

## **Amendments to the Environmentally Sensitive Lands Ordinance** **Effective January 31, 2002**

On December 11, 2001 the City Council approved case 11-TA-00 and adopted Resolution No. 5868 and Ordinance No. 3395. These actions comprehensively amended the Environmentally Sensitive Lands Ordinance (ESLO), which had been adopted in 1991. These amendments, affecting many sections of the ordinance, are shown in this document in annotated form – strikethroughs are deletions from and bold caps are additions to the previous ESLO language. The new ordinance requirements become effective on January 31, 2002. Two sections of the Zoning Ordinance are amended: Administration (Section 1.900) and ESLO District provisions (previously Section 7.800, now Section 6.1010). In the attached document, Section 1.900 starts on page 2, and Section 6.1010 starts on page 36.

In order to help city staff and citizens become more familiar with these changes, several tools are being developed, including:

- A one-page summary of the intent and purpose of ESLO
- A one-page summary providing an overview of the amendments
- A checklist of ESLO requirements (including the amendments)
- The attached annotated version of the ESLO will be made available for distribution at the Development Services Counter and on the city's website

## **CHANGES TO ADMINISTRATION SECTION – SEC. 1.900**

### **Sec. 1.902. Powers of the Development Review Board**

- A. The Development Review Board shall have the power to approve, conditionally approve, or disapprove all applications for development review and make recommendations on municipal site plans and on public art (as required in Section 1.905.C) basing its decision on the criteria as set down in Section 1.904 and, where applicable, the consistency of plats with the purposes of the ESL regulations in Section ~~7.810~~ **6.1011**. Decisions of the Development Review Board are subject to City Council review or appeal.
- B. It shall be the responsibility of the applicant to prove that the intent and purpose established in Section 1.901 will be accomplished.
- C. The Development Review Board, upon hearing an application, may impose such reasonable conditions, as it may deem necessary in order to fully carry out the provisions and intent of this ordinance. Violation of any such condition shall be a violation of this ordinance and such violation shall render any related permit null and void.
- D. Prior to the development, construction, remodel, change or alteration of any proposed or existing development within a zoning district subject to development review, the property owner or agent shall secure approval of the Development Review Board.

(Ord. No. 2301, § 1, 7-17-90; Ord. No. 2305, § 1, 2-19-91; Ord. No. 2830, § 1, 10-17-95; Ord. No. 3225, § 1, 5-4-99)

### **Sec. 1.904. Criteria**

In considering any application for development review approval, the Development Review Board shall be guided by the following criteria:

- A. The Board shall examine the application to insure that all provisions of this ordinance and all other ordinances, master plans, General Plans, and standards of the City of Scottsdale shall be complied with where applicable.
- B. The proposed development shall not have any detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood; or shall not be detrimental or injurious to the neighborhood.
- C. The proposed development shall promote a desirable relationship of structures to one another, to open spaces and topography both on the site and in the surrounding neighborhood.

- D. The height, area, setbacks, and overall mass, as well as parts of any structure (buildings, walls, signs, lighting, etc.) and landscaping shall be appropriate to the development, the neighborhood, and the community.
- E. Ingress, egress, internal traffic circulation, off-street parking facilities, loading and service areas, and pedestrian ways shall be so designed as to promote safety and convenience.
- F. The architectural character of the proposed structure shall be in harmony with, and compatible to, those structures in the neighboring environment, and the architectural character adopted for any given area, avoiding excessive variety or monotonous repetition.
- G. All mechanical equipment, appurtenances and utilities, and their associated screening shall be integral to the building design.
- H. The architectural character of a development shall take cognizance of the unique climatological and other environmental factors of this region and promote an indigenous architectural feeling.
- I. Within the environmentally sensitive land (ESL) district, the site planning, landscaping, and all buildings and structures, except single-family detached homes, shall be designed and reviewed in accordance with the recommendations and guidelines in the environmentally sensitive lands ordinance, Section ~~7.800~~ 6.1010.
- J. Within the H-P district, special cognizance shall be taken of any unique or characteristic architectural features, including, but not limited to, building height, size, shape, color, texture, setback or architectural detail.
- K. Within the downtown district, building designs shall reflect the urban character and pedestrian orientation of the area.
- L. Within the downtown district, building designs shall reflect traditional or southwestern design vernaculars, break the overall massing into smaller elements, express small scale detailing, and recess fenestrations.
- M. Within the downtown district, the Board shall review projects for conformance with specific design guidelines embodied in administrative regulations, as authorized by the Zoning Administrator.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 2830, § 1, 10-17-95)

## **CHANGES TO DEFINITIONS – SECTION 3.100**

### **Article III. Definitions**

#### **Sec. 3.100. General**

For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular; the word "building" shall include the word "structure", and the word "lot" shall include the word "plot"; the word "may" is permissive, and the word "shall" is mandatory, further the word "or" shall mean "either" and the word "and" shall mean "in conjunction with."

*Abutting* shall mean the condition of two (2) adjoining properties having a common property line or boundary, including cases where two (2) or more lots adjoin only a corner or corners, but not including cases where adjoining lots are separated by a street or alley.

*Access* or *accessway* shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this ordinance.

*Accessory building* shall mean a building, the use of which is customarily incidental to that of a dominant use of the main building or premises including bona fide household employees' quarters.

*Accessory use* shall mean a use customarily incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or building or adversely affect other properties in the district.

*Acre* shall mean a land area measuring forty-three thousand five hundred sixty (43,560) square feet.

*Adjacent* shall mean the condition of being near to or close to but not necessarily having a common dividing line, *i.e.*, two (2) properties which are separated only by a street or alley shall be considered as adjacent to one another.

*Adult bookstore* shall mean any commercial establishment having as a substantial or significant portion of its stock in trade books, magazines, other periodicals, motion pictures, or video cassettes, video disks or other similar means of visual communication which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

*Adult care home* shall mean a residential care institution which provides supervisory care, personal care, or custodial care services to adults who require the assistance of no more

than one (1) person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheelchair, as subject to licensing by the State of Arizona.

*Adult live entertainment establishment* shall mean any commercial establishment which provides any of the following entertainment or services during any part of two (2) or more consecutive days or during any part of more than one (1) day within any ninety (90) day period:

- A. Any dancing, such as bottomless or topless, striptease, go-go, flash, exotic dancers, or any similar performance where the dancer's clothing does not completely and opaquely cover "specified anatomic areas" as defined herein.
- B. Any modeling, wrestling, sports performance or service or retail activity where the clothing of the participants does not completely and opaquely cover "specified anatomical areas" as defined herein.

*Adult novelty store* shall mean any commercial establishment having as a substantial or significant portion of its stock in trade instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities," excluding condoms and other birth control and disease prevention products.

*Adult theater* shall mean any commercial establishment regularly use for presenting for observation by patrons therein any film or plate negative, film or plate positive, film or tape designed to be projected on a screen for exhibition, or films, glass slides or transparencies, either in negative or positive form, and which is designed for exhibition by projection on a screen, or in any type of viewing booth or any other visual presentation, including supportive audio or other sensory communication media, which projects images by electronic, mechanical, or similar means which may be viewed by patrons alone or in groups of two (2) or more which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas".

*Adult uses* shall mean adult bookstores, adult novelty stores, adult theaters or adult live entertainment establishments.

*Alley* shall mean a public thoroughfare which affords only a secondary means of vehicular access to abutting property and is not intended for general traffic circulation. An alley line shall mean the centerline of an alley right-of-way as determined by the City Engineer.

*Amendment* shall mean a change in the wording, context or substance of this ordinance, an addition or deletion or a change in the district boundaries or classifications upon the district map, which imposes any regulation not heretofore imposed or removed or modifies any such regulation theretofore imposed.

*Amusement park* shall mean a commercial amusement activity such as a carnival, circus, miniature golf course or similar establishment which does not require an enclosed building.

*Analogous use* shall mean any use which is comparable to the permitted uses, is similar in one (1) or more important ways to the permitted uses, or resembles the permitted uses in one (1) or more aspects. Analogous uses shall not be any more deleterious, obnoxious or harmful than the uses permitted.

*Animal clinic* or *animal hospital* shall mean a place where animals or pets are given medical or surgical treatment in emergency cases and are cared for during the time of such treatment. Use as kennel shall be limited to short-time boarding and shall be only incidental to such hospital use and shall be enclosed in a soundproof structure.

*Antenna* means the surface from which wireless radio signals are sent from and received by a personal wireless facility:

- A. Whip antenna is a long and thin device that transmits and/or receives radio frequency signals in a three hundred sixty (360) degree radial pattern.
- B. Panel antenna is a relatively flat rectangular device that transmits and/or receives radio frequency signals in a directional pattern of less than three hundred sixty (360) degrees.
- C. Dish antenna is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

*Archaeological resources* means any material remains of past human life or activities which are at least fifty (50) years old and of historic or pre-historic significance. Such materials include, but are not limited to petroglyphs, pictographs, paintings, ornaments, jewelry, textiles, ceremonial objects, armaments, vessels, ships, vehicles, human skeletal remains, rock art, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, water-control devices, pit houses, rock paintings, rock carvings, intaglios, graves, personal items and clothing, household or business refuse, printed matter, manufactured items, or any piece of any of the forgoing items.

*Archaeological site* means a concentration of archaeological resources inferred to be locations used for past specific human activities.

*Archaeological site, recorded*, means an archaeological site in Arizona that has been identified by a qualified archaeologist and has been recorded in a database at the Arizona State Museum and/or the State Historic Preservation Office (SHPO) so that the location is mapped and documentation on the archaeological resources found at the location or collected from the location is available for research use.

*Archaeological site, significant*, shall mean archaeological resources determined by the Historic Preservation Officer, Historic Preservation Commission, or a Committee of the Commission, to be significant in the City of Scottsdale when one or more of the city's nine (9) criteria for significance are contained in the archaeological resources on a property, or designated HP District by City Council.

*Archaeologist, City*, shall mean the Qualified Archaeologist appointed by the City Manager, or designee, to administer the sections of the zoning ordinance of the City of Scottsdale relating to archaeological resources.

*Archaeologist, qualified*, shall mean an individual or firm meeting the Arizona State Museum's standards and professional qualifications.

*Art shows* shall mean the sale and display of original arts and crafts. Original arts and crafts include one of a kind or limited edition materials.

*Automobile dealer, new* shall mean a franchised agency selling new motor vehicles and providing services commonly associated with motor vehicle sales. A new automobile dealership may include the sale of used motor vehicles.

*Automobile dealer, used* shall mean an agency selling used motor vehicles not in conjunction with and on the same site as a new motor vehicle franchise and providing services commonly associated with motor vehicle sales.

*Automobile storage facility* shall mean a building or lot or portion thereof designed or used exclusively for housing or storing of four (4) or more motor-driven vehicles.

*Automotive repair* shall mean all aspects of the repair of motor vehicles including, but not limited to, lubrication, tune-up and preventive maintenance.

*Balcony* shall mean that portion of a building which projects into the required yard and where the floor height of said projection is not less than four (4) feet above grade.

*Bar or cocktail lounge* shall mean an establishment whose primary business is the serving of alcoholic beverages to the public for consumption on the premises.

*Basement* shall mean that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (See *story*).

*Boarding stable*. See *commercial stable*.

*Boardinghouse or lodginghouse* shall mean a building where, for definite periods, lodging with or without meals is provided for three (3) or more persons, but not exceeding twenty (20) persons.

*Bona fide household employee's quarters* shall mean an accessory building located on the same premises with the dwelling unit, used solely as the dwelling of persons employed on the same premises as the dwelling unit, such quarters having no kitchen facilities.

*Boulder collapse* is the natural process of splitting or felling of large boulders (four (4) feet or larger in dimension).

*Boulder features* are exposed bedrock **OR BEDROCK** clusters produced by the weathering of granite or other bedrock in place. ~~which have at least one (1) dimension of fifteen (15) feet or more across, a height at one (1) point above the surrounding terrain of ten (10) feet or more, and includes a minimum setback of twenty (20) feet around the entire feature. The locations of boulder features are designated on maps by the city.~~ **BOULDER FEATURES ARE CATEGORIZED AS 1) SINGLE BOULDER FORMATIONS AND 2) BOULDER CLUSTERS, WHICH MEET THE FOLLOWING CRITERIA: A SINGLE BOULDER FORMATION IS DEFINED AS A PRIMARILY SINGLE, SOLID ROCK FORMATION THAT HAS AT LEAST ONE (1) DIMENSION OF TWENTY-FIVE (25) FEET OR MORE ACROSS, AND A HEIGHT AT ONE (1) POINT ABOVE THE SURROUNDING TERRAIN OF TWENTY (20) FEET OR MORE. BOULDER CLUSTERS ARE DEFINED AS A COLLECTION OF BOULDERS AND ROCK OUTCROPPINGS IN WHICH THE INDIVIDUAL BOULDERS ARE TYPICALLY EIGHT (8) FEET IN DIAMETER OR LARGER AND THE COLLECTIVE BOULDERS ARE DENSELY CLUSTERED. BOULDER CLUSTERS SHALL HAVE A COLLECTIVE WIDTH OF AT LEAST FIFTY (50) FEET AND A HEIGHT AT ONE (1) POINT ABOVE THE SURROUNDING TERRAIN OF AT LEAST TWENTY-FIVE (25) FEET.**

*Boulder rolling* is the natural phenomenon where granite, gneiss, basalt or similar rock fragments, with one (1) dimension of four (4) feet or more, are dislodged from rock outcrops or steep rock slopes and slide or roll downhill.

*Building* shall mean any structure for the shelter, housing or enclosure of persons, animals, chattels or property of any kind, with the exception of dog houses, play houses and similar structures. Each portion of a building separated by dividing wall or walls without openings may be deemed a separate building for the purpose of issuing building permits.

*Building, height of* shall mean the vertical distance measured from a point of reference elevation established twelve (12) inches above the average elevation at the top of the curb of the street or streets adjacent to the property, or to the top of the crown of the roadway or roadways, if there is no curb, to the highest point of the coping of a flat roof, or to the highest point of a mansard roof or to the highest gable of a pitch or hip roof. In cases where drainage considerations supersede this ordinance, the point of reference elevation would be subject to the approval of the City Engineer.



*Building mounted antenna* shall include any antenna that is attached to the walls of, or integrated into buildings, church steeples, cooling towers, elevator bulkheads, parapets, penthouses, fire towers, tanks, and water towers, or other structures.

*Building Official* shall mean the person, or his designee, authorized to grant permits for construction, alteration, and demolition pursuant to the Construction Code adopted by the City of Scottsdale.

*Building site* shall mean the area of a building together with associated parking areas and open space required by this ordinance. A building site may encompass more than one (1) lot.

*Carnivals, major*, shall mean a promotional event intended to attract people to a site where there may or may not be an admission charge, and which may include such activities as rides, entertainment, game booths, food stands, exhibitions, and animal displays.

*Carnivals, minor*, shall mean a promotional event intended to attract people to a site where there is no admission charge, and which may include up to seven (7) small rides, each a maximum of fifteen (15) feet in height, and such activities as entertainment, game booths, food stands, exhibitions, and animal displays.

*Carport* shall mean an accessory building or portion of a main building with two (2) or more open sides designated or used for the parking of motor vehicles. Enclosed storage facilities may be provided as part of a carport.

*Cellar* shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. (See *story*.)

*Certificate of Appropriateness* shall mean an official form issued by the city stating that the proposed work on an historic or archaeological resource is compatible with the historic or archaeological character of the property and, therefore: (1) the proposed work may be completed as specified in the Certificate; and (2) the City's departments may issue any permits needed to do the work specified in the Certificate.

*Certificate of No Effect* shall mean an official form issued by the City stating that proposed work on an historic or archaeological resource will have no detrimental effect on the historic character of the resource and, therefore, may proceed as specified in the Certificate without obtaining further authorization under this ordinance, and authorizing the issuance of any permits for said proposed work.

*Certificate of Demolition Approval* shall mean an official form issued by the city authorizing removal of all or part of a structure which is located within an Historic Property District or an area under application for Historic Property District designation.

*Certificate of Economic Hardship* shall mean an official form issued by the city, in connection with a Certificate of Demolition Approval, demonstrating that a reasonable rate of return cannot be obtained for an income producing property or that no beneficial use exists for a non-income producing property.

*Charter school* shall mean a public school, including pre-school and any grades kindergarten through twelfth grade, established by contract with a district governing board, the state board of education or the state board of charter schools to provide learning that will improve pupil achievement.

*Church, synagogue or temple* shall mean a permanently located building commonly used for religious worship. Churches, synagogues or temples shall conform to the uniform building code and are subject to development review approval.

*City* shall mean the City of Scottsdale.

*City Council* shall mean the City Council of the City of Scottsdale.

*Cluster housing* shall mean housing which qualifies for section 7.856, "cluster development option", or is perceived as a complex of closely related structures.

*Coin-operated laundry and cleaning service* shall mean establishments primarily engaged in the operation of coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises.

*Co-location* means the use of a single mount and/or site by more than one (1) personal wireless service.

*Common open space* shall mean any meaningful open space, other than private or frontage open space, intended for use by all occupants of a development. This space may include recreation oriented areas.

*Community college* shall mean an educational institution authorized by the Arizona State Board of Directors for Community Colleges to offer academic or technical courses and to grant associate academic degrees.

*Conditional uses* shall mean those uses specified with each zoning district which require approval of a special permit by the City Council. Such permits may be limited by specific conditions, restrictions, terms or time periods, and may be revocable.

