

RURAL THOUGHTS IN VAIL

(Note: This is not legal advice or an official document.)

Rurality

The term “Rural” is not defined in Arizona Revised Statutes and is used in a variety of different contexts. In Title 9, it is used in two contexts.

- 1) A.R.S. § 9-101(F): “An area to be incorporated shall not include large areas of uninhabited, rural or farmlands, but it shall be urban in nature ...

In this context, rural is equated to uninhabited or farmland. The Vail neighborhoods who claim rurality are neither uninhabited or farmland. The area contains, in significant portion, inhabited, developed tracts of land. The presently uninhabited land appears to be developed, platted for development, or adjacent to such properties.

“Large” means “(1) of greater than average size, extent, quantity, or amount; big. (2) Of greater than average scope, breadth, or capacity; comprehensive. (3) important, significant.” American Heritage Dictionary, 5th Edition. Use of the descriptor “large” is subjective and necessarily requires comparison. Reviewing the tracts of land included in the proposed map of the areas to be incorporated, such is not the case here. The tracts of land in question that are presently uninhabited make up a comparatively small portion of the total that are proposed to be incorporated, most of which is encompassed within the six-mile perimeter to be automatically declared an urbanized area under A.R.S. § 9-101.01.

“Urban in nature” may be defined as being a community. Under A.R.S. § 9-101(J)(1), all areas within the proposed map of the proposed Town of Vail are considered a “community” and share public health, public protection, fire protection, and water. Students attend the same schools, families attend the same churches, and people shop at the same stores. Vail residents are acquainted and mingle.

State land department did not consider their tracts of land to be rural but rather “uninhabited” land. With the threat of action by the State Land Selection Board (A.R.S. § 37-202(G)), the Incorporate Vail AZ committee removed many of the larger parcels of uninhabited land at the request of the State Land department.

It is not a requirement of incorporation that all tracts be presently developed and inhabited now — rather that the area and its residents constitute a community as reference in A.R.S. § 9-101.

- 2) A.R.S. § 9-101.01(A), declares all area within six miles of another incorporated area to be “urbanized.” By default, it might imply that all areas outside the six-mile radius of another incorporated area be declared to be rural (the opposite of urban) but the law doesn’t state that. Nor does the statute exclude areas outside of six miles of an incorporated area to be excluded from incorporation. Many Arizona Cities and Towns are isolated by more than six miles from other incorporated municipalities. Consider Tusayan (2010).

One of the neighborhoods outside of the six-mile rule is a gated HOA. A gated HOA is clearly an urban concept regardless of lot size. Similarly, if Rancho del Lago were to be more than six miles from the City of Tucson, it would clearly not be “rural” either and would be eligible to be included in an incorporated area.

The inclusion of the proposed areas that are adjacent to but not within the six-mile perimeter are not prohibited by statute and it is sensible given their proximity and connection to be included in the community of Vail. The area of land is not large in comparison to the total proposed area to be incorporated. Any tracts of land that are not presently inhabited are developed, platted to be developed, or interspersed with such developed and inhabited tracts. Any areas of land that may, under some classifications, be considered rural are not so significant that their inclusion undermines the character of the community of Vail.

Other Considerations:

1990 Ariz. H.B. 2421, the session law wherein A.R.S. 9-101 was enacted, is listed in the index of the 1990 Journal of the Arizona House of Representatives 39th Legislature 2nd Regular Session as addressing “city incorporation; contiguous area.” It would be contrary to the legislature’s intent, as well as impractical, to require proposals for incorporation to carve out individual tracts of land surrounded by or adjacent to tracts proposed to be incorporated based on its present inhabitation status.

A dirt road does not constitute rurality. Vail includes various dirt roads within six miles of the City of Tucson and is therefore automatically an urban area. Similarly, the City of Tucson includes dirt roads.

Having animals such as horses, chickens, etc. do not constitute a rurality. There is horse property in the City of Tucson and many communities, even highly urbanized cities, allow for chickens, for example.

Zoning categories are different than incorporation requirements. For example, there is no statutory relationship between the zoning of “Rural Homestead” and “Rural” as per A.R.S. Title 9.

There is no commercial agricultural or farmland within the proposed boundaries of Vail.

To reach all of those neighborhoods and areas outside of the six-mile rule (a.k.a. X9 Ranch and Pistol Hill), one must travel through the boundaries of the proposed Town of Vail. Even though National Park Land and National Forest land is not incorporated land, those areas are effectively “islands” as defined in A.R.S. § 9-101(G) in the sense that no County access is available without passing through an incorporated area. The reason this “island” clause is included in statute is to make government more efficient and effective. The Pima County service would be significantly more expensive and therefore greatly diminished to the residents of that unincorporated island area if it is to remain unincorporated. The Town of Vail would provide significantly better response times and service levels than Pima County if for no other reason than proximity.