. Jung  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 2 day of April, 20 15

at 9:00 o'clock A M.

Michelle Reagan  
Secretary of State