*Condominium* shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in air space in a residential, industrial or commercial building on such real property, such as apartment, office or store.

*Construction Code* shall mean those codes adopted by the city, including the building code, electrical code, mechanical code, and plumbing code codified in chapter 31 of the Scottsdale Revised Code, which regulate construction in the city and require building permits, electrical permits, plumbing permits, and/or other permits to do work regulated by the City of Scottsdale.

*Construction envelope* is one (1) or more specified areas on a lot or parcel within which all structures, driveways, parking, nonnative landscaping, water surfaces, decks, walks, **WALLS**, and improved recreation facilities are located. Underground utilities **AND PERIMETER WALLS** may be located outside the construction envelope.

*Convalescent home or nursing home* shall mean any place or institution which makes provisions for bed care, or for chronic or convalescent care for one (1) or more persons exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Alcoholics, drug addicts, persons with mental diseases and persons with communicable diseases, including contagious tuberculosis, shall not be admitted or cared for in these homes licensed under the State of Arizona, as a convalescent and nursing home.

*Corporate headquarters office* shall mean a complex of buildings whose purpose is to be the administrative center of a business enterprise. Corporate headquarters may include transient residential units only for employees subject to any and all provisions of this ordinance.

*Corral* shall mean a fence-type structure consisting of vertical posts and horizontal members, and so constructed that seventy-five (75) percent or more of the vertical surface is open. Chain link or other similar types of wire fences are not intended to be included in this definition and shall be classified as a fence or wall.

*Curb elevation* shall mean the average elevation of a curb adjacent to a development from which the height of a building is determined.

*Day care* shall mean the care, supervision, and guidance of a person or persons who is unaccompanied by a parent, child, guardian or custodian, for periods of less than twenty-four (24) hours per day, in a place other than persons' own home or homes.

*Day care adult* shall mean the day care oriented to the care of ambulatory adults over the age of fifty (50) years.

*Day care child* shall mean day care oriented to the care of children of up through the age of fourteen (14) years.

*Day care center* shall mean any facility where the care, supervision and guidance of five (5) or more children, age fourteen (14) years and under, unaccompanied by parent, guardian or custodian occurs on a regular basis for periods of care of less than twenty-four (24) hours per day, in a place other than the childrens' own homes for compensation.

*Day care group home* shall mean any residential facility where the care, supervision, and guidance of at least five (5), but not more than ten (10) children, age twelve (12) years and under, unaccompanied by parent, guardian or custodian occurs on a regular basis for periods of less than twenty-four (24) hours per day, in a place other than the children's own homes for compensation.

*Day care home* shall mean any facility where the care, supervision and guidance of no more than four (4) children, unaccompanied by parent, guardian or custodian occurs on a regular basis for periods of care of less than twenty-four (24) hours per day, in a place other than the children's own homes for compensation.

*Demolish* shall mean any act or process which removes a building or other structure or any portion thereof.

*Demolition Permit* shall mean a permit issued by the Building Official allowing the permittee to demolish a building or structure.

*Density* is usually used to describe the number of dwelling units per acre in residential districts, while intensity is usually used to describe floor area ratio of development in nonresidential zoning districts. Where both residential and nonresidential districts are encompassed, the term intensity is generally used.

***DESERT OPEN SPACE, MEANINGFUL IS DESERT OPEN SPACE THAT DUE TO ITS SIZE, FUNCTION, VISIBILITY, ACCESSIBILITY AND/OR STRATEGIC LOCATION IS A COMMUNITY AMENITY OR RESOURCE. MEANINGFUL DESERT OPEN SPACE IS OPEN SPACE THE COMMUNITY CAN ACCESS OR SEE. IT ALSO IS OPEN SPACE THAT SERVES TO PROTECT A SIGNIFICANT ECOLOGICAL AREA.***

*Density based land uses* shall mean those of a residential nature.

*Development* means the performance of any building or mining operation, the making of any material change in the use or appearance of any structure or land, the division of land into two (2) or more parcels, and the creation or termination of access rights.

"Development" includes, but is not limited to, such activities as the construction, reconstruction or alteration of the size, or material change in the external appearance of a structure or land; commencement of mining excavation, trenching, or grading; demolition of a structure or removal of vegetation; deposit of refuse, solid waste or fill; alteration of a floodplain, or bank of watercourse.

*Development Agreement* shall mean an agreement made pursuant to A.R.S. § 9-500.05.

*Development project* is any development resulting from the approval of a building permit, lot split, preliminary or final plat, rezoning application, grading permit, public or

private infrastructure improvement, variance requests, development review, master plans, native plant removal, relocation or revegetation or use permit.

*Development site* is a specific area within the development project which is proposed for a specified zone, use or density, and may be developed separately from the balance of the development project by a person other than the master development plan applicant.

*District* shall mean any zone as shown on the zoning map of the City of Scottsdale for which there are uniform regulations governing the use of buildings and premises or the height and area of buildings.

*District map* shall mean the official zoning map of the City of Scottsdale, which is a part of the zoning ordinance of the City of Scottsdale.

*Dwelling* shall mean any building, or portion thereof, which is designed exclusively for residential purposes.

*Dwelling, multiple* shall mean a building or portion thereof designed for occupancy by three (3) or more families.

*Dwelling, single-family* shall mean a building designed for occupancy by one (1) family.

*Dwelling, two-family* shall mean a building designed for occupancy by two (2) families.

*Dwelling unit* shall mean one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.

*Efficiency apartment* shall mean a dwelling unit which has only one (1) combined living and sleeping room, said dwelling unit, however, may also have a separate room containing only kitchen facilities and also a separate room containing only sanitary facilities.

*Environmental scientists* are professionals with training or experience in areas such as environmental planning, physical geography, environmental geology, ecology, botany, soil sciences or natural resource administration.

*Environmental design concept master plan* is a document that includes plans, design methods, guidelines, and other similar material that outline the concepts to be used on a development project for open spaces, streetscapes, trails, common, and public areas and the protection, conservation, and enhancement of environmentally sensitive features or conditions of a parcel.

*Equipment cabinet* means an enclosed shed or box at the base of or near a PWSF mount within which are housed, among other things, batteries and electrical equipment (hereinafter referred to as "equipment"). This equipment is connected to the antenna by cable.

*Exposed/shallow bedrock* is bedrock which is exposed or which has irregular patches of soil cover that may vary in depth or location over time. The maximum depth of the soil cover is three (3) feet. Locations containing exposed/shallow bedrock shall be mapped if they have a minimum horizontal dimension of forty (40) feet or more.

*Family* shall mean one (1) or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined.

*Farm* shall mean an area of five (5) or more contiguous acres which is used for the production of farm crops such as vegetables, fruit trees, cotton or grain and their storage, as well as raising thereon of farm animals such as poultry or swine on a limited basis. Farms also include dairy produce [products]. Farming does not include the commercial raising of animals, commercial pen feeding (feed lots) or the commercial feeding of garbage or offal to swine or other animals.

*Festival* shall mean the sale of ethnic specialty, regional, and gourmet foods, art, and crafts, live musical entertainment, in an outdoor setting.

*Fitness studio* shall mean a place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building. Fitness studio may include passive exercise equipment (motorized equipment which does not require physical exertion), but exclude equipment or apparatus used for weight control or muscle building, and shall exclude massage in any form.

*Floor area ratio* shall mean the ratio of gross building floor area to the net lot area of the building site.

*Frontage* shall mean all property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead end, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street including property fronting on a cul-de-sac.

*Frontage open space* shall mean all the meaningful open space between the right-of-way line of a dedicated public street and any perimeter structure(s) within the development, except that this space may extend between structures or between a structure and a side property line to a depth of not more than one-half the width of the opening.

*Garage, private* shall mean any accessory building or portion of a main building designed or used for the storage of not more than three (3) motor-driven vehicles, provided that no private garage may be used or rented for the storage of commercial trucks having a capacity in excess of one (1) ton.

*Game center* shall mean a place or facility where pinball or other similar electronic games are played for amusement only. "Game center" shall not be construed so as to include bingo games, nor shall it be construed so as to include gambling devices or any other devices prohibited by law.

*Golf course, regulation or par-three* shall mean a facility other than a miniature golf course for the playing of golf at which there may be a clubhouse including rest rooms and locker rooms. A golf course may provide additional services customarily furnished such as swimming, outdoor recreation, and related retail sales that may include a restaurant and cocktail lounge if approved as a part of the required use permit.

*Golf training center* shall mean a facility other than a miniature golf course or commercial driving range providing primarily both indoor and outdoor professional instruction in all phases of golf learning skills. Accessory uses may be allowed if approved as part of the required use permit.

*Grade, (adjacent ground elevation)* shall mean the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five (5) feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five (5) feet distant from said wall. In case walls are parallel to and within five (5) feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

*Grand opening* shall mean the introduction, promotion or announcement of a new business, store, shopping center or office, or the announcement or introduction or promotion of an established business changing ownership or location.

*Gross floor area* is the sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two (2) buildings. Gross floor area shall not include:

- a. Underground parking space.
- b. Uncovered steps.
- c. Exterior balconies.

*Gross lot area* shall mean the area of a lot including one-half of all dedicated streets and alleys abutting the property.

*Guest house* shall mean an attached or detached accessory building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

*Guest house with cooking facilities* shall mean an attached or detached accessory building equipped to operate major appliances requiring two hundred twenty (220) volts electric

for the purposes of housing guests of the occupants of the principal building, and which is never rented or offered for rent.

*Guest ranch* shall mean a use incorporating two (2) or more guest rooms, other than a boardinghouse, hotel or motel, and including outdoor recreational facilities such as but not limited to horseback riding, swimming, tennis courts, shuffleboard courts, barbecue, and picnic facilities, and dining facilities intended primarily for use by the guests of the guest ranch. Bars and restaurants which cater primarily to those other than guests of the guest ranch are not permitted.

*Haunted house* shall mean temporary structures which house booths, displays, live performances relating to halloween themes.

*Health studio or health spa* shall mean a place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. "Health studio or spa" shall also mean a place or building which provide massage, exercise, and related activities with or without such equipment or apparatus. Massage shall exclude massage by one (1) person to another of the opposite gender, and shall comply with all provisions of all applicable ordinances of the City of Scottsdale. The activities shall be conducted primarily within an enclosed building.

*High-rise building* shall mean a building which exceeds thirty-six (36) feet in height as defined herein.

*Hillside landforms* are the more elevated, deeper and rugged landforms which tend to divide broad desert valleys or separate the lower deserts from higher plateau regions, to the north and east. These landforms include mountains, hills, buttes, or escarpments predominantly composed of bedrock materials. Typical bedrock materials include volcanics such as basalt and tuff; intrusives such as granite; and metamorphics such as diorites, quartzites, and schists. Locally slopes may be covered by colluvium comprised of upslope bedrock materials or by thin veneers of in-situ soils. Land slopes are usually above fifteen (15) percent and in most cases are over thirty-five (35) percent, but may be as little as five (5) percent in isolated pockets, typically atop ledges or near ridge tops. Drainageways are relatively poorly defined on the slopes but collect into deep canyon bottom courses strewn with large-sized rubble. Hazards which may be present include boulder rolling, rock falls, debris movement and general slope instability. The surface movement of materials occurs as a result of both gravity and water transport. The surface material size includes larger boulders, rocks and gravel as well as grainy soil materials.

*HP or Historic Property District* shall mean an historic resource subject to HP (Historic Property) zoning overlay zoning.

*Historic designation report* shall mean the written and visual information compiled to demonstrate how and why a Scottsdale resource may be eligible to be placed on the Scottsdale Historic Register and zoned HP District.



*Historic Preservation Commission* shall mean the Historic Preservation Commission appointed by the Scottsdale City Council for the City of Scottsdale.

*Historic Preservation Officer* shall mean the person appointed by the City Manager to administer the Historic Preservation Program and maintain the Scottsdale Historic Register.

*Historic Preservation Plan* shall mean a plan for the preservation of historic resources and landmarks on the Scottsdale Historic Register.

*Home exhibition* shall mean a one-time display of homes including furnishing and accessories in an unoccupied subdivision. The exhibition may include live entertainment, food sales, street closures, and other activities.

*Home occupation* shall mean any occupation or profession carried on by a member of a family, residing on the premises, and which is clearly incidental to the use of the structure for dwelling purposes and which does not change the exterior character of the premises in any way. There shall be no commodity sold upon the premises, nor shall such use generate pedestrian or vehicular traffic beyond that normal to the district in which it is located, and further there shall be no signs, buildings or structures other than those permitted in the district.

A carport or garage may not be used for home occupations. There shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use. Home occupation shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman, or other professional persons for consultation or emergency treatment, but not for the general practice of his profession.

*Hospital* shall mean a facility for the general and emergency treatment of human ailments, with bed care and shall include sanitarium and clinic but shall not include convalescent or nursing home.

*Hotel* shall mean a building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

*Improved open spaces* are "constructed" landscaped areas, turf areas, parks, golf courses and other recreational facilities excluding any associated buildings.

*Institution* shall mean a building or buildings occupied by a nonprofit corporation or a nonprofit establishment for public use.

*Intensity* is usually used to describe floor area ratio of development in nonresidential zoning districts, while density describes number of dwelling units per acre in residential districts. Where both residential and nonresidential districts are encompassed, the term intensity is generally used.

*Irrigation system* shall mean an underground watering system which consists of heads, valves, pipes, etc., used for the sole purpose of sustaining and promoting plant life.

*Kennel* shall mean any premises where six (6) or more dogs or cats are bred, boarded and/or trained.

*Land slope* is the ratio of the vertical rise in the land elevation over the horizontal dimension of the rise. For the purposes of the zoning ordinance the maximum horizontal dimension that shall be used to measure slope is one hundred (100) feet for all other areas. The allowed techniques for measuring slopes include the "slide-chord" method, computerized methods, or other methods approved by project review staff.

*Landscape materials.* Any materials used for the purpose of landscape improvement which may include, but shall not be limited to, the following: trees, shrubs, groundcovers, turf, vines, walkways, berms, and stone groundcover materials.

*Landscape plan.* A graphic representation of the development site indicating the location of all existing and proposed landscape improvements to be present on the site at the completion of the construction of the project. Such landscaping plan shall consist of preliminary and final plans as set forth herein.

*Landscaped area* shall mean an area which has been improved through the harmonious combination and introduction of trees, shrubs, and ground cover, and which may contain natural topping material such as boulders, rock, stone, granite or other approved material. The area shall be void of any asphaltic or concrete pavement except where walks are allowed.

*Landscaping.* An exterior improvement of property in accordance with an approved landscape plan and utilizing approved landscape materials.

***LIGHT REFLECTIVE VALUE (LRV). A MEASUREMENT OF THE AMOUNT OF LIGHT REFLECTED BY A PAINT COLOR.***

*Live entertainment* shall mean a use which includes but is not limited to disc jockey, live bands, comedians, theater for the performing arts and other forms of entertainment which include live performances at a commercial establishment, provided that the following shall not be considered live entertainment for purposes of this ordinance: (1) adult use live entertainment establishments which are subject to the requirements of section 1.403.A of this ordinance; (2) performances by one (1) or two (2) performers with no voice or instrument amplification; (3) incidental modeling of clothing and/or singing by employees of the establishment, for which no additional floor area is required.

*Loading space* shall mean a permanently maintained space on the same lot as the main building accessible to a street or alley.

*Lot* shall mean a legally created parcel of land occupied or intended for occupancy by one (1) main building together with its accessory buildings, and uses customarily incident to it, including the open spaces required by this ordinance and having its principal frontage upon a street as defined in this ordinance.

*Lot area* shall mean the same as *net lot area*.

*Lot, corner* shall mean a lot adjoining two (2) or more streets at their intersections.

*Lot coverage* shall mean the area of land which is covered by a building on a particular site. Lot coverage shall be the percentage of net lot area which is covered by the gross floor area of the first floor.

*Lot, depth of* shall mean the horizontal distance between the front and rear lot lines.

*Lot, double frontage* shall mean a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

*Lot, interior* shall mean a lot other than a corner lot or key lot.

*Lot, key* shall mean a lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street which forms the side boundary of the corner lot.

*Lot lines* shall mean the lines bounding a lot.

*Lot of record* shall mean a lot which is a part of a subdivision, the plat of which has been recorded in the office of the clerk of Maricopa County Recorder's Office; or parcel of land, the deed of which is recorded in the office of the county recorder.

*Lot width* shall mean, in the case of irregularly shaped lots, lots having side lot lines not parallel, or lots on the curve of a street, the distance between side lot lines measured thirty (30) feet behind the required minimum front setback line parallel to the street or street chord.

*Lower desert landforms* are the lower plains and expanses which typically occupy the broad lowlands and floodplains between isolated desert mountains. These landforms generally include basin floors and active alluvial fans. Generally, the depth to bedrock is deep to very deep (one hundred (100) feet to over two thousand (2,000) feet) and the texture of the alluvium is fine to medium grained. Caliche may be present but typically occurs in discontinuous lenses and is not strongly indurated. The land is low to moderately sloping and typically there is very little break, either by channels or ridges, in the planer character of the terrain. The typical land slopes are overwhelmingly less than five (5) percent, although in rare localized situations, slopes may reach fifteen (15) percent. Drainageways often are poorly defined, with the low side banks, and stream courses show substantial evidence of continuous braiding and overflows into widespread

sheet flows. Hazards predominately relate to overbank and sheet flooding, but may in some areas, include the potential for earthcracks. Most material transport is by water flows although wind transport may become significant if the soil surface is disturbed. Materials are almost exclusively fine silts and loams with only very limited pockets of gravels and stones.

