

# Residential Homesites



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## Classification of Legal Class Three Residential Property

Legal Class Three property may include up to ten acres of land on a single parcel on which a residential improvement is located. The area that is used for residential purposes is designated as the residential homesite, and the portion of the parcel that is designated as a residential homesite must be valued comparably with other single-family residential homesites in the neighborhood.

In some cases it is recognized that an area larger than ten acres may be required in order to create a functional single-family homesite on a larger parcel, if various factors prevent the division of the parcel. Factors that prevent the division of a parcel include the parcel's topography, local zoning code requirements, parcel ingress and egress constrictions, public or private easements, private deed restrictions, or other similar physical or legal considerations, such as the availability of water, either temporary or permanent in nature. The described set of physical conditions that would prevent a parcel split are ones that would limit the residential useable land area of the parcel, such as topographical features like mountains, washes, rivers, roads, etc. In such cases, more than ten, but not more than forty acres on a single parcel may be classified as Legal Class Three property.

Any land area in excess of that designated as the residential homesite will be classified, valued and assessed on the basis of its current use, configuration, topography, amenities, size, etc. In all cases in which a parcel's land area exceeds the area designated as a homesite, the land not designated as a homesite will be assigned to the legal class appropriate for its current use. In most cases, based on current use, additional acreage would generally be classified as vacant land in Legal Class Two.

The language of A.R.S. [42-12003](#) is permissive in context, as it states that "The home site that is included in Legal Class Three **may** include:" regarding the specified maximum acre size limits mentioned above. Therefore, owners who request Legal Class Three designation must still demonstrate by verifiable evidence that an area

larger than one acre is required for a functional single-family residential homesite. Approval of such designations must be justified and documented in the Assessor's property records. This policy is consistent with longstanding Arizona property tax assessment practices.

### **Past Policy and 2008's H.B. 2130**

Prior to January 1, 2009, the Property Tax Division (PTD) assessment policy was that only one acre could generally be designated as a residential homesite, with up to five acres allowable if more than one acre was required to support a typical single-family residence and any supporting amenities. The Legislature recognized the need to designate up to a maximum amount of forty acres as a residential homesite by enacting Laws 2008, Chapter 49 (H.B. 2130) in the 2008 legislative session. The legislation amended A.R.S. [42-12003](#) to allow the Assessors to classify larger areas of parcels, if necessary, as Legal Class Three homesites, subject to specific qualifications. These recently adopted amendments have an effective date of January 1, 2009. Therefore, the treatment of parcels qualifying for the new homesite designation criteria became effective beginning with the 2009 valuation year / 2010 tax year real property assessment cycle.

House Bill 2130 amended the prior PTD policy that limited a Legal Class Three homesite parcel to a maximum five acre area by now allowing up to ten acres of a single parcel on which the residential improvement is located to be designated as a homesite.

An additional change allows up to forty acres to be classified in Legal Class Three if a parcel is subject to a local zoning ordinance specifying that an entire parcel be used exclusively for residential purposes. Consideration for such treatment is also available for parcels that contain legal restrictions or physical conditions that prevent the division of the parcel (i.e., a parcel split). Legal restrictions that would prevent a parcel split

would generally involve local zoning codes that specify a minimum acreage for residential use parcels.

Additional legal restrictions include private deed restrictions which prevent anything other than an owner-occupied residential use of a parcel, or that would limit the size or number of improvements that can be constructed on a single residential use parcel.

## **Changes in Use**

It is common for residential properties to undergo changes in use. The most common change in use is for Legal Class Three residential properties to change to Legal Class Four residential-rental properties, or for Legal Class Four properties to change to Legal Class Three. Legal Class Three properties can also change uses to or from either Legal Class One or Legal Class Two.

Pursuant to A.R.S. [42-12054\(A\)](#), if a person purchases or converts a property that is listed as Legal Class One Legal Class Two or Legal Class Four and occupies the property as a residence, that person may have the classification reviewed for change to Legal Class Three from the date of conversion.

However, the 2008 changes to A.R.S. [42-12003](#) are not retroactive to valuation years prior to 2009. Therefore, properties that qualify for a change to Legal Class Three from the date of conversion, and the date of the conversion is prior to the effective date of the new law, will fall under the previous policy that was in place for the number of acres that are allowed to be changed to Legal Class Three. The statutory language referring to a homesite is included only in Legal Class Three. There is no similar provision in the language under Legal Class Four.

In any cases in which a penalty is to be applied under the provisions of A.R.S. [42-12052](#), the one to five acre rule for homesites should be followed when calculating the assessment ratio under Legal Class Four. Any excess land would normally be considered to be vacant and would be classified as Legal Class Two.

## Senior Valuation Freeze Parcels

If applicable qualifications are met, a maximum of ten acres of “undeveloped appurtenant land” can also be subject to the “Senior Freeze” Property Valuation Protection Option provisions. If the County Assessor considers it appropriate to designate up to forty acres of one parcel as a Legal Class Three “residential homesite,” only the portion granted the Senior Freeze status (the homesite and not more than ten acres of the forty acre parcel) can be “frozen” for the three-year duration of the Senior Freeze option, with subsequent renewals subject to existing procedures. The remaining undeveloped portion of the forty acre parcel should continue to be valued and classified as vacant land.