



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: NREW DP 7-3-0-0

HB 2487: residential lease community; Prescott AMA

Sponsor: Representative Bliss, LD 1

House Engrossed

Overview

An emergency measure that prohibits the legislative body of a municipality and a county board of supervisors (BOS) from approving a building plan for one or more residential dwelling units within a specified are of the Prescott active management area (AMA) unless the applicant meets certain water supply criteria.

History

The Groundwater Management Code (Code) was enacted in 1980 and established the statutory framework to regulate and control the use of groundwater. Determining who may pump groundwater and how much they may pump is a vital part of groundwater management. In an AMA, a person who was legally withdrawing and using groundwater as of the designation of the AMA or who owns land legally entitled to be irrigated with groundwater has the right to withdraw or receive and use groundwater. The right to withdraw or receive and use groundwater is a grandfathered right. There are three types of grandfathered rights:

- 1) Type 1 non-irrigated grandfathered rights associated with retired irrigated lands;
- 2) Type 2 non-irrigated grandfathered rights associated with retired irrigated lands;
- and
- 3) Irrigation grandfathered right ([A.R.S. § 45-462](#))(SOS).

A Type 1 right is associated with land permanently retired from farming after January 1, 1965 and converted to a non-irrigation use that has the right to withdraw from and receive 3 acre-feet of groundwater per acre per year is specified criteria are met ([A.R.S. § 45-463](#)).

A Type 2 right is associated with historical pumping of groundwater for a non-irrigation use and equals the maximum amount of irrigated groundwater in any one year between January 1, 1975 and January 1, 1980 ([A.R.S. § 46-464](#)).

An Irrigation grandfathered right is associated with land within an AMA that was legally irrigated with groundwater between January 1, 1975 and January 1, 1980 and has not been retired from irrigation for non-irrigation use. To irrigate means to grow crops for sale, human consumption or livestock or poultry feed by applying water on two or more acres ([A.R.S. §§ 45-402, 45-465](#)).

The Director of the Arizona Department of Water Resources (ADWR) is required to adopt rules regarding the location of new and replacement wells in new locations in AMAs to prevent unreasonably increasing damage to surrounding land or other water users from the concentration of wells. A person with groundwater withdrawal rights in an AMA may construct a new or replacement well in a new location if the person applies for and receives a permit from the ADWR Director ([A.R.S. § 45-598](#)).

Multifamily residential properties means any real property that has one or more structures and that contains five or more dwelling units for rent or lease that are subject to the Arizona Residential Landlord and Tenant Act ([A.R.S. § 49-746](#)).

Provisions

Water Supply Requirements

1. Prohibits the legislative body of a municipality from approving a building plan for one or more residential dwelling units located in a residential lease community or multifamily residential property within the municipality and the Prescott AMA unless the applicant:
 - a) obtains a written commitment of water service for the relevant units from a municipality or private water company designated as having an assured water supply and provides that commitment with the application;
 - b) acquires sufficient type one or two non-irrigation grandfathered rights within the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units;
 - c) retires sufficient irrigation grandfathered rights with the Prescott AMA to equal the entirety of the annual water demand of the relevant dwelling units;
 - d) acquires sufficient assured water supply extinguishment credits or effluent storage credits in the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units; or
 - e) acquires sufficient renewable or imported water supplies from within or outside of the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units. (Sec. 1)

2. Prohibits a county board of supervisors from approving a building plan for one or more residential dwelling units located in a residential lease community or multifamily residential property within an unincorporated area of the Prescott AMA unless the applicant:
 - a) obtains a written commitment of water service for the relevant units from a municipality or private water company designated as having an assured water supply and provides that commitment with the application;
 - b) acquires sufficient type one or two non-irrigation grandfathered rights within the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units;
 - c) retires sufficient irrigation grandfathered rights with the Prescott AMA to equal the entirety of the annual water demand of the relevant dwelling units;
 - d) acquires sufficient assured water supply extinguishment credits or effluent storage credits in the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units; or
 - e) acquires sufficient renewable or imported water supplies from within or outside of the Prescott AMA to meet the entirety of the annual water demand of the relevant dwelling units. (Sec. 1)

Building Permit Application (Application) Requirements

3. Requires the applicant, if sufficient type one or two non-irrigation grandfathered rights are acquired, to include with the application:
 - a) a copy of the relevant notice of change of use for the applicable non-irrigation grandfathered rights; and

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- b) proof that all withdrawals of groundwater that will be used to meet the annual water demand will be made from the same location as the original applicable non-irrigation grandfathered rights or, if at a new location, the ADWR Director has approved a new groundwater withdrawal permit. (Sec. 1 and 2)
4. Instructs the applicant, if sufficient irrigation grandfathered rights are retired, to include with the application:
 - a) a copy of the relevant notice of retirement for the applicable irrigation grandfathered rights; and
 - b) proof that all withdrawals of groundwater that will be used to meet the annual water demand will be made from the same location as the applicable irrigation grandfathered rights or, if from another location, the applicant is approved for a new groundwater withdrawal permit. (Sec. 1 and 2)
 5. Requires the applicant, if sufficient assured water supply extinguishment credits or effluent storage credits are acquired, to include in the application:
 - a) a copy of the relevant transfer of credits to ADWR; and
 - b) proof that all withdrawals of groundwater that will be used to meet the annual water demand will be made from the same location as the applicable extinguishment or effluent storage credits or, if from another location, the ADWR Director has approved a new groundwater withdrawal permit at the new location. (Sec.1 and 2)
 6. Instructs the applicant, if sufficient renewable or imported water supplies are acquired, to include in the application:
 - a) a copy of ADWR's approval or confirmation of the relevant renewable or imported water supplies; and
 - b) proof that any withdrawals of groundwater that will be used to provide the relevant renewable or imported water supplies will be made from a location that complies with rules regarding new and replacement wells. (Sec. 1 and 2)

Miscellaneous

7. Specifies that this legislation does not apply to an existing residential lease community, multifamily residential property, planned residential lease community or planned multifamily residential property that applied for or received zoning entitlements on or before the effective date of this legislation. (Sec. 1 and 2)
8. Requires the legislative body of the municipality and county BOS to note on the face of any approved building permit for a residential lease community or multifamily residential property that the applicant has complied with or is exempt from these requirements. (Sec. 1 and 2)
9. Instructs the Director of ADWR to separately account for the transfer of type two irrigation grandfathered rights in the Prescott AMA that a developer wishes to use to secure a building permit. (Sec. 3)
10. Requires ADWR to provide a separate application process for a groundwater user that wishes to secure a building permit for a residential lease community or for multifamily residential properties in the Prescott AMA. (Sec. 3)
11. States that the Legislature finds that residential lease communities as defined by this legislation are multifamily properties similar to apartments and other multifamily properties. (Sec. 4)

12. Defines *multifamily residential properties* and *residential lease community*. (Sec. 1-3)
13. Contains an emergency clause. (Sec. 5)