*Manufactured home* shall mean a dwelling that has been certified as a manufactured home by the applicable State of Arizona or United States government agency.

*Manufactured home park* shall mean any lot, tract, or parcel of land used or offered for use in whole or in part with or without charge for parking of manufactured homes or trailer coach used for sleeping or household purposes.

*Manufactured home space* shall mean a plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home or trailer coach.

*Manufacturing* shall mean the fabricating or assembling of materials into finished or partially finished products by hand or by the use of machinery.

*Mature trees* shall mean healthy, full-bodied trees with a shape characteristic of the species and of the following minimum sizes:

Ten (10) feet--twelve (12) feet height times six (6) inches -- eight (8) inches wide or two-inch single trunk caliper or one-inch average trunk caliper for a multiple trunk tree or eight-foot trunk height for palms.

For each building story over one (1) all required mature trees shall be increased in size as follows:

One-half inch caliper increase for multiple trunk trees and one (1) inch caliper increase for single trunk trees, except that palms shall be increased by four (4) feet in height; or in lieu of increasing all required mature trees, provide additional trees at the rate of one-foot trees per dwelling unit or story above the ground floor, of which fifty (50) percent shall be "mature" as defined in this article.

*Minimal residential health care facility* shall mean a facility which provides services such as central dining, transportation and limited medical assistance.

*Minor work* shall mean any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property and is consistent with the Historic Preservation Plan for the historic resource.

*Mitigation Plan* means a plan for the recovery or protection of discovered archaeological resources.

*Monopole* means a facility used exclusively for PWSF mounts and is self-supporting with a single shaft of steel, concrete or wood.

*Motel* shall mean any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients. Motel includes motor court, motor lodge and tourist court, but not a manufactured home park.

*Mount* means the ground or the structure to which a PWSF is attached.

*Move* shall mean any relocation of a building or structure on its site or to another site.

*Municipal use* shall mean any use provided to the general public which is operated by or contracted for by the city. Municipal use shall not include any vehicle, bicycle, equestrian, or pedestrian right-of-way dedications or easements or scenic dedications or easements, single purpose flood control corridors, or utilities which are located underground.

***MUNSELL BOOK OF COLOR IS A SYSTEM THAT DESCRIBES COLOR IN TERMS OF THREE STANDARDIZED ATTRIBUTES: HUE, VALUE (LIGHTNESS/DARKNESS) AND CHROMA (INTENSITY). NUMERICAL VALUES DEFINE EACH COLOR ATTRIBUTE, AND THE COLORS ARE ARRANGED IN THE BOOK IN EQUAL VISUAL STEPS FOR EACH ATTRIBUTE.***

*Natural area open space* are areas of undisturbed natural desert with no man-made improvements and approved revegetated areas.

*Natural landmarks* are those prominent, unique terrain features which due to their character and location are considered landmarks for the city or for a local region within the city. Such "landmarks" may or may not be named features. These features shall be indicated on maps of record at the City and shall be designated by the City Council. Historical and archaeological sites shall also be considered as landmarks.

*Net floor area* shall mean, for the purpose of determining parking requirements, the total floor area of a building measured from the interior faces of load bearing walls, excluding air shafts, stair wells, elevator shafts, rest rooms and mechanical equipment rooms.

*Net lot area* shall mean the area included within lot lines after all right-of-way dedications have been made as required by the City of Scottsdale right-of-way standards.

*Nonconforming building* shall mean a building or portion thereof which was lawful when established but which does not conform to a subsequently established district or district regulations.

*Nonconforming lot* shall mean a parcel of land having less area, frontage or dimensions than required in the district in which it is located.

*Nonconforming use* shall mean any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment thereto which does not conform after passage of this ordinance or amendment thereto with the use regulations of the district in which located.

*Nondensity based land uses* shall mean those of nonresidential nature.

*Open space* is defined as space which can be enjoyed by people. This could include landscaped plazas, grass and trees, fountains, sitting areas, etc., and is meant to provide an open garden atmosphere. Open space does not include parking areas, vacant or undeveloped lots or any other space which does not contribute to the quality of the environment.

*Owner* shall mean those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the records of the Property Records Section of the Maricopa County Assessor's Office.

*Parcel* is a legally defined lot, or contiguous group of lots in single ownership or under single control, and considered a unit for purposes of development and open space calculation.

*Parking lot* shall mean a parcel of land devoted to parking spaces as set forth by the parking standards of the City of Scottsdale.

*Parking lot, commercial* shall mean any lot upon which members of the general public operating a motor vehicle upon said lot and parking thereon may be required to pay a charge or fee for said usage to the owner of the lot or his agent.

*Parking space* shall mean a permanently surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet which will accommodate a car, minimum width nine (9) feet. Parking as used in this ordinance is to mean off-street parking with access from streets or secondary means or as approved by subdivision plat.

*Patio home* shall mean an attached or detached single-family dwelling constructed with no side yard on one (1) side of the lot.

*Peak* means a point of maximum elevation of a hill or mountain.

**PERIMETER WALL SHALL MEAN A WALL THAT SURROUNDS A SUBDIVISION OR A GROUP OF RELATED DISTRICTS AND/OR SUBDIVISIONS.**

*Permitted use* shall mean a use specifically permitted on a use analogous to those specifically permitted.

*Personal wireless service facility or PWSF* means a facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, and any amendments thereto. Personal wireless service facilities are composed of two (2) or more of the following components:

- A. Antenna
- B. Mount
- C. Equipment cabinet
- D. Wall or security barrier

The height of monopoles and towers shall be measured from natural grade to the top of all appurtenances. The height of rooftop mounted communication equipment shall be measured from the roof elevation to the top of all appurtenances. The height of building mounted communication equipment shall be from the top of the equipment to natural grade. All equipment shall be unmanned.

Such facilities shall be categorized as either minor or major facilities, but not both, as follows:

- A. *Minor personal wireless service facilities* shall include:
  - 1. Building mounted facilities in any zoning district, including the downtown (D) district.
  - 2. Monopoles or towers up to a height of eighty (80) feet including all antennas in the following districts: I-1, C-4, S-S. Any new monopole or tower shall be separated from the nearest monopole or tower a distance of one-quarter (1/4) mile. Exceptions: I-1 and C-4 are not subject to minimum separation unless the facility is located within three hundred (300) feet of a designated arterial or collector street, or an R1 zoned property.
  - 3. Monopoles up to a height of forty (40) feet in the following districts C-S, C-2, C-3, P.N.C., P.C.C., P.R.C., C-O, PCP, S-S, W-P. These facilities shall have a four-foot maximum width for the antenna array and no antennas other than panel antennas shall be allowed. Monopoles up to fifty (50) feet in height will be allowed in these districts if the pole will accommodate co-location, with two (2) providers locating facilities on the pole at the time of final plans approval. No antennas other than panel antennas shall be allowed. Any new monopole or tower shall be separated

from the nearest monopole or tower a distance of one-quarter (1/4) mile. Exceptions: I-1 and C-4 are not subject to minimum separation unless the facility is located within three hundred (300) feet of a designated arterial or collector street, or an R1 zoned property.

4. Rooftop mounted equipment up to fifteen (15) feet in height in the following districts: C-2, C-3, C-4, C-O, D, I-1, P.C.P. P.C.C., P.N.C., P.R.C., S-S, W-P. antenna arrays shall have a maximum width of four (4) feet.
5. Ground mounted equipment cabinets up to fifteen (15) feet in height.
6. Co-location on existing communication equipment, up to eighty (80) feet in total height. The replacement or extension of an existing pole shall not add more than twelve (12) feet to the height of the existing pole and shall not exceed the diameter of the existing pole by sixty (60) percent.
7. Joint use installations on public school and city park ballfield lights, up to eighty (80) feet in total height. The replacement of an existing pole shall not add more than twelve (12) feet to the height of the existing pole and shall not exceed the diameter of the existing pole by sixty (60) percent. These facilities shall have a four-foot maximum width for the antenna array and no antennas other than panel antennas shall be allowed.
8. Facilities that are located on sixty-nine (69) kilovolt, or above, electrical utility poles that are not included in a city council approved plan for removal. Electrical utility poles may be increased no more than twelve (12) feet in height and shall not exceed the diameter of the existing pole by sixty (60) percent to accommodate personal wireless service facilities. Antenna panel array shall not exceed four (4) feet in diameter, except for towers where the width of the antenna array cannot exceed the maximum width of the tower.
9. Facilities mounted on a street light or traffic signal pole shall not exceed two (2) feet in diameter and shall not raise the height of the pole by more than six (6) feet.

B. *Major personal wireless service facilities* shall include:

1. Facilities adjacent to or within one hundred fifty (150) feet of any R1 zoning district, except as provided in A.1., A.6., A.7., A.8., and A.9. above. If the proposed facility is located within an R-1 district, the one hundred fifty (150) feet shall be measured from the property line of the nearest existing or planned R1 development.



2. All other proposed facilities that do not meet the criteria for a minor personal wireless service facility.

*Planning Commission* shall mean the Planning Commission of the City of Scottsdale.

*Preservation Easement* shall mean a nonpossessory interest in real property, granted to the City pursuant to Arizona Revised Statutes Title 33, Chapter 2, Article 4, Conservation Easements, which imposes limitations or affirmative obligations on the property to preserve the historical, architectural, archaeological, or cultural aspects of the real property.

*Private open space* shall mean any visually delineated usable area intended for the exclusive use of the occupant(s) of the dwelling unit to which it is adjacent.

*Private school* shall mean a nonpublic institution where instruction is imparted, including pre-schools and any grades kindergarten through twelfth grade.

*Prohibited use* shall mean a use not specifically permitted or a use analogous to those not specifically permitted.

*Project review director* shall mean the project review director or his designee.

*Protected peak* is a peak identified by the city as being visually significant and consequently important to the city's image and economy. Protected peaks are designated on maps by the city.

*Protected ridge* is a ridge identified by the city as being visually significant and important to the city's image and economy. Protected ridges are designated on maps by the city.

*Public floor area* shall mean for the purpose of determining parking requirements, all areas of a building that are used by the public excluding public rest rooms.

*Pumpkin and Christmas tree sales* shall mean outdoor sale of seasonal material such as pumpkins and Christmas trees.

*Ranch* shall mean a lot which is used primarily for the breeding of horses; raising of livestock; individual training or training of small groups of eight (8) or fewer students; practice polo courses and arenas not used for scheduled, public, or club events; boarding only of horses, mules or ponies directly involved with current breeding or training activities; and ancillary sales and previews of livestock and occasional weekend seminars and clinics. Permanent housing for ranch employees shall be permitted as an accessory use to the ranch. No feed lot shall be permitted. A ranch shall meet the provisions of the applicable zoning district and the conditions of Section 1.403.

*Replacement/Reuse Plan* shall mean a plan for redevelopment of a site within an HP District.

*Resort* shall mean a group or groups of buildings containing more than five (5) dwelling units and/or guest rooms and providing outdoor recreational activities which may include golf, horseback riding, swimming, shuffleboard, tennis and similar activities. A resort may furnish services customarily furnished by a hotel, including a restaurant, cocktail lounge and convention facilities.

*Restaurant* shall mean an establishment whose primary business is the serving of food to the public, where revenues from the sale of food equal at least forty (40) percent of the gross revenue.

*Restaurant, drive-in* shall mean an establishment whose primary business is the serving of food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure, where revenues from the sale of food equal at least forty (40) percent of the gross revenue.

*Restaurant, drive-through* shall mean an establishment whose primary business is the serving of food to the public for consumption within the building or off the premises by order from vehicular passengers outside the structure, including but not limited to services from an outdoor service window, where revenues from the sale of food equal at least forty (40) percent of the gross revenue.

*Retail* shall mean a sale for any purpose other than for resale in the form of tangible personal property.

*Ridge* means a relatively narrow elevation which is prominent because of the steep angle at which it rises; an elongated crest, or series of crests, with or without individual peaks, significantly higher than the adjoining ground.

*Rockfalls* are events where metamorphic, schist, or other paty rocks drop, slide, or roll downhill from a rock outcrop or steep slope. Areas at risk from rockfalls are below the sources of these falls.

*Rooftop mounted antenna* shall include any antenna that is located on top of a roof and is not integrated into buildings, church steeples, cooling towers, elevator bulkheads, parapets, penthouses, fire towers, tanks, and water towers, or other structures.

*Rooming house.* See *boardinghouse*.

*Sales, incidental* shall mean any sales which may occur as a result of or in connection with uses permitted on a property.

**Editor's note**--Ordinance No. 1876 adopted January 21, 1986, adopted zoning ordinance amendments contained in Exhibit A thereto. Exhibit A consisted of a "draft page", and the sections amended were apparently reproduced in their entirety. The definition of "sales incidental" was on the "draft page", but was not in section 3.100 as amended.

*Satellite receiving earth station* shall mean a parabolic antenna designed to receive electromagnetic transmissions from a satellite.

*Scenic corridor* is a major roadway in the city which has been so designated on the General Plan in order to minimize the visual intrusion of adjacent development and maximize the unique character of different areas of the city.

*School* shall mean any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

*School, elementary and secondary* shall mean a public or private school providing primary and secondary education for grades kindergarten through twelve, such as elementary, middle, junior high and high schools.

*School, instructional* shall mean a public or private school providing domestic, recreational and other types of instruction, such as dance, gymnastics, cooking, music, martial arts and handicraft.

*School, vocation* shall mean a school primarily teaching useable skills that prepare students for jobs in a trade or occupation.

*Scottsdale Historic Register* shall mean the list, compiled and kept by the Historic Preservation Officer, of historic and archaeological resources in the City of Scottsdale which are designated HP District.

*Seasonal art festival* shall mean a temporary or permanent facility which is primarily operated for the sale and display of arts and crafts. Ancillary uses may include food sales, special events, and support offices. The festival shall display the art or craftwork of at least ten (10) independent persons or companies. The festival shall operate for a period over not less than thirty (30) consecutive days nor over more than ninety (90) consecutive days with the facility being open at least four (4) days each week. No two (2) festivals may occupy the same site within forty-five (45) days of each other.

*Service station, automotive* shall mean a retail business engaged primarily in the sale of motor fuels but also in supplying goods and services generally required in the operation and maintenance of automotive vehicles. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; automotive maintenance and repair; and the supplying of other incidental customer services and products. Major automotive repairs, painting and body and fender work, rental or sales of motor-bikes, automobiles, boats, trailers, trucks and any other type of sales or services not specifically referred to herein are limited to the service area of the site and if not specifically approved as part of the original use permit, a use permit must be approved prior to the area being used for any of these purposes.

*Severely constrained area (SCA)* is any land within the hillside landform which contains land slopes over twenty-five (25) percent, unstable slopes, or special features, including any land which is surrounded by one (1) of these conditions.

*Shopping center* shall mean a group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking, landscaped areas and pedestrian malls or plazas provided on the property as an integral part of the unit.

*Sidewalk sales* shall mean outdoor sale conducted by the proprietor of products normally sold inside a retail establishment.

*Sight line representation* means a drawing in which a sight line is drawn from the closest facade of each building, private road or right-of-way (viewpoint) within five hundred (500) feet of the PWSF to the highest point (visible point) of the PWSF. Each sight line shall be depicted in profile, drawn at one (1) inch equals forty (40) feet unless otherwise specified by the city. The profiles shall show all intervening trees and structures.

*Sign* shall mean:

- a. Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any local, state or United States governmental agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization.
- b. The term "sign" shall mean and include any display of any letter, numeral, figure, emblem, picture, outline, character, spectacle, delineation, announcement or anything in part or in combination by any means whereby the same are made visible to the eye and for the purpose of attracting attention outdoors to make anything known, whether such display be made on, attached to or as a part of a structure erected for the purpose, or on, attached to or as a part of any other structure, surface or thing, including but not limited to, the ground or any rock, tree or other natural object, which display is visible beyond the boundaries of the lot or parcel of property on or over which the same is made.

*Slope collapse* includes those soil slopes which, due to their steepness and internal structures, are prone to land or mud slides or similar mass wasting events.

*Special auto sales* shall mean seasonal or special auto sales which may or may not be conducted on site.

*Special event* shall mean a temporary outdoor use on private property which extends beyond the normal uses and standards allowed by the zoning ordinance of the City of Scottsdale. Except as otherwise specifically provided herein, only those events held on commercial-zoned property, are subject to the provisions of this ordinance.

*"Special event"* includes, but is not limited to, art shows, sidewalk sales, pumpkin and Christmas tree sales, haunted houses, carnivals (major and minor), special auto sales, grand openings, festivals, home exhibitions, and church bazaars.

*Special flood hazard areas* as defined by section 37-17 of chapter 37 of the Scottsdale Revised Code (floodways and floodplains) are areas having flood and/or flood-related erosion hazards as shown on a flood hazard boundary map or flood insurance rate map as zone A, AO, A1--30, AE, A99, AH or E, and those areas identified as such by the floodplain administrator, delineated in accordance with section 37-18(b) and adopted by the floodplain board.

*Specialized residential health care facility* shall mean a convalescent or nursing home which normally provides medical care and supervision.

*Specified anatomical areas* shall mean less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* shall mean human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

*Springs* shall include areas where permanent or ephemeral flows or ponding of water naturally occur. Such sites may include mountainous or canyon conditions where water flows or seeps out from water-bearing geologic structures or tanks and rock-bottomed washes where water typically collects for extended periods of time.

