

2011 Arizona Revised Statutes

Title 11 Counties

11-817 Transfer of development rights; definitions

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11-817. Transfer of development rights; definitions

A. The board of supervisors may establish procedures, methods and standards for the transfer of development rights within its jurisdiction. Any proposed transfer of all or any portion of the development rights of a sending property to a receiving property is subject to the written approval and consent of the property owners of both the sending property and the receiving property. A county may not condition a change of zone on a property owner's consent to or other participation in a proposed transfer of development rights, except that a change of zone may be required to implement a development agreement if it is voluntarily entered into by a property owner or owners with a county for the transfer of development rights concurrently with the county's approval of the change of zone. Before any transfer of development rights, a county shall adopt an ordinance providing for:

1. The establishment, execution and recordation of instruments to sever development rights transferred from the sending property and to affix the development rights to the receiving property. The instruments shall be executed by the property owners of the sending and receiving property and any lienholders.
2. The preservation of the characteristics of the sending property lending to the transfer of development rights and assurance that any of the prohibitions against particular uses or development of the sending property determined to be necessary to preserve the characteristics shall bind the property owner and every successor in interest to the property.
3. A delay before transfer of development rights to a receiving property after the severance of transferable development rights from a sending property.
4. The purchase, sale, exchange or other conveyance of transferable development rights before the rights are affixed to a receiving property.
5. Procedures for monitoring the severance, ownership and transfer of transferable development rights.
6. Appropriate public participation procedures for each type of transaction.
7. Use of development agreements as an option for implementation.

B. The resulting density or intensity of land use of the receiving property shall conform to the adopted comprehensive plan, as amended, if applicable. If a plan amendment is required before the transfer, the plan amendment shall not be considered a major plan amendment.

C. A county's area of jurisdiction includes land in a high noise or accident potential zone, in order to facilitate development in the high noise or accident potential zone that conforms to the compatible uses

prescribed in section 28-8481, subsection J, the county may approve the transfer of development rights and enter into intergovernmental agreements with any city or town or other county.

D. The board of supervisors may authorize the transfer of development rights from unincorporated areas of a county to a municipality pursuant to an intergovernmental agreement.

E. For the purposes of this section:

1. "Ancillary military facility" has the same meaning prescribed in section 28-8461.

2. "Development rights" means the maximum development that would be allowed on the sending property under the adopted comprehensive plan, the specific plan, if any, or the zoning ordinance, whichever provides greater density or intensity of use or, if applicable, both, in effect on the date the county adopts an ordinance pursuant to subsection A of this section, respecting the permissible use, area, bulk or height of improvements made to one or more lots or parcels. Development rights may be calculated and allocated pursuant to factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this section.

3. "High noise or accident potential zone" has the same meaning prescribed in section 28-8461.

4. "Military airport" has the same meaning prescribed in section 28-8461.

5. "Receiving property" means one or more lots or parcels within which development rights are increased under the adopted comprehensive plan, the specific plan, if any, or the zoning ordinance, whichever provides greater density or intensity of use or, if applicable, both, in effect before a transfer of development rights and an amendment to the adopted comprehensive plan, specific plan or zoning ordinance, or a rezone of the property, whichever is required to implement the increase in development rights. The receiving property shall be suitable for development that includes the transferred development rights consistent with the adopted comprehensive plan, as amended, if applicable. Receiving property does not include lots or parcels that are partially or wholly located within, or that include, a high noise or accident potential zone of a military airport or an ancillary military facility.

6. "Sending property" means one or more lots or parcels that are partially or wholly located within, or that include, a high noise or accident potential zone of a military airport or an ancillary military facility, a floodplain, natural habitat, geologic features, recreation area or parkland, or land that has unique aesthetic, architectural or historic value, that a county determines is appropriate and necessary to restrict against particular uses or future development that would impair or preclude preservation of the characteristic or characteristics of the property or to protect the public because of health or safety concerns.

7. "Transfer of development rights" means the process by which development rights from one or more sending properties are affixed to one or more receiving properties.