*Stable, commercial* shall mean a lot which may be used for commercial riding stable open to the general public; boarding of livestock not involved with current breeding or training; training involving large groups of eight (8) or more students; polo fields or arenas used for scheduled, public or club events; and those uses permitted in a ranch. No feed lot shall be permitted. A commercial stable shall meet the provisions of the applicable zoning district and the conditions of Section 1.403.

*Stable, private* shall mean a detached accessory building for the keeping of horses, mules or ponies owned by the occupants of the premises and not kept for remuneration, hire or sale.

*Story* shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than six (6) feet above the grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above

grade as defined herein at any point, such basement, cellar or unused underfloor space shall be considered as a story.

*Street* shall mean a dedicated public or private passageway which affords a principal means of access to abutting property.

*Street, centerline* shall mean the centerline of a street right-of-way as determined by the city engineer.

*Street line* shall mean a dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

*Structural alterations* shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof.

*Structure* shall mean any piece of work constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, but not including a tent, vehicle, trailer coach or mobile home.

*Structure, temporary* shall mean any piece of work which is readily movable and used or intended to be used for a period not to exceed ninety (90) consecutive days. Such structure shall be subject to all applicable property development standards for the district in which it is located.

*Swimming pool, private* is any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

*Swimming pool, public* shall mean the same definition as private pool but operated as a commercial business. Public swimming pools shall conform to Maricopa County Health Department requirements.

*Talus slopes* are areas covered by loose piles of rocks and/or boulders and are typically void of surface soils and vegetation if they are active.

*Teen dance center* shall mean an enclosed or unenclosed structure which is open to persons from fifteen (15) through twenty (20) years of age unaccompanied by adults at which music is furnished for the purpose of social dancing, and at which a person fifteen (15) through twenty (20) years of age pays an admission, membership dues, or a minimum fee or cover charge, whether or not admission is limited to members only. "Teen dance center" shall include the enclosed or unenclosed structure and the surrounding premises used for parking or any activity related to the dancing operation.

*Tennis club* shall mean a commercial facility for the playing of tennis at which there is a clubhouse including rest rooms. A tennis facility may provide additional services

customarily furnished by a club such as swimming, outdoor recreation and related retail sales, that may include a restaurant and cocktail lounge if approved as a part of the required use permit.

*Timeshare project* means a project in which a purchaser receives the right in perpetuity, for life or for a term of years to the recurrent, exclusive use or occupancy of a lot, parcel, unit or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided, or a project in which a license or contractual or membership right of occupancy is not coupled with an estate in the real property; except that a project in which such right to exclusive use or occupancy is available only for intervals of more than thirty (30) days shall not be considered a timeshare project.

*Tower* means a facility used exclusively for personal wireless service mounts and consists of more than a single shaft of steel or concrete. No guy wires shall be permitted.

*Townhouse* shall mean a single-family dwelling with party walls and no side yards between abutting dwellings.

*Underlying zoning* is the zoning district which exists on the property over which an overlay district has been applied. The existing zoning is found on the city's official zoning maps.

*University or college* shall mean an educational institution offering academic courses and awarding baccalaureate or higher degrees.

*Unoccupied recreational vehicle storage* is a facility for the storage of recreational vehicles. A recreational vehicle is a general term for a vehicle bearing current license and/or registration which includes the following: camper trailer, travel trailer, truck camper, motor home, boat trailer, horse trailer, utility trailer, and recreational boat. The storage facility shall not include any occupancy of the vehicles. An apartment/office shall be permitted within the facility to allow on-premise supervision.

*Upper Desert Landforms* are typically the irregular terrain at the base of or surrounding mountain ridges or isolated mountain outcrops. These landforms include pediments, piedmonts, abandoned alluvial fan segments, alluvial-colluvial slopes, uplifted and dissected inactive alluvial shops, and ridge/valley complexes. Underlying materials include shallow (ten (10) to one hundred (100) feet) depths to bedrock, medium to strongly calichified alluvium, and fanglomerate. Locally there may be small hillocks, rock outcrops, boulder formations and fields, or bedrock balds which occur in isolated or grouped patterns. Land slopes range from two (2) percent to thirty-five (35) percent but are predominately in the five (5) percent to twenty (20) percent range. Drainageways are typically well incised with stream capacities greater than historic flow levels. Occasionally there may be old floodplain terraces benched between the wash bottom and distinct wash banks or there may be minor stream braiding which lasts for short distances and then reforms into a single main channel. Hazards are generally limited to flooding in

channel bottoms and occasional bank collapse along sharply incised wash banks. The transport of material is dominated by water transport concentrated in drainage courses and the surface material size typically ranges from coarse silts to medium-sized cobbles.

*Use* shall mean the purpose for which land or building is occupied, or maintained, arranged, designed or intended.

*Use permit* shall mean a permit granted to a property owner by the City Council to conduct a use allowed as a permitted use in a zoning district subject to a use permit. A use permit may be granted at the discretion of the City Council after a public hearing.

*Variance* shall mean a modification of the literal provisions of the zoning ordinance granted by the Board of Adjustment upon a finding that strict enforcement of the ordinance would cause undue hardship owing to circumstances unique to the individual property for which the variance is granted and not caused by the applicant for said variance.

**VIEWPOINTS ARE POSITIONS AT “MINOR COLLECTOR STREET” AND HIGHER CLASSIFICATION STREET INTERSECTIONS WITHIN THE ENVIRONMENTALLY SENSITIVE LANDS (ESL) AREA AS IDENTIFIED IN THE CITY’S GENERAL PLAN FROM WHICH DEVELOPMENT IN THE HILLSIDE LANDFORM CAN BE OBSERVED.**

*Viewsheds* are the major segments of the natural terrain which are visible above the natural vegetation from ~~designated~~ scenic viewpoints which are ~~designated on maps by the city~~ **DEFINED IN THIS ORDINANCE.**

*Vista corridor* is a major open space corridor which follows major watercourses or other features as identified on the General Plan and which protect major wildlife habitat, protect distant views, separate land uses, and provide links for trails and paths. Special design criteria for landscaping, walls and drainage structures may be applied.

*Volume* shall mean the volume of building which occupies a particular site. Volume of a building shall be determined by multiplying the gross floor area of the individual floors by the height of that story.

*Volume ratio* shall mean the ratio of building volume to the net lot area of the building site.

*Wall* shall mean any structure or device required by this ordinance for screening purposes forming a physical barrier, which is so constructed that fifty (50) percent or more of the vertical surface is closed and prevents the passage of light, air and vision through said surface in a horizontal plane. This shall include concrete, concrete block, wood or other materials that are solids and are so assembled as to form a screen. Where a solid wall is specified, one hundred (100) percent of the vertical surface shall be closed, except for approved gates or other access ways. Where a masonry wall is specified, said wall shall



be concrete block, brick, stone or other similar material and one hundred (100) percent of the vertical surface shall be closed, except for approved gates or other access ways.

*Warehouse* shall mean a building or building used for the storage of goods of any type, and where no retail operation is conducted.

*Watercourse* means a **NATURAL OR MAN MADE** lake, river, creek, stream, wash, arroyo, ~~or other channel~~, **CULVERT, PIPES OR ANY OTHER TOPOGRAPHIC FEATURE, THROUGH, ON OR** over which waterS flows at least periodically. "WatercourseS" includes specifically designated areas in which substantial flood damage may occur.

*WatercourseS, major* are **WASHES HAVING A 100-YEAR FLOOD FLOW RATE OF 750 CFS OR GREATER.** ~~those areas along natural watercourses where the calculated natural flow in a one hundred-year storm of the wash is more than seven hundred fifty (750) c.f.s. and the depth of flow is one (1) foot or more.~~

*Watercourses, minor* **ARE WASHES HAVING A CAPACITY OF AT LEAST 50 CFS AND A 100-YEAR FLOOD FLOW RATE OF UP TO 750 CFS.** ~~includes those areas along natural watercourses where the calculated natural flow in a one hundred-year storm of the wash is between two hundred fifty (250) and seven hundred fifty (750) c.f.s. and the depth of flow is one (1) foot or more.~~

*Wholesale* shall mean the sale of tangible personal property for resale by a licensed retailer and not the sale of tangible personal property for consumption by the purchaser.

**WILDLAND/URBAN INTERFACE IS AN AREA WHERE DEVELOPMENT AND WILDLAND FUELS MEET AT A WELL-DEFINED BOUNDARY.**

**WILDLAND/URBAN INTERMIX IS AN AREA WHERE DEVELOPMENT AND WILDLAND FUELS MEET WITH NO CLEARLY DEFINED BOUNDARY.**

*Yard* shall mean an open space at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

*Yard, front* shall mean an open space unoccupied except as otherwise provided herein on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The front yard of a residential corner lot is the yard adjacent to the shorter street frontage. The front yard of a commercial corner lot is the yard adjacent to the major street as determined by the engineering services director.

*Yard, rear* shall mean an open space unoccupied except as otherwise provided herein on the same lot with a main building between the rear line of the building and the rear line of the lot extending the full width of the lot. The rear lot line is that lot line opposite the front lot line. Where these are not parallel, the rear lot line shall be that line which is intersected by a line drawn perpendicular through a tangent to the midpoint of the front lot line. If the line drawn through the tangent to the midpoint of the front line strikes a ten-foot long line drawn parallel to the tangent then that line shall be considered the rear lot line for purposes of determining setbacks, and all other lot lines between that and the front line shall be side lot lines. If the lot has frontage on a cul-de-sac, the rear lot line shall be the lot line which most closely approximates the rear lot line of abutting lots.

*Yard, side* shall mean an open except as otherwise provided herein unoccupied space on the same lot with a main building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. An interior side yard is defined as the side yard adjacent to a common lot line.

(Ord. No. 1851, § 1, 11-5-85; Ord. No. 1876, § 1, 1-21-86; Ord. No. 1923, § 1, 12-16-86; Ord. No. 1994, §§ 1, 1-19-88; Ord. No. 2266, 1, 11-21-89; Ord. No. 2311, § 1, 8-21-90; Ord. No. 2305, § 1, 2-19-91; Ord. No. 2420, § 1, 12-17-91; Ord. No. 2430, § 1, 1-21-92; Ord. No. 2431, § 1, 1-21-92; Ord. No. 2526, § 2, 3-16-93; Ord. No. 2509, § 1, 6-1-93; Ord. No. 2636, § 1, 2-15-94; Ord. No. 2620, § 1, 8-2-94; Ord. No. 2830, § 1, 10-17-95; Ord. No. 2831, § 1, 9-19-95; Ord. No. 2858, § 1, 12-5-95; Ord. No. 3048, § 1, 10-7-97; Ord. No. 3034, § 1, 11-4-97; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3242, § 6, 7-13-99; Ord. No. 3274, § 5, 12-7-99)

## CHANGES TO ESLO TEXT

### Sec. ~~7.800~~ 6.1010. Environmentally Sensitive Lands Ordinance

#### Sec. ~~7.810~~ 6.1011. Purpose

The purpose of the environmentally sensitive lands regulations is to identify and protect environmentally sensitive lands in the city and to promote the public health, safety and welfare by providing appropriate and reasonable controls for the development of such lands. Specifically, the environmentally sensitive lands regulations are intended to:

- A. Protect people and property from hazardous conditions characteristic of environmentally sensitive lands and their development. Such hazards include rockfalls, rolling boulders, other unstable slopes, flooding, flood-related mud slides, subsidence, erosion, and sedimentation. ~~range fires, radon exposure, soils with high shrink-swell capacity, foundation instability and air pollution.~~
- ~~B.~~ Protect and ~~conserve~~ **PRESERVE** significant natural and visual resources. Such resources include, **BUT ARE NOT LIMITED TO**, major boulder outcrops, major ridges and peaks, prime wildlife habitat **AND CORRIDORS**, unique vegetation specimens, **SIGNIFICANT WASHES**, and significant riparian habitats.
- C. Protect renewable and nonrenewable resources such as water quality, air quality, soils, and natural vegetation from incompatible land uses.
- D. Minimize the public costs of providing public services and facilities **IN ESL AREAS** such as streets, water, sewer, emergency services, sanitation services, parks, and recreation. **COSTS ASSOCIATED WITH THE DESIGN AND DEVELOPMENT OF INFRASTRUCTURE IN ENVIRONMENTALLY SENSITIVE AREAS CAN BE HIGHER THAN COSTS IN OTHER AREAS OF THE CITY DUE TO THE UNIQUE AND FRAGILE NATURE OF SUCH LANDS.**
- E. Conserve the character of the natural desert landscape. **GUIDE THE LOCATION AND DISTRIBUTION OF MEANINGFUL ON-LOT AND COMMON TRACT OPEN SPACE AND PROTECT SENSITIVE ENVIRONMENTAL FEATURES TO SUSTAIN THE UNIQUE DESERT CHARACTER FOUND IN ESL AREAS.** ~~The desert is an important tourist attraction which contributes to Scottsdale's economy.~~
- F. Recognize and ~~preserve~~ **CONSERVE** the economic, educational, recreational, **HISTORIC, ARCHAEOLOGICAL**, and **OTHER** cultural assets of the environment that provide amenities and services for residents and visitors. ~~These interdependent assets include preserving the natural environment for desert tours, horseback riding, hiking, rock climbing, and western theme activities. In addition, the~~

~~area contains historic and archaeological sites which reflect the lives of cowboys, miners, pioneers and native Americans.~~

- G. Assure that decisions regarding development in environmentally sensitive areas are based on complete and accurate information about the environmental conditions **INCLUDING DRAINAGE FEATURES** and probable development impacts.
- H. Minimize the impacts of development by controlling the location, intensity, pattern, design, construction techniques, and materials of development and construction.
- I. Retain the visual character of the natural landscape to the greatest extent feasible by regulating building mass, location, colors, and materials; grading location, design and treatment; and landscaping design and materials.
- J. Maintain significant open spaces which provide view corridors and land use buffers, protect landmarks, and prime wash habitats, **BY PRESERVING THESE FEATURES IN THEIR NATURAL STATE TO** ~~and~~ maintain the city's unique desert setting.
- K. Protect environmentally sensitive lands, while also recognizing the legitimate expectations of property owners and the city's overall economic goals.
- L. Encourage innovative planning, design, and construction techniques for development in environmentally sensitive areas.

(Ord. No. 2305, § 1, 2-19-91)

~~Sec. 7.820. Scope of regulations~~

~~Sec. 7.821. Establishment of ESL district~~

~~Sec. 7.822. Applicability.~~

~~The environmentally sensitive lands (ESL) district is hereby established as an overlay zoning district.~~

## **SEC. 6.1020. APPLICABILITY OF REGULATIONS**

## **SEC. 6.1021. APPLICABLE DISTRICTS AND CONDITIONS**

All underlying zoning districts, to which the ESL **OVERLAY ZONING** district applies, shall be identified with the suffix "ESL". To accomplish the purposes in section ~~7.810,~~**6.1010**, the City may apply the ESL district to lands that contain one (1) or more of the following environmental conditions:

- A. Land slopes of fifteen (15) percent or greater.
- B. Unstable slopes, which exhibit one or more of the following conditions:
  - 1. Boulder collapse
  - 2. Boulder rolling
  - 3. Rockfalls
  - 4. Slope collapse
  - 5. Talus slopes
- C. Special features, ~~as designated on ESLO Special Features Maps~~ **AS DESCRIBED IN THE DEFINITIONS (SECTION 3.100) AND THE PROTECTED PEAKS AND RIDGES MAP:**
  - 1. Boulder features
  - 2. Natural landmarks, including archaeological sites
  - 3. Protected peaks
  - 4. Protected ridges
- D. Watercourses:
  - 1. Major watercourses
  - 2. Minor watercourses
- E. ~~Soil and geologic conditions:~~ Exposed/shallow bedrock
- F. Undisturbed native vegetation
- G. WILDLIFE HABITAT**
- ~~G.~~ **H. Landform classes as indicated on the ESLO ~~special features~~ LANDFORMS AND PROTECTED PEAKS AND RIDGES Maps:**
  - 1. Lower desert landform
  - 2. Upper desert landform
  - 3. Hillside landform

## SEC. 6.1022. EXEMPTIONS AND EXCEPTIONS

- A. The ESL regulations shall apply to all public or private development projects within the ESL district, except as provided in section ~~7.823~~ **6.1022B AND 6.1023**, exemptions. In the event of a conflict between the ESL regulations and any other provision of the Zoning Ordinance, the ESL regulations shall prevail.
- B. THE 12-11-2001 AMENDMENTS TO THE ESL REGULATIONS, INCLUDING AMENDMENTS TO THE ESL LANDFORMS AND PROTECTED PEAKS AND RIDGES MAPS, SHALL NOT APPLY TO:**
- 1. PROPERTY WITHIN A MASTER-PLANNED COMMUNITY THAT RECEIVED ZONING APPROVAL UNDER THE PROVISIONS OF THE FORMER ESL REGULATIONS (FORMER SECTIONS 7.800 THROUGH 7.858)**
  - 2. PLATTED LOTS WITHIN A SUBDIVISION APPROVED UNDER THE FORMER ESL REGULATIONS (FORMER SECTIONS 7.800 THROUGH 7.858) OR THE FORMER HILLSIDE ORDINANCE.**
  - 3. PROPERTY THAT HAS RECEIVED APPROVAL BY THE DEVELOPMENT REVIEW BOARD, INCLUDING APPROVAL OF PRELIMINARY PLATS AS OF THE EFFECTIVE DATE OF THESE 12-11-2001 AMENDMENTS.**
- C. DEVELOPMENT OF PROPERTIES THAT ARE EXEMPTED FROM THIS ORDINANCE IS ENCOURAGED TO COMPLY WITH ITS INTENT.**

### Sec. ~~7.823~~ **6.1023**. Hillside district exemptions

The ESL regulations shall not apply to a development project, which was the subject of a pending application as of February 19, 1991, or development approvals under the provisions of the former hillside district, Section 6.800 through 6.810. For the purposes of this Section, "development approval" means rezoning, use permit, subdivision plat, master plan, Development Review Board, variance or building permit approval.

- A. *Applicability of hillside district regulations.* Exempt development projects shall be developed under the hillside district regulations and development standards in effect when the development project was approved, including rezoning stipulations.
- B. *Application of ESL regulations to exempt development projects.* The owner of a development project exempt under this Section may elect to develop under the ESL regulations. The election must be communicated in writing to the ~~project review director~~ **ZONING ADMINISTRATOR** before application is made for further development approval following the effective date of ESLO (**February 19, 1991**).

- C. If the effect of an election to develop under the ESL regulations is to alter the densities or land uses approved under the hillside district, or changes the size or configuration of any hillside conservation (HC) zoned area, the election is conditioned upon City Council approval of a rezoning pursuant to the provisions of sections 1.300 and ~~7.843~~ **6.1090**.
- D. If the owner of an exempt development project elects to apply the ESL regulations to only a portion of the development project, the owner must demonstrate that those portions of the project developed or to be developed under hillside district regulations meet all requirements of those regulations, including the preservation of hillside conservation areas through easement or dedication.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)

Sec. ~~7.824~~ **6.1024**. Special exceptions from the ESL regulations

- A. Special exceptions from the ESL regulations may be approved by the ~~project review director~~ **ZONING ADMINISTRATOR** in the following circumstances:
  - 1. *Nonbuildable parcel.* If the application of the ESL regulations to a parcel, which was a legally constituted lot on which development would have been permitted prior to the adoption date of ESLO (**February 19, 1991**), would prevent the development of at least one (1) single-family dwelling, the parcel may be developed with one (1) single-family dwelling pursuant to the grant of a special exception, provided that such development otherwise conforms to the ESL regulations as closely as reasonably possible.
  - 2. *Nonhillside district development project approvals.* Modifications to development project approvals, or subsequent development approvals for development projects approved under nonhillside district zoning classifications prior to the effective date of ESLO (**February 19, 1991**) are subject to the ESL regulations. However, it is the intent of these regulations that such development project be brought into compliance with the ESL regulations as closely as reasonably possible without creating undue hardship on the owner.
- B. *Special Exception Submittal Requirements.* In addition to the submittal requirements described in section ~~7.844~~ **6.1090**, applications for special exceptions from the ESL regulations authorized in this section shall include the following:
  - 1. Documentation of existing development approvals for the development site and the special exception eligibility of the parcel.

2. Environmental mapping necessary to identify the ESL regulation(s) from which the special exception is requested.
3. A development plan showing the approved land uses and the areas that will be affected by the proposed special exception.
4. A report describing the proposed exceptions from the ESL regulations and describing the rationale for the exceptions.

~~(Ord. No. 2305, § 1, 2-19-91)~~

~~Sec. 7.830. Review procedures for ESL applications.~~

## **SEC. 6.1030. APPROVALS REQUIRED**

### **SEC. 6.1031. REZONINGS AND USE PERMITS IN HILLSIDE LANDFORM**

**WHEN** reviewing the compatibility of rezoning and use permit applications in the hillside landform on land with slopes between fifteen (15) and twenty-five (25) percent that is not a severely constrained area, **THE FOLLOWING SHALL BE CONSIDERED:**

- ~~1.A.~~ **A.** Grading and other site preparations are within the limits established by the *Development Design Guidelines for Environmentally Sensitive Lands*, and whether essential grading complements the natural land forms.
- ~~2.B.~~ **B.** Vehicular and pedestrian circulation conforms to the *Development Design Guidelines for Environmentally Sensitive Lands*, and is within the emergency standards acceptable for fire truck use.
- ~~3.C.~~ **C.** Views to development from viewpoints, **AS DEFINED IN SECTION 3.100**, have been analyzed, and whether the applicant has demonstrated to the **CITY MANAGER OR DESIGNEE** that satisfactory methods will be used for revegetation, plant protection/salvage, minimization of cuts and fills, and blending of structures with the site in terms of building mass and color hue, value, and chroma (from the *Munsell Book of Color*).
- ~~4.D.~~ **D.** Human lives and property are protected from unstable slopes, flooding, and other safety hazards.
- ~~5.E.~~ **E.** The placement, grouping, scale, and shaping of structures complements the natural landscape.
- ~~6.F.~~ **F.** Large, graded bare areas **ARE** fully revegetated.



~~Sec. 7.831. Plats~~

**SEC. 6.1032. PLATS.**

**ALL** applications for preliminary plats in the ~~hillside and upper desert landform areas,~~ **ESL OVERLAY DISTRICT** shall be reviewed for compliance with the ESL provisions and approved by the Development Review Board.

**SEC. 6.1033. INDIVIDUAL SINGLE-FAMILY APPLICATIONS IN THE HILLSIDE LANDFORM**

**SINGLE-FAMILY HOMES THAT ARE NOT PART OF A SUBDIVISION PLAT AND PROPOSED WITHIN THE HILLSIDE LANDFORM SHALL BE REVIEWED FOR COMPLIANCE WITH SPECIFIED SITE DESIGN CRITERIA INTENDED TO PROMOTE PUBLIC SAFETY AND SHALL BE APPROVED BY THE DEVELOPMENT REVIEW BOARD. (SEE SECTION 6.1070 (C).)**

**Sec. 6.1034. Master Development Plan Applications**

- ~~1.A.~~ When a master development plan is required, a rezoning ~~or a preliminary plat~~ shall not be approved without the concurrent approval by the City Council of the site development, conceptual circulation, and conceptual phasing master plans, and conceptual open space master plan for the entire area to be rezoned.
- ~~2.B.~~ No on-site or off-site development for any phase of a master development plan shall begin until the circulation, phasing, parking, drainage, water, and wastewater master plans have been approved by the master planning staff and the project review division, and the environmental design concept master plan has been approved by the Development Review Board.
  - ~~a.1.~~ The master plans shall be provided for the entire development project unless it can be demonstrated to the ~~project review director~~ **CITY MANAGER OR DESIGNEE** that the master plan can be prepared for one or more discreet phases that can stand alone independent of the entire project.
- ~~3.C.~~ Approvals for individual buildings shall not be granted until the master development plan, including all the required parts of the plan, has been approved.
- ~~F.D.~~ *Modifications to approved master development plans.*
  1. Major changes to the permitted uses, density or gross floor area described in a site development master plan defined in section ~~7.844(B)(1),~~ **6.1094(B)(1)**, or to other master plans approved as part of a

rezoning, ~~or~~ use permit **OR CITY COUNCIL APPROVED AMENDED DEVELOPMENT STANDARDS** must be reviewed and approved by the City Council subject to the notice and hearing provisions of sections 1.600 and 1.700. In general, major changes are those that affect more than ten (10) percent of either the land or gross building square footage. Staff may determine that a change is major due to the impacts of the proposed changes, even where less than ten (10) percent of land or intensity is affected.

The transfer of units between parcels as provided in an approved master-planned development zoning case is not a major change.

2. Minor changes to the site development plan and all other master plans, consistent in scope and intent with the originally approved plans, may be approved by city staff. In general, minor changes affect less than ten (10) percent of either the land area or gross building square footage.

**~~Sec. 7.832. Appeals.~~**

**~~Sec. 7.833. Maintenance.~~**

**~~Sec. 7.840. Submittal requirements.~~**

**~~E. Approvals required.~~**

- ~~1. When a master development plan is required, a rezoning or a preliminary plat shall not be approved without the concurrent approval by the City Council of the site development, conceptual circulation, and conceptual phasing master plans, and conceptual open space master plan for the entire area to be rezoned.~~
- ~~2. No on-site or off-site development for any phase of a master development plan shall begin until the circulation, phasing, parking, drainage, water, and wastewater master plans have been approved by the master planning staff and the project review division, and the environmental design concept master plan has been approved by the Development Review Board.
  - ~~a. The master plans shall be provided for the entire development project unless it can be demonstrated to the project review director, that the master plan can be prepared for one, or more, discreet phases that can stand alone independent of the entire project.~~~~
- ~~3. Approvals for individual buildings shall not be granted until the master development plan, including all the required parts of the plan, has been approved.~~

F. ~~—~~ *Modifications to approved master development plans*

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)

**Sec. 7.850. Use Restrictions and development standards.**

**Sec. 6.1040. ESL USE RESTRICTIONS**

Land uses shall be those permitted in the underlying zoning district except as follows:

~~A.~~ Land uses in the hillside landform areas with land slopes over twenty-five (25) percent, special features or unstable slopes are restricted to the following, provided that uses must also be permitted by the underlying zoning: residential uses including resort units and related streets and utilities; the activities identified in the Conservation Open Space (COS) district; (section 6.703 of the Zoning Ordinance) and golf tees. Ancillary resort uses, such as restaurants, meeting rooms or parking areas for more than five (5) cars are not permitted.

~~B.~~ The following guidelines shall be considered in reviewing the compatibility of rezoning and use permit applications in the hillside landform on land with slopes between fifteen (15) and twenty five (25) percent that is not a severely constrained area:

- ~~1.~~ Whether grading and other site preparations are within the limits established by the *Development Design Guidelines for Environmentally Sensitive Lands*, and whether essential grading complements the natural land forms.
- ~~2.~~ Whether vehicular and pedestrian circulation conforms to the *Development Design Guidelines for Environmentally Sensitive Lands*, and is within the emergency standards acceptable for fire truck use.
- ~~3.~~ Whether views to development from viewpoints, designated on the ESLO special features map have been analyzed, and whether the applicant has demonstrated to the project review director that satisfactory methods will be used for revegetation, plant protection/salvage, minimization of cuts and fills, and blending of structures with the site in terms of building mass and color hue, value, and chroma (from the *Munsell Book of Color*).
- ~~4.~~ Whether human lives and property are protected from unstable slopes, flooding, and other safety hazards.
- ~~5.~~ Whether the placement, grouping, scale, and shaping of structures complements the natural landscape.

~~6. Whether large, graded bare areas will be fully revegetated by the end of the construction phase.~~

(Ord. No. 2305, § 1, 2-19-91)

~~Sec. 7.852.~~ **6.1050. Intensity of Development.**

**IN APPLYING THE PROVISIONS OF THIS SECTION, APPLICANTS SHALL USE THE ESL LANDFORMS AND PROTECTED PEAKS AND RIDGES MAPS, UNLESS OTHERWISE EXEMPTED BY SEC. 6.1022B OR 6.1023.**

The intensity of development in the lower desert and upper desert landforms shall be determined by the underlying zoning district, **AND SHALL NOT EXCEED THE MAXIMUM AS PROVIDED IN TABLE B. WHERE THE NAOS DENSITY INCENTIVE OR CLUSTER OPTION IS USED, TABLE B SHALL SERVE AS THE “BASE” INTENSITY ON THE PARCEL.** The intensity of development in the hillside landform shall be determined as follows:

- A. The base and maximum intensities of development in the hillside landform on slopes less than twenty-five (25) percent, on exposed/shallow bedrock, or in major or minor watercourses, shall be as follows:

	Single-Family Detached D.U./Acre	Attached Multifamily D.U./Acre	Resort Hotel/ Casita Units/Acre	Nonresidential Floor Area Ratio
Base	0.2	1.0	2.0	0.05
Maximum	1.0	3.0	8.0	0.20

- 1. The underlying zoning must permit the base intensities **AND USES.**
- 2. Intensities above the base level up to the maximum intensity may be approved by the City Council after notice and hearing as provided in section 1.600 and 1.700, and upon a finding that the proposed intensity meets the guidelines set forth in section 7.851(B).
- 3. Resort hotel/casita units are limited to resort hotel guest rooms or casitas that do not have individual driveway access to each unit. Parking areas for more than five (5) cars, restaurants, meeting rooms, and other ancillary uses must be located on land that is not a severely constrained area.

- B. Except when modified as provided in subparagraph (E) of this section, the maximum permitted intensity on land in the hillside landform with slopes from twenty-five (25) to thirty-five (35) percent or boulder features, shall be one (1) dwelling or resort unit per twenty (20) acres (1/20 or .05 D.U./AC.). Ancillary resort uses, such as restaurants, are not permitted.
1. Intensities up to a maximum intensity of one (1) dwelling or resort unit per five (5) acres (1/5 or .2 D.U./AC.) may be approved by the City Council, after notice and hearing as provided in section 1.600 and 1.700, and upon demonstration by the applicant and finding by the City Council that the land proposed for the increased intensity is not visible from viewpoints, **AS DEFINED IN SECTION 3.100.** ~~designated by the city on the ESLO Special Features Maps,~~ and that the proposed intensity is compatible with the ~~guidelines~~ **CONSIDERATIONS LISTED** in section ~~7.851(B)~~ **6.1031**. In making its determination, the City Council ~~is to~~ **SHALL** consider the following factors:
    - a. Visibility of the ~~more intensive~~ **PROPOSED** developments from scenic corridors and arterial streets.
    - b. The impact of the development on the environmental conditions listed in section ~~7.821~~ **6.1021**.
- C. Except when modified as provided in subparagraph (E) of this section, the maximum permitted intensity on land in the hillside landform with slopes over thirty-five (35) percent or on unstable slopes shall be one (1) dwelling or resort unit per forty (40) acres (1/40 or .025 D.U./AC.). Ancillary resort uses, such as restaurants, are not permitted.
- D. General guidelines.
1. If a lot encompasses two (2) slope categories the intensity limit is determined by reference to the slope category of the land on which the **MAJORITY OF THE** ~~building pad~~ or construction envelope is located. The purpose of this provision is to provide flexibility in lot configuration.
  - ~~2. Some incursion in grading or other construction activity, may occur on a plan between one (1) intensity area and a lower intensity area. Such incursions should not in general exceed twenty (20) feet horizontally.~~
- E. The City Council may grant a special exception from the maximum intensities allowed by subparagraphs (B) and (C) of this section for parcels which meet the following requirements:

1. *Qualifications.* Only parcels, which meet the following qualifications, are eligible for development as a special exception under the provisions of this subparagraph (E):
  - a. The parcel consists of at least nine (9) acres, at least eighty (80) percent of which are severely constrained areas.
  - b. On February 19, 1991, the parcel was a legally constituted lot on which development would have been permitted under the terms of the ordinance in effect at the time the lot was created or was annexed to the city.
  - c. No density transfer is proposed.
  - d. The area which will be disturbed by the proposed development is less than twenty (20) percent of the development site area.
  - e. More than eighty (80) percent of the development site area will be preserved as natural area open space (NAOS).
  
2. *Findings.* Higher intensities may be granted pursuant to the special exception permitted by this subparagraph only where the Council finds that:
  - a. The maximum intensities otherwise permitted by this ordinance would create a substantial disincentive to develop the site with a desirable and appropriate use and/or intensity, and the requested change is the minimum required in order to remove excessive constraints on the development of the site.
  - b. The requested intensity will not create increased health or safety hazards to people or property resulting from unstable slopes or other environmental hazards.
  - c. Units will be placed at lower elevations or at other locations on the property selected to reduce the grading which will be required to access the structures.
  - d. Visibility of development from viewpoints **AS DEFINED IN SECTION 3.100** ~~designated on the ESL Special Features Maps~~ is limited.
  
3. *Procedure.*
  - a. Before the City Council hears an application for special exception, the Development Review Board shall review the plans to ensure that any

development proposed for unstable slopes, special features or other environmental conditions, is appropriate to these conditions, and preserves them to the maximum extent possible.

- b. Applications for ~~special~~ exceptions under this section shall include the submittals set forth in section ~~7.843(B)~~ **6.1090** of this Ordinance, and shall be subject to notice and hearing as provided in sections 1.600 and 1.700.

F. The permitted development intensity in the hillside landform shall be calculated as follows:

1. Determine the location of each environmental condition referenced in section ~~7.852~~ **6.1050** (A), (B), and (C). If more than one (1) condition is present on the same land area that which imposes the greatest restriction shall determine the intensity for development on that land area.
2. Determine the amount of land in acres impacted by each environmental condition.
3. Multiply the total acreage impacted by each environmental condition by the intensity permitted by section ~~7.852~~ **6.1050** (A) through (C) for that condition.
4. On parcels of twenty (20) or more gross acres, the permitted intensity for small areas of twenty thousand (20,000) square feet or less which have environmental conditions different than those of the surrounding area, shall be determined by the intensity permitted on the surrounding area. If a small area abuts both a lower and a higher intensity area, the small area shall be divided equally between the two (2) intensities.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)

### **Sec. ~~7.853~~ 6.1060. Open Space Requirements**

A. *NAOS requirements.*

1. In order to preserve sensitive environmental conditions, **RETAIN AND PROTECT MEANINGFUL DESERT OPEN SPACE**, maintain visual amenities, and mitigate hazards, a percentage of the acreage containing specified conditions shall be set aside as natural area open space (NAOS). The minimum percentage of NAOS ~~for each specified environmental condition~~ **BASED ON SLOPE AND LANDFORM CATEGORY** is provided in tables A. ~~or B.~~

- a. ~~Table A is the simpler method to use for calculations.~~ **Using Table A,** NAOS requirements are determined by slope and landform which corresponds to the location of other environmental conditions such as unstable slopes, undisturbed desert vegetation, boulder features, and watercourses. **WHERE THESE PROVISIONS CONFLICT WITH THE MINIMUM NAOS DIMENSIONS DESCRIBED IN SECTION 6.1060 (F), THE MORE RESTRICTIVE PROVISIONS OF SECTION 6.1060 (F) SHALL TAKE PRECEDENCE.**
  - b. ~~Table B provides a more detailed site analysis that may result in a reduced NAOS requirement, if the site contains fewer natural features than the average for its location. Where a portion of the parcel contains two (2) environmental conditions, the more restrictive minimum percentage shall apply to that portion.~~
  - e. ~~The applicant has the option of using table A. The method must be selected and NAOS requirements calculated prior to development approval. The same method must be used to calculate NAOS for the entire development project.~~
2. Land designated as NAOS shall be permanently maintained as open space. The applicant shall demonstrate to the satisfaction of the City Attorney that the entire NAOS area will be permanently maintained as natural area open space through easements, donation or dedication to the city **AND/OR CONSERVANCY, LAND TRUST OR SIMILAR ENTITY.** ~~other entity~~ **A SIMILAR ENTITY IS AN ORGANIZATION THAT HAS GOALS AND PURPOSES CONSISTENT WITH PERMANENTLY MAINTAINING NAOS AND CAN DEMONSTRATE ITS ABILITY TO MAINTAIN THE NAOS TO THE SATISFACTION OF THE CITY ATTORNEY.**
  3. If NAOS is located in a common tract owned by a homeowners association, the property shall be maintained through a common maintenance agreement. **IF NAOS IS LOCATED ON INDIVIDUAL LOTS (ON-LOT NAOS), THE INDIVIDUAL PROPERTY OWNER SHALL BE RESPONSIBLE FOR MAINTENANCE. (SEE SECTION 6.1100 FOR DETAILED INFORMATION REGARDING MAINTENANCE OF NAOS.)**
  4. **COMMON-TRACT NAOS LOCATIONS AND BOUNDARIES, INCLUDING PRECISE ACREAGE, SHALL BE SHOWN ON THE SUBDIVISION PLAT AND/OR MAP OF DEDICATION.**
  5. **ON-LOT NAOS LOCATIONS: IN APPLICATIONS WHERE NAOS IS PROVIDED ON INDIVIDUAL LOTS, APPROXIMATE BOUNDARIES AND PRECISE ACREAGE OF THE PROPOSED NAOS SHALL BE SHOWN ON AND CONFORM TO AN EXHIBIT APPROVED BY THE**



**CITY MANAGER OR DESIGNEE PRIOR TO FILING A FINAL  
SUBDIVISION PLAT AND/OR MAP OF DEDICATION.**

TABLE A

	Lower Desert Landform	Upper Desert Landform	Hillside Landform
0--2%	20%	25%	50%
Over 2% up to 5%	25%	25%	50%
Over 5% up to 10%	30%	35%	50%
Over 10% up to 15%	30%	45%	50%
Over 15% up to 25%	30%	45%	65%
Over 25%	30%	45%	80%
Minimum NAOS after reductions if applicable. (See Sec. 6.1060 (B))	15%  (See Sec. 6.1060 (F) for minimum dimensions)	20%  (See Sec. 6.1060 (F) for minimum dimensions)	40%  (See Sec. 6.1060 (F) for minimum dimensions)

~~TABLE B~~

~~NATURAL AREA OPEN SPACE: DETAILED ANALYSIS~~

<del>Environmental Condition</del>	<del>Minimum Percent In Natural Area Open Space</del>
<del>1. Steep slopes over 15%</del>	<del>50%</del>
<del>2. Steep slopes over 25%</del>	<del>80%</del>
<del>3. Unstable slopes</del>	<del>95%</del>

4. Natural landmark	90%
5. Boulder feature	80%
6. Minor or major watercourse	60%
7. Exposed/shallow bedrock	35%
8. Undisturbed native vegetation based on native plant densities*	
a. Under 10 trees/cacti per acre	15%
b. 10–19 trees/cacti per acre	25%
c. 20 or more trees/cacti per acre	35%
*Native plants include the specific species defined in article V, protection of native plants, section 46-105 through 46-120 of the City Code.	

B. *NAOS reduction.*

NAOS requirements may be reduced as provided herein. The minimum NAOS after reductions, for the gross lot area of the development project and for each development site, **OR PARCEL** shall be fifteen (15) percent in lower desert, twenty (20) percent in upper desert, and forty (40) percent in hillside landforms.

1. *Proportional reduction in NAOS for CA/ COS.* An owner is entitled to reduce the required NAOS by calculating the percentage of the total parcel that is ~~designated conservation area (CA) or~~ zoned conservation open space (COS), and reducing the NAOS requirement for the **REMAINDER OF THE** property by this same percentage. ~~Procedures for the creation of CA are set forth in section 7.855(A)(2).~~
2. *Reduction for regional drainage facility.* Where a development site contains areas dedicated for regional stormwater management pursuant to approved city regional drainage and flood control plans developed by the city, having a design flow of two thousand (2,000) cfs or more and providing drainage for

one (1) square mile (one [1] section) or more, the NAOS requirement shall be reduced as follows:

- a. The NAOS requirement shall be reduced one (1) ~~acre~~ **SQUARE FOOT** for each revegetated one (1) ~~acre~~ **SQUARE FOOT** of the regional drainage facility**(1:1)**.
  - b. The NAOS requirement shall be reduced one (1) ~~acre~~ **SQUARE FOOT** for each two (2) ~~acres~~ **SQUARE FEET** of turf or similar improvements for recreational areas within the regional drainage facility (1:2). The reduction for improved areas shall not exceed fifty (50) percent of the original NAOS requirement.
3. *Reduction for revegetation.* On land stripped of natural vegetation or scarred prior to January 1, 1990, the NAOS requirement for the parcel shall be reduced by two (2) ~~acres~~ **SQUARE FEET** for every one (1) ~~acre~~ **SQUARE FOOT** of revegetated NAOS (2:1). **THIS PROVISION CANNOT BE USED TO INCREASE THE MAXIMUM REVEGETATED NAOS ABOVE THE 30% MAXIMUM REFERENCED IN SECTION 6.1060 (D) 2.**
4. *Reduction for designated historical or archaeological site.* Land designated as a permanently protected historical or archaeological site, approved by the city, shall be used to reduce the required NAOS by two (2) ~~acres~~ **square feet** for each one (1) ~~acre~~ **SQUARE FOOT** of approved site **(2:1)**.
5. ***LOWER DESERT LANDFORM WITH MINIMAL SLOPES AND LIMITED ENVIRONMENTAL CONDITIONS. SITES WITHIN THE LOWER DESERT LANDFORM HAVING SLOPES OF 0%-5%, MAY REDUCE THE REQUIRED AMOUNT OF NAOS TO 15% IF THE APPLICANT CAN DEMONSTRATE TO THE SATISFACTION OF THE ZONING ADMINISTRATOR THAT THE PROPERTY CONTAINS NO BOULDER FEATURES, NO MINOR OR MAJOR WATERCOURSES AND CONTAINS UNDISTURBED NATIVE PLANT DENSITIES\* WITH LESS THAN 10 TREES/CACTI PER ACRE. WHERE THESE PROVISIONS CONFLICT WITH THE MINIMUM NAOS DIMENSIONS DESCRIBED IN SECTION 6.1060 (F), THE MORE RESTRICTIVE PROVISIONS OF SECTION 6.1060 (F) SHALL TAKE PRECEDENCE.***

\*Native plants include the specific species defined in article V, protection of native plants, section 46-105 through 46-120 of the City Code.

- ~~5. *Reduction for improved open space.* As an incentive to provide outdoor recreation areas in development projects, the applicant may reduce the NAOS requirement by one (1) acre for each four (4) acres of turf or similar improved~~

~~open space areas, such as golf courses or parks. No NAOS reduction is allowed for land used for buildings, parking, pavement, or other hard surfaces.~~

C. *Density Incentive for NAOS.*

1. A density incentive bonus not to exceed twenty (20) percent of the density otherwise allowed under the terms of the Zoning Ordinance may be granted to applicants who provide more **MEANINGFUL** NAOS than is required in section ~~7.853~~ **6.1060(A)** of this Ordinance. The bonus must be approved by the City Council after notice and hearing as provided in sections 1.600 and 1.700, and providing further that the following criteria are met:
  - a. The bonus applies only in **THE R1-43, R1-70, R1-130, AND R1-190** residential **ZONING** districts.
  - b. The incentive must be calculated using the base NAOS standards for the development project, and cannot be used in combination with any reductions in NAOS.
  - c. The additional NAOS must be undeveloped natural area and cannot include revegetated areas.
  - d. **THE ADDITIONAL NAOS MUST RESPOND TO SITE CONDITIONS AND THE SURROUNDING CONTEXT TO MAXIMIZE CONNECTIONS WITH EXISTING OR PLANNED OPEN SPACE ON ADJOINING PROPERTIES INCLUDING THE MCDOWELL SONORAN PRESERVE.**
2. The increase in density is calculated by multiplying the percent of gross land area **OF THE PARCEL** to be provided as additional NAOS, times the **BASE** density ~~otherwise permitted on the property~~ **AS ESTABLISHED IN TABLE B.**

D. *Types of NAOS.* The NAOS requirement may be satisfied by two (2) types of open space: undeveloped natural areas and revegetated areas.

1. *Undeveloped natural areas.* Undeveloped natural areas shall constitute a minimum of seventy (70) percent of the required NAOS. **THIS MINIMUM APPLIES TO BOTH “ON-LOT” AND “COMMON TRACT” NAOS.**
  - a. Infill. When native plants in a designated undeveloped natural area are significantly less dense than under natural conditions because of man-made or natural disturbance to the land, the developer may increase the density and number of species of native plants to approximate the natural conditions of the vegetation community.

b. Infill areas shall count as undeveloped natural area for NAOS if approved by the ~~project review director~~ **CITY MANAGER OR DESIGNEE**.

2. *Revegetation*. Revegetation areas shall qualify as NAOS, but in no case shall constitute more than thirty (30) percent of the required NAOS. **THESE PROVISIONS CANNOT BE USED IN CONJUNCTION WITH THOSE CONTAINED IN SECTION 6.1060 (B)3. TO INCREASE THE MAXIMUM PERCENTAGE OF REVEGETATED NAOS ABOVE 30%.** Revegetated areas shall meet following requirements:

a. Planting programs for revegetated areas may include transplanted and seeded methods of application. **PROVIDE A LIST OF PROPOSED PLANT SPECIES AND QUANTITIES.**

b. Planting programs shall be consistent with the slope aspect of the surrounding natural vegetation, and shall be consistent ~~to the extent possible~~ with the species and density of surrounding vegetation **AND ADJACENT NATURAL DESERT.**

c. All materials, design and construction techniques for revegetation shall be approved by the ~~project review director~~ **CITY MANAGER OR DESIGNEE**. Decisions of the ~~project review director~~ **CITY MANAGER OR DESIGNEE** may be appealed to the Development Review Board as provided in section ~~7.832~~ **6.1110**.

**D. INCORPORATE BOULDERS AND SALVAGED SURFACE MATERIAL TO MATCH AND BLEND WITH SURROUNDING DESERT CHARACTER.**

**E. PROVIDE A TEMPORARY WATERING PROGRAM.**

**F. IN THOSE CASES WHERE PREVIOUSLY SCARRED OR CLEARED AREAS ARE TO BE RESTORED, THE PLANT SPECIES AND DENSITY SHALL BE DETERMINED BY MATCHING WHAT EXISTED ON THE SITE PRIOR TO THE SCARRING OR CLEARING.**

E. *Improved open space*. When the open space requirement of the underlying zoning district exceeds the NAOS requirements imposed by the ESL standards, the balance of the required open space may be either improved open space or NAOS.

F. *Distribution of NAOS*.

1. *NAOS Dimensions*.

- a. The minimum contiguous area for NAOS is four thousand (4,000) square feet.
  - b. The minimum horizontal dimension for NAOS areas is thirty (30) feet, except that the minimum horizontal dimension for NAOS located along roadsides will be twenty (20) feet.
  - c. ~~In subdivisions~~ Where the minimum **FINISHED** lot size is ~~twelve thousand (12,000)~~ **TWENTY-TWO THOUSAND (22,000)** square feet or less, NAOS shall be placed in common tracts, **OR ON OTHER LOTS WITHIN THE SAME SUBDIVISION** unless ~~project review director~~ **THE CITY MANAGER OR DESIGNEE** approves placement in contiguous areas on ~~individual~~ **ADJACENT** lots. ~~NAOS on individual lots may not be enclosed by walls that obstruct views.~~ **SEE SECTION 6.1070 (A) FOR ON-LOT NAOS DESIGN STANDARDS AND SECTION 6.1090 FOR ON-LOT NAOS SUBMITTAL REQUIREMENTS.**
2. *Modification of NAOS Dimensions.* ~~The project review director~~ **CITY MANAGER OR DESIGNEE** may approve modifications to the minimum NAOS dimensions set forth above, subject to the following criteria:
- a. The NAOS location ~~guidelines~~ **STANDARDS** set forth in paragraph ~~(5)~~ **(3)** are met.
  - b. Reductions in dimensions will ~~not create insignificant~~ **MAINTAIN** NAOS areas that are ~~not~~ easily recognizable and that ~~represent~~ **WILL NOT RESULT IN** maintenance problems due to their proposed locations.
  - c. Adjacent land uses, such as streets, will not negatively impact the viability of vegetation or other features of the land to be preserved.
3. *NAOS location.* ~~guidelines.~~ The location of NAOS on a site plan or preliminary plat shall be based, ~~to the extent feasible,~~ on the following: ~~guidelines.~~
- a. Continuity of open space within the development project and with adjacent developments **OR WITH THE MCDOWELL SONORAN PRESERVE.**
  - b. **CONTINUITY OF “ON-LOT” OPEN SPACES ON ADJOINING LOTS.**
  - bc. Preservation of the most significant features and vegetation, including rock outcroppings, natural watercourses, and significant concentrations of native vegetation in relation to the surrounding development project.

- ed. Distribution throughout the developed area and avoidance of concentration in one (1) location.
- de. Location in areas where a buffer is desirable along the property boundary, or where it is contiguous with NAOS on adjacent property, **INCLUDING PROPERTY WITHIN THE MCDOWELL SONORAN PRESERVE.**
- ef. Location in areas visible from streets or common areas.
- fg. ~~Avoidance of The use of walls or other visual obstructions that will limit the~~ **NEED FOR** visibility of NAOS from streets or common areas.
- h. **THE NEED FOR UNIMPEDED WILDLIFE ACCESS AND MOVEMENT WITHIN AND BETWEEN ALL COMMON-TRACT NAOS, INCLUDING MINOR AND MAJOR WATERCOURSES, VISTA CORRIDORS AND SCENIC CORRIDORS AND PARTICULARLY AT THE MCDOWELL SONORAN PRESERVE BOUNDARY.**

4. *NAOS Distribution within master planned developments.* Where a master plan developer elects to provide NAOS in excess of the minimum NAOS requirement for specific development sites, such excess NAOS may be credited against NAOS requirements for other development sites on the master plan, provided that the NAOS credits are documented on an open space master plan which identifies excess NAOS by development site and allocates such excess to specific development sites elsewhere on the property. The master plan developer must authorize the allocation in writing.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)

**Sec. ~~7.854.~~ 6.1070. DESIGN STANDARDS**

A. *General Standards.*

1. Development projects shall employ design techniques which reduce the disruption of the severely constrained areas (SCA) of a parcel defined in section ~~7.855A.1.~~ **6.1081A.1.**, reduce the amount of streets and pavement, maximize open space, reduce the length of water and sewer systems, and minimize the restructuring of natural drainage systems.
2. The intensity calculated in sections ~~7.852~~ **6.1050** and ~~7.855~~ **6.1080** shall be the maximum permitted intensity. A structure or residential building construction

envelope that is located in more than one (1) density category in section ~~7.852~~ **6.1050(B)** and (C) shall be considered as located in the higher density area if the majority of the floor area or construction envelope area (over fifty [50] percent) is in the less restricted condition and the incursion into a lower intensity area extends less than twenty (20) feet for structures or thirty-five (35) feet for construction envelopes.

3. ~~Whenever conceptual Construction envelopes have been identified on the plat or approved site plan,~~ **ARE REQUIRED WHEN NAOS IS PROPOSED ON INDIVIDUAL LOTS.** All impervious surfaces and improved open space shall be contained within construction envelopes. **(SEE CONSTRUCTION ENVELOPE DEFINITION IN SECTION 3.100.)**
4. Underground utility corridors and drainage improvements outside of the construction envelopes shall be included in the revegetated open space.
5. The NAOS shall be clearly identified and protected during building by methods and techniques approved by the ~~project review director~~ **CITY MANAGER OR DESIGNEE.**
6. **ON-LOT NAOS SHALL BE DESIGNED WITH CONSIDERATION OF THE SURROUNDING CONTEXT TO CONNECT WITH EXISTING OR PLANNED OPEN SPACE ON ADJACENT PROPERTIES SO THAT CONTINUOUS AREAS OF MEANINGFUL OPEN SPACE ARE FORMED.**
7. **ON-LOT NAOS SHALL NOT BE LOCATED WITHIN THE REQUIRED FRONT YARD WHERE THE FRONT YARD DEPTH IS LESS THAN FORTY (40) FEET.**

B. *Building heights.*

1. The maximum building height is that prescribed by the underlying district except as modified by the following:
  - a. The maximum building height in the ESL district shall be established by a plane measured vertically above the existing natural terrain elevation prior to grading; as the natural grade rises, the maximum height will rise accordingly. Small areas of rugged terrain inconsistent with this plane will not increase or reduce building height. Small areas are those features with a maximum width of twenty-five (25) feet.
  - b. The maximum building height in **SINGLE FAMILY RESIDENTIAL (R1) DISTRICTS SHALL BE TWENTY-SIX (26) FEET.**



- b.c. **THE MAXIMUM BUILDING HEIGHT IN THE HILLSIDE LANDFORM** the hillside landform shall be the height prescribed by the underlying district or thirty (30) feet whichever is lower, except as modified by section ~~7.854(A)~~ **6.1070(B)(1)(d)** below.
- e.d. The Development Review Board may permit additional building heights in the hillside landform up to a maximum height of forty (40) feet where the applicant demonstrates that the additional height will reduce the visual impact of the structure or site work from established viewpoints, and will reduce the area required for grading, or other land disturbance activities, on sensitive conditions.

**C. HILLSIDE LANDFORM SITE DESIGN CRITERIA:**

**HILLSIDE LANDS ARE PRONE TO NATURAL HAZARDS. IN ORDER TO PROTECT LIVES AND PROPERTY FROM DISASTERS RESULTING FROM POORLY DESIGNED HILLSIDE DEVELOPMENT AND TO MITIGATE THE POTENTIAL FOR INCREASED EROSION, BOULDER ROLLING, ROCKFALLS, AND LANDSLIDING, THE DEVELOPMENT REVIEW BOARD (DRB) SHALL REVIEW INDIVIDUAL SITE PLANS LOCATED WITHIN THE HILLSIDE LANDFORM THAT ARE NOT PART OF A SUBDIVISION PLAT AGAINST THE FOLLOWING CRITERIA:**

- 1. ALL CONSTRUCTION SHALL BE SET BACK A MINIMUM OF (20) TWENTY FEET FROM BOULDER FEATURES AS DEFINED IN SECTION 3.100. THE DRB MAY APPROVE EXCEPTIONS TO THESE CRITERIA WHERE SPECIFIC DESIGN SOLUTIONS PROTECT PUBLIC SAFETY.**
- 2. UNPROTECTED SLOPES SHALL BE PROTECTED FROM FOCUSED STORMWATER FLOWS.**
- 3. ALL STORM RUNOFF SHALL BE DIRECTED TOWARDS NATURAL CHANNELS USING BEST PRACTICES FOR EROSION CONTROL.**
- 4. MINIMIZE REMOVAL OF NATIVE VEGETATION FROM AREAS OUTSIDE OF CONSTRUCTION ENVELOPES.**

**D. Protected peaks and ridges.**

1. All building projects shall be set back an average of three hundred (300) feet horizontally and a minimum of two hundred (200) feet from a protected peak or a protected ridge.

2. The maximum elevation of any structure within four hundred (400) feet horizontally of a protected peak or ridge shall be at least twenty-five (25) feet below the elevation of the nearest point of a protected peak or ridge.
3. Protected peaks and ridges shall be identified on ESLO ~~Special Features~~ **PROTECTED PEAKS AND RIDGES** Maps prepared by the city, and may be revised as follows:

Applicants for a specific development project may request a map refinement concurrently with a development project application. The requested refinement will be processed as part of the development project and the refinement shall be reviewed and acted upon in accordance with the applicable requirements for the development project. Request for map refinement shall include a visual analysis from viewpoints ~~on the ESLO Special Features Maps.~~ **AS DEFINED IN SECTION 3.100.**

4. Protected peaks and ridges on a property shall be shown ~~on the city's official zoning map and on final plats~~ **AT THE TIME OF CITY COUNCIL APPROVAL.** ~~following City Council approval of a rezoning request or final plat.~~

- E. Revisions of Landform Maps.** Landforms are identified on the ESL ~~Special Features~~ **LANDFORMS AND PROTECTED PEAKS AND RIDGES** Maps by the city. The maps may be revised as follows:

A. Applicants for a specific development project may request a change in all or part of the landform boundaries on the ESL ~~Special Features~~ **LANDFORMS AND PROTECTED PEAKS AND RIDGES** Maps prior to or concurrently with a development project application. The applicant shall submit technical data to the ~~project review director~~ **CITY MANAGER OR DESIGNEE** to support the request. If the ~~project review director~~ **CITY MANAGER OR DESIGNEE** determines that the request represents more than a minor refinement, the requested landform boundary change shall be prepared by an Arizona state registered geologist and shall include a technical analysis to support the requested map revision. The definitions of the three landform areas shall be used by consulting geologists for their analysis of changes in the landform boundaries.

**B. MINOR REFINEMENTS TO THE LANDFORMS MAPS SHALL BE SUBJECT TO THE APPROVAL OF THE CITY MANAGER OR DESIGNEE.**

**C. MAJOR REVISIONS OF THE LANDFORMS MAPS SHALL BE SUBJECT TO DEVELOPMENT REVIEW BOARD APPROVAL. DEVELOPMENT REVIEW BOARD APPROVAL SHALL OCCUR PRIOR TO THE PLANNING COMMISSION AND CITY COUNCIL PUBLIC HEARINGS IF THE REQUEST IS MADE CONCURRENTLY**

**WITH A SUBMITTAL FOR A REZONING OR USE PERMIT APPROVAL.**

**D. A PROPERTY OWNER MAY REQUEST A REVISION OF THE LANDFORMS MAP ON THEIR PROPERTY INDEPENDENTLY FROM A SUBMITTAL FOR A SPECIFIC PROJECT. SUCH SUBMITTALS SHALL FOLLOW ALL PROCESSES AND REQUIREMENTS IN SECTION 6.1070(E)(1) AND SHALL BE SUBJECT TO APPROVAL OF THE DEVELOPMENT REVIEW BOARD.**

**F. *Boulder Features.*** Development shall not be permitted on **OR IMMEDIATELY ADJACENT TO** boulder features ~~identified on the ESLO Special Features Maps,~~ **WITHIN THE ESL AREA AS DEFINED IN SECTION 3.100 AND A SETBACK OF TWENTY (20) FEET SHALL BE MAINTAINED AROUND THE BOULDER FEATURE** unless **OTHERWISE** approved by the Development Review Board. The **DEVELOPMENT REVIEW BOARD** may permit development on ~~identified~~ boulder features **WHICH MEET THIS DEFINITION** where the applicant demonstrates that the proposed construction will meet the following criteria:

1. When a proposed structure will be occupied, the applicant shall submit a technical analysis prepared by an Arizona State registered geologist demonstrating that the boulder feature is stable and does not present a threat to the proposed structure.
2. The applicant has demonstrated that the proposed construction will blend into the boulder feature so that the boulder feature is still **SUBSTANTIALLY** visible from public or private streets, and the structure does not detract significantly from the character of this special feature.

**G. *Site AND STRUCTURE Development Design Standards.***

1. Within the ESL district:
  - a. Mirrored surfaces or any treatments which change ordinary glass into a mirrored surface are prohibited.
  - b. **REFLECTIVE BUILDING AND ROOFING MATERIALS (OTHER THAN WINDOWS) INCLUDING** bright, untarnished copper or other metallic surfaces, shall be **TEXTURED OR HAVE A MATTE OR NON-SPECULAR SURFACE TREATMENT** ~~treated~~ to reduce reflections.
  - c. Materials used for exterior surfaces of all structures shall blend in color, hue, and tone with the surrounding natural desert setting to avoid high contrast.

- d. Surface materials of walls, retaining walls or fences shall be similar to and compatible with those of the adjacent main buildings.
- e. Development design and construction techniques should blend scale, form and visual character into the natural landform and minimize exposed scars.
- f. Exterior lighting should be low scale and directed downward, recessed or shielded so that the light source is not visible from residential development in the area or from a public viewpoint.

2. ~~In addition, within the upper desert and hillside landforms:~~

- a. ~~Reflective building materials are prohibited.~~
- bg. No paint colors shall be used ~~which~~ **WITHIN ANY LANDFORM THAT** have a LRV greater than **THIRTY-FIVE (35)** ~~forty (40)~~ percent. ~~(The LRV of a paint is available from paint manufacturers and it measures the amount of light reflected by a certain color.)~~
- eh. Exterior paint and material colors shall not exceed a value of six (6) and a chroma of six (6) as indicated in the *Munsell Book of Color* on file in the Planning Systems department. ~~(The *Munsell Book of Color* is a system that describes color in terms of three standardized attributes: hue, value (lightness/darkness) and chroma (intensity). Numerical values define each color attribute, and the colors are arranged in the book in equal visual steps for each attribute.)~~
- di. Plant materials that are not indigenous to the ESL area shall be limited to enclosed yard areas **AND NON-INDIGENOUS PLANTS THAT HAVE THE POTENTIAL OF EXCEEDING** ~~shall not exceed~~ twenty (20) feet in height **ARE PROHIBITED**. A list of indigenous plants is available from the Planning Systems department. Outdoor community recreation facilities, including parks and golf courses shall be allowed turf as specified in section ~~7.854(E)(2)(e)~~ **6.1070 (G)(1)(j)**.
- ej. Turf shall be limited to enclosed areas not visible offsite from lower elevation. Outdoor recreation facilities, including parks and golf courses, shall be exempt from this standard.

**K. ALL EQUIPMENT APPURTENANT TO UNDERGROUND FACILITIES, SUCH AS SURFACE MOUNTED UTILITY TRANSFORMERS, PULL BOXES, PEDESTAL CABINETS, SERVICE TERMINALS OR OTHER SIMILAR ON-THE-**

**GROUND FACILITIES, SHALL BE PAINTED COLORS WITH A LRV OF LESS THAN THIRTY-FIVE (35) PERCENT.**

- L. ANY PROPOSED MODIFICATIONS TO NATURAL WATERCOURSES AND ALL WALLS AND FENCES CROSSING NATURAL WATERCOURSES SHALL BE DESIGNED IN ACCORDANCE WITH THE STANDARDS AND POLICIES SPECIFIED IN CHAPTER 37 (DRAINAGE AND FLOODPLAIN ORDINANCE) OF THE CITY OF SCOTTSDALE REVISED CODE.**

(Ord. No. 2305, § 1, 2-19-91)

### **SECTION 6.1071. DESIGN GUIDELINES**

#### **B.A. *General Guidelines.***

1. Clustering, density transfer, NAOS or CA should be used to protect the most sensitive areas on a plat.
2. **NAOS SHOULD NOT BE ENCLOSED BY WALLS THAT DISRUPT ITS CONTINUITY WITH NAOS ON ADJACENT PROPERTIES.**
3. Sensitive site planning that responds to the environmental conditions will frequently lead to smaller average lot sizes, a reduction in disturbed land area, or fewer lots. The applicant has the burden of demonstrating that the proposed intensity can be developed on the site in a sensitive manner that is consistent with this ordinance, *The Development Design Guidelines for Environmentally Sensitive Lands*, and other approved city policies and guidelines.

#### **B. *GUIDELINES FOR THE MCDOWELL SONORAN PRESERVE BOUNDARY.***

1. **NAOS OUTSIDE THE MCDOWELL SONORAN PRESERVE BOUNDARY SHOULD BE ORIENTED TO MAINTAIN HABITAT AND UNIMPEDED WILDLIFE MOVEMENT TO AND FROM THE PRESERVE.**
2. **PROMOTE CONTINUITY OF OPEN SPACES AT THE PRESERVE BOUNDARY TO ALLOW FREE MOVEMENT OF WILDLIFE AND CREATE A NATURAL BUFFER.**

3. **MAXIMIZE THE PROVISION OF NAOS AT THE PRESERVE BOUNDARY TO CREATE A NATURAL BUFFER TO THE PRESERVE.**
4. **ANY TRAIL DEVELOPMENT THROUGH NAOS AREAS ADJACENT TO THE PRESERVE MUST BE COORDINATED WITH THE PRESERVE TRAIL PLAN.**

~~Sec. 7.855. Density Transfer.~~

**SEC. 6.1080. SENSITIVE DESIGN OPTIONS**

**SEC. 6.1081. DENSITY TRANSFER**

The density transfer option is intended to provide an incentive for developers to move construction from portions of their parcel with severe environmental constraints to less constrained areas. A density transfer may be approved ~~administratively~~ through the use of amended development standards and the ~~administrative~~ approval process ~~ES in sections 7.857~~ **6.1083(A) AND (B)**, if applicable. The benefits of transfer decline as development in the most sensitive areas increases. The use of this option can lead to the preservation of significant areas of environmentally sensitive lands including land slopes over fifteen (15) percent, watercourses, and special features.

A. *Density transfer for CONSERVATION AREA (CA).*

1. In order to qualify for the maximum rate of density transfer (1:1) the severely constrained areas (SCA) must be designated CA. The severely constrained areas are those portions of the hillside landform containing or surrounded by any one (1) of the following environmental conditions; provided that for purposes of density transfer only, SCA shall not include areas of ten (10) acres or more which do not contain any of the environmental conditions specified below, even if the area is surrounded by one (1) or more conditions, so long as any development proposed for the surrounded area is not visible from viewpoints established on the city's special features map:
  - a. Land slopes over twenty-five (25) percent.
  - b. Unstable slopes as listed in section ~~7.821~~ **6.1021(B)**.
  - c. Special features as listed in section ~~7.821~~ **6.1021(C)**.

The rate of transfer for the parcel is reduced in proportion to reductions in the amount of SCA that is designated as CA.

2. The applicant may request that undisturbed natural areas and land stripped of natural vegetation or scarred prior to January 1, 1990, which has been revegetated be established as CA as follows:
  - a. The applicant shall demonstrate to the satisfaction of the city Attorney that the entire NAOS area will be permanently maintained as natural area open space through easements, donation or dedication to the city or other entity. If NAOS is located in a common tract owned by a homeowners association, the property shall be maintained through a common maintenance agreement.
  - b. Land designated CA may also be rezoned to the conservation open space (COS) district except that only the unimproved land in the COS district is eligible for density transfer calculations.
  - c. The receiving area is the portion of the property that will receive the density transfer. The maximum permitted density in the receiving area is equal to the number of units being transferred from the CA or unimproved COS areas, plus the base intensity for the receiving area from Table **C B**.
  
3. Density transfer calculations. The base intensity for the existing zoning shall be determined using table **C B** and shall be permitted to be transferred to another area of the parcel as follows:
  - a. Determine the acreage of SCA on the gross parcel.
  - b. Determine the percent of SCA that is designated CA by dividing the CA acreage by the SCA acreage. This percentage is the rate of density transfer for the parcel. Only the area of NAOS to be designated CA may be included in the calculation of land eligible for density transfer.
  - c. Determine the base intensity for the land designated CA by multiplying the CA acreage times the intensity in Table C for the applicable zoning district. Sensitive lands that are not SCA may also be selected by the applicant for CA in order to transfer density to less constrained areas.
  - d. Determine the number of units eligible for density transfer by multiplying the percent of land designated CA (b. above) times the base intensity for the land designated CA (c. above).
  - e. The calculation established in a. through d. above may be summarized by the following formula:

Percentage of SCA designated CA	X	Acres designated CA	X	Base intensity of designated CA	=	Total permitted density transfer for the CA area
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- B. *Density transfer bonus for regional drainage.* In order to promote regional drainage and flood control, the applicant may request that the land area required for regional drainage facilities, as part of an approved city regional drainage and flood control plan developed by the city, may be used for a density transfer as follows:
1. A one-hundred (100) percent transfer of the intensity permitted under the existing zoning by Table **€ B** may be used for a density transfer.
  2. The land area from which the density is transferred must be legally secured through conservation or open space easements or dedication. The land may be designated CA or rezoned to the open space district (OS) where appropriate.
- C. *Eligible receiving areas.* The portion of the development project that can receive density transfer shall have less sensitive environmental conditions than the CA or COS land from which the density is transferred. Eligible receiving areas are any portions of the development project that do not contain slopes over twenty-five (25) percent, unstable slopes, special features, minor watercourses or major watercourses.
- D. *Off-site Transfers.* Density transfers to noncontiguous parcels may be approved, in order to encourage the transfer of development rights from more sensitive areas to those that are less sensitive. Noncontiguous transfers permit the owners of less sensitive lands to join in a single application with the owner of more sensitive areas, and to transfer development potential from the more sensitive to the less sensitive areas without the need for rezoning.

An application to make a noncontiguous transfer must be signed by the owners of both parcels, and must meet the procedural requirements of this section, and section ~~7.857~~ **6.1083**, and the following criteria:

1. On February 19, 1991, the parcel was a legally constituted lot on which development would have been permitted under the terms of the Ordinance in effect at the time the lot was created or was annexed to the city.
2. At least eighty (80) percent of the parcel from which density will be transferred (the "transfer parcel") must consist of severely constrained areas.



3. No development will be permitted on the transfer parcel.
4. The transfer parcel must be permanently secured as CA through easements, donation or dedication to the city or other entity, by a means approved by the City Attorney or zoned COS.
5. The parcel to which density will be transferred (the "receiving parcel") must be located within the ESL district in the upper desert or lower desert landform.
6. No permits will be issued for the receiving parcel, until the transfer parcel has been permanently secured as CA or rezoned COS.

(Ord. No. 2305, § 1, 2-19-91)

**Table € B**  
**BASE INTENSITY BY ZONING CATEGORY\***

\*These numbers shall be used in calculating **THE FOLLOWING:**

- a) The number of units or intensity to be used in a density transfer.
- b) **THE MAXIMUM NUMBER OF UNITS FOR ANY PARCEL WHERE A DENSITY TRANSFER IS NOT BEING USED.**
- c) **THE “BASE” INTENSITY ON A PARCEL BEFORE THE NAOS DENSITY INCENTIVE IS APPLIED.**

1. RESIDENTIAL USES, EXCLUDING GUEST ROOMS

District	Factor (DU/AC)	District	Factor (DU/AC)
R1-190	.21	R-3	12.93
R1-130	.31	R-4	8.31
R1-70	.55	R-4R	7.54
R1-43	.83	R-5	23.00
R1-35	1.04	S-R	12.44
R1-18	1.87	PNC	4.00
R1-10	3.12	PCC	4.00

R1-7, MH	4.16	PCoC	4.00
R1-5	5.00	PCP	25.00
R-2	7.28		

## 2. HOTELS, MOTELS, AND RESORTS

District	Factor (Guest Rooms/Acre)
R-4R	10.62
R-5	33.00
C-2	43.56
C-3	43.56
PRC	21.78
WP	43.56

## 3. NONRESIDENTIAL USES

District	Factor (Floor Area Ratio)
S-R	.4
C-O, I-G, I-1,	.6
C-1, C-2, C-3, C-4, C-5, SS, PRC, WP, PCP	.8
PNC, PCC	.3
PcoC	.2
P-3	1.0

### **Sec. 7.856. 6.1082. Cluster Development Option.**

The cluster development option is intended to provide an opportunity for more flexibility in platting lots and for site planning under ESL regulations than in the underlying zoning districts. ~~THE DEVELOPMENT REVIEW BOARD can~~ **MAY** ~~administratively~~ approve clustering if the application is in compliance with the standards in section ~~7.857~~ **6.1083(A)**. This option allows for increased sensitivity to site conditions and permits the clustering of the development onto less land area so portions of the land remain undisturbed. These standards cannot increase the intensity allowed on a development site. Clustering may enable applicants to use the land more efficiently or to utilize more of the allowable intensity. The following limitations apply:

- A. The density shall not exceed the applicable density for the parcel. Before this site planning option is applied to a parcel, a determination of density must be approved according to the options and applicable procedures available including:
  - 1. Using Table ~~C~~ **B** to determine the base intensity under existing zoning.
  - 2. Using sections ~~7.852~~ **6.1050(B)** and (C) to determine permitted density.
  - 3. Using the density transfer procedures to increase the density.
  - 4. Rezoning the parcel.
  
- B. The density that has been approved for any parcel may be allocated to any areas of a parcel with a plat or site plan subject to the following limitations:
  - 1. Development standards may only be modified in compliance with the requirements of section ~~7.857~~ **6.1083**.
  - 2. The site plan, or plat, must comply with the requirements of section 7.858, site planning standards and guidelines.

(Ord. No. 2305, § 1, 2-19-91)

~~Sec. 7.857.~~ **6.1083. AMENDED DEVELOPMENT STANDARDS**

Amended development standards may be approved, in accordance with section ~~7.857~~ **6.1083(A)** or (B) below, in order to encourage sensitivity to site conditions and to provide flexibility in site planning.

- A. ~~Administrative approval~~ **DEVELOPMENT REVIEW BOARD PUBLIC HEARING** process. The ~~project review director~~ **DEVELOPMENT REVIEW BOARD** may approve amended development standards for the underlying zoning district concurrently with the preliminary plat approval subject to the following:

- 1. APPLICATION AND PUBLIC HEARING PROCEDURES OF SECTION 1.900.**
2. The existing zoning district and proposed use is for single-family dwellings.
- 3. THE BASE DENSITY IN TABLE B HAS NOT BEEN EXCEEDED.**
- ~~24.~~ The minimum area of the development is ten (10) gross acres.
- ~~35.~~ The minimum lot sizes may be reduced by no more than ~~thirty (30)~~ **TWENTY-FIVE (25)** percent of the minimum lot size required in the underlying district.
- ~~46.~~ Minimum setbacks and minimum distance between buildings of the applicable zoning district requirements may be reduced by no more than twenty-five (25) percent. In no case shall the setback of a garage or carport that opens towards the street be less than twenty (20) feet from the back of curb, or when present, the back of sidewalk. The minimum side yard or rear yard, where the side or rear yard is adjacent to designated open space tracts may be reduced to five (5) feet. Setbacks on the perimeter of the development project shall be equal to or greater than those imposed by the existing zoning on parcels within fifty (50) feet of the perimeter of the development project.
- 7. MINIMUM LOT WIDTH MAY BE REDUCED BY NO MORE THAN TWENTY-FIVE (25) PERCENT OF THE MINIMUM LOT WIDTH REQUIRED IN THE UNDERLYING DISTRICT. IF THE APPLICANT CAN DEMONSTRATE THAT A FLAG LOT DESIGN BETTER ACHIEVES THE PURPOSES OF THE ESL OVERLAY DISTRICT, FLAG LOTS WITH A MINIMUM WIDTH OF TWENTY (20) FEET MAY BE APPROVED.**
- ~~58.~~ If the underlying zoning is R1-18, R1-10 R1-7 or R1-5, one (1) of the side yard setbacks may be zero (0), provided that the dwellings are constructed as single-family detached homes. The minimum distance between buildings is five (5) feet.
- ~~69.~~ The development must be served by public or private water and sanitary sewer facilities if the minimum lot sizes are less than sixty thousand (60,000) square feet.
- ~~710.~~ The amended development standards are approved concurrently with the preliminary plat.
- ~~811.~~ The required common open space is to be permanently maintained as natural open space as demonstrated in documents satisfactory to the City Attorney prior to the issuance of any permits.

912. Demonstrate compliance with the design criteria stated in section 6.205 for planned residential development.

~~1013.~~ Any modified standards for the development shall be recorded on the final plat.

~~1114.~~ The applicant shall demonstrate **TO THE SATISFACTION OF THE DEVELOPMENT REVIEW BOARD** that the modifications better achieve the purposes of ESL in section ~~7.810~~ **6.1010** than the existing standards.

B. **CITY COUNCIL Public Hearing Process.** The City Council may approve amended development standards for the underlying zoning district which exceed the limitations in section ~~7.857~~ **6.1083A** pursuant to the following:

1. Application and public hearing procedures of section 1.600 and 1.700.
2. In reviewing such applications, the City Council shall compare the requested intensity and use to the environmental conditions and to the General Plan to determine the appropriateness of the amended development standards.
3. The applicant shall demonstrate that the stated modifications better achieve the purposes of ESL regulations in section 7.810 than the existing zoning.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)

~~Sec. 7.858. Site planning standards and guidelines.~~

Sec. **6.1090. ESL Submittal Requirements**

~~Sec. 7.841.~~ **6.1091. ALL APPLICATIONS**

A. In addition to any other information required by the Scottsdale Zoning Ordinance (Ordinance No. 455, as amended) and the Scottsdale Revised Code, applications for development approval under ESL shall include the following:

1. *Base submittal requirements* **FOR ALL PROJECTS:**
  - ~~a. Topographic map, at two foot contours, or at appropriate intervals as determined by the project review director;~~
  - ~~b. Slope analysis for NAOS and intensity calculation purposes;~~

- ~~c. — Number of dwelling units and density proposed and/or gross floor area ratio;~~
- ~~d. — Map and figures showing the slopes and elevations or other data used for natural area open space (NAOS) calculation, the acreage of the parcel used for each NAOS rate, and the total NAOS calculated.~~
- ~~e. — Prior to receiving building permits, proposed building materials, paint colors and landscaping materials in compliance with the requirements of section 7.854(E).~~

~~2. — *Environmental submittal requirements.* If development is proposed on or immediately adjacent to one or more of the environmental conditions(s) specified in section 7.821 of this ordinance, the affected conditions(s) shall be shown on site plans, and the following additional submittals shall be required.~~

~~These additional submittals are not required to encompass conditions or portions of the parcel which will not be disturbed by the development. The project review director shall waive those submittals intended to identify or analyze conditions which are not found on the particular parcel, or which are not relevant to review of the development project.~~

- ~~a. — In the upper desert and hillside landforms, a soil and geology report, identifying areas of unstable slopes.~~

~~This requirement may be waived where one (1) single-family home is proposed to be developed on a parcel of ten (10) acres or less which contains no unstable slopes, no slopes over fifteen (15) percent, and none of the special features enumerated in section 7.821(C).~~

- ~~b. — In the upper desert and hillside landforms, a map of the ESL special features and a viewshed report, including any additional visual features identified by the applicant.~~

~~This requirement may be waived where one (1) single-family home is proposed to be developed on a parcel of ten (10) acres or less which contains no special features identified on the special features maps.~~

- ~~e. — Submittal requirements for archaeology surveys and reports and other requirements for archaeological resources shall be in accordance with Chapter 46, Article VI of the Scottsdale City Code.~~

- ~~d. — A map identifying significant areas of man-made scarring; and, if restoration is proposed, a program for such restoration and revegetation.~~

~~e.—A report and map identifying and describing the 100-year floodplains along watercourses where the estimated flow under predevelopment conditions is equal to or greater than two hundred fifty (250) c.f.s.~~

~~f.—A map identifying significant concentrations of vegetation.~~

~~B.—Where the detail of the information provided is not sufficient to identify or analyze a specific environmental condition, additional information may be required by the project review director.~~

~~(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3243, § 1, 7-19-99)~~

~~Sec. 7.842. Individual single family hillside applications.~~

~~A.—In addition to the submittal requirements enumerated in section 7.841, applications for single family building permits in hillside landform areas, except for electrical, structural or plumbing permits, shall include plans showing the following:~~

- ~~1.—All existing structures and future structures to be developed on the parcel;~~
- ~~2.—All areas to be graded, including access driveways and streets;~~
- ~~3.—The location of all proposed natural areas (NAOS) and construction envelopes;~~
- ~~4.—Provisions for mechanical equipment screening; and~~
- ~~5.—Revegetation program.~~

~~B.—If a single family dwelling is to be located on a lot within a development project for which the data required by sections 7.841 and 7.842 has previously been provided to the city, the owner of such lot shall not be required to resubmit the data.~~

~~(Ord. No. 2305, § 1, 2-19-91)~~

~~Sec. 7.843. Rezoning, use permits and preliminary plat applications.~~

~~A.—Applications for zoning amendments (section 1.300), use permits (section 1.400) and preliminary plats (sections 48-31 through 48-46) shall include the following information, plans, reports, and maps if not submitted as part of a master development plan or other required submittal:~~

- ~~1.—The proposed area in acres of land affected by each environmental condition listed in section 7.821 as necessary to determine NAOS or intensity.~~
- ~~2.—A development plan showing the proposed configuration, size in acres, number of residential units or nonresidential square footage of proposed buildings, and~~

~~underlying zoning categories for each use. Where NAOS is provided on individual lots, preliminary plats shall show conceptual construction envelopes or otherwise demonstrate that any on-site natural area open space will be provided.~~

- ~~3. A development phasing map delineating the configuration, size in acres and general sequence of development and dedication.~~
  - ~~4. A circulation plan map delineating the location and classification of all major public or private streets, all required public parking areas, pedestrian ways, trails and bikeways.~~
  - ~~5. A visual analysis presentation which clearly portrays the major views to the site from viewpoints designated by the city on the ESLO Special Features Maps, the principal or unique visual features on or adjacent to the site, and the visual character and impact of the development project. This presentation may include such materials, at the applicant's option, as slides, photographs, cross sections, maps, computer simulations, perspectives or models.~~
  - ~~6. An open space/natural areas map delineating the general configuration and types of major open spaces and indicating the natural area open space requirements in acres for each use and development site identified on the development plan and phasing maps.~~
  - ~~7. A report including all proposed modifications to required development standards and guidelines with graphics showing typical applications of the standards.~~
- ~~B. Criteria for hillside landform rezoning. Specific criteria shall be applied to rezoning applications in the hillside landform area due to the severe development constraints in this area, the visual impacts of developments on hillsides, and the impacts of development on sensitive land. Applications for zoning amendments in the hillside landform (see ESLO Special Features Maps\*) shall include an environmental sensitivity assessment containing the following:~~

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~~\*Editor's note--The ESLO Special Features Maps are not printed herein, but are on file and available for public inspection, together with Ord. No. 2305, in the offices of the city.~~

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- ~~1. A site plan showing how the on-site environmental conditions identified in section 7.821 will be impacted by the proposed development project; describing the measures that will be taken to protect these sensitive areas; and identifying the impacts of development on areas that contain significant concentrations of vegetation.~~



- ~~2. A site plan, or other graphic representation, showing how the development project will mitigate the negative impacts of development on the environmental conditions identified in section 7.821.~~
- ~~3. A narrative describing how the proposed development project which would result from a rezoning, is appropriate for the proposed location and is consistent with the purposes of ESL enumerated in section 7.810.~~
- ~~4. Simulations from viewpoints designated on city maps showing the proposed building massing, cut and fill, drainage improvements, parking, landscaping, and other above-ground improvements.~~

~~(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)~~

- a. LOCATION AND SIZE OF PROJECT BOUNDARIES, INCLUDING ANY PHASING PLANS.**
- b. PROJECT DESCRIPTION.**
- c. A.L.T.A. SURVEY.**
- d. SITE DEVELOPMENT PLAN SHOWING ALL EXISTING AND PROPOSED CONSTRUCTION, INCLUDING DENSITY CALCULATIONS.**
- e. AERIAL MAP.**
- f. SITE PLAN SUPERIMPOSED ON THE AERIAL MAP.**
- g. TOPOGRAPHY MAP (TWO (2)-FOOT CONTOURS INTERVALS).**
- h. SLOPE ANALYSIS SUPERIMPOSED ON THE TOPOGRAPHY MAP WITH NAOS CALCULATION TABLE.**
- i. NAOS ANALYSIS SITE PLAN, INCLUDING PROPOSED CIVIL IMPROVEMENTS AND PROPOSED CONSTRUCTION ENVELOPE CONCEPT PLAN.**
- j. ENVIRONMENTAL FEATURES MAP, INCLUDING APPLICABLE LANDFORMS, PROTECTED PEAKS AND RIDGES, UNSTABLE SLOPES, BOULDER FEATURES, WATERCOURSES, VEGETATION AND WILDLIFE HABITATS, VIEWSHEDS, AND MANMADE OR FIRE SCARRING.**
- k. NATIVE PLANT SUBMITTAL AND REVEGETATION PLAN AND PROGRAM.**



Sec. ~~7.844.6.1092~~ **6.1092** Master Development Plan Applications.

- A. ~~Submittal of master development plan.~~ A master development plan shall be submitted where:
1. Section 48-35 of the Subdivision Ordinance requires a development master plan.
  2. The underlying zone requires a master development plan, e.g., section 5.4002, planned commerce park (PCP), section 6.204, planned residential development (PRD) or section 5.2103, planned community district (PCD);
  3. The ~~project review director~~ **CITY MANAGER OR DESIGNEE** determines that a master plan is necessary for the orderly development of the project, in accordance with the requirements of this Ordinance.
- B. ~~[Inclusion of master plans.]~~ The master development plan shall include the following master plans:
1. ~~Site development master plan which includes the following information:~~
    - a. ~~The general location of the development project.~~
    - b. ~~The size of the entire development project (in acres).~~
    - c. ~~Where the master development plan contemplates the division of the project into two or more development sites:~~
      - (1) ~~The size of each development site (in acres).~~
      - (2) ~~The land use of each development site within the development project.~~
      - (3) ~~The density of all development sites designated for residential use within the development project.~~
      - (4) ~~The zoning category of each development site within the development project.~~
    - d. ~~Vista and scenic corridors within the development project.~~
  2. ~~Circulation master plan~~
  3. ~~Phasing master plan~~

- ~~4. Open space master plan~~
- ~~5. Parking master plan~~
- ~~6. Drainage master plan~~
- ~~7. Water and wastewater master plans~~
- ~~8. Environmental design concept master plan~~

~~C. *[Waiver of requirements.]* The project review director may waive the requirement for one or more master plans where he determines that the master plan is not necessary to the orderly development of the project.~~

~~D. *Timing of Submittals.*~~

~~1. *Master development plan rezoning applications.* A rezoning application shall be accompanied by the following master plans:~~

- ~~a. Site development master plan~~
- ~~b. Conceptual circulation master plan~~
- ~~c. Conceptual phasing master plan~~
- ~~d. Conceptual open space master plan~~
- ~~e. Conceptual drainage master plan~~
- ~~f. Conceptual water master plan~~
- ~~g. Conceptual wastewater master plan~~

~~2. *Other development project approvals.* Prior to any grading, plant relocation or removal, infrastructure construction, applications for preliminary plat approval, or the construction of on-site or off-site improvements on a parcel, the following master plans shall be submitted for the entire development or, if applicable, for each phase of development:~~

- ~~a. Circulation master plan~~
- ~~b. Phasing master plan, if applicable~~
- ~~c. Parking master plan, if applicable~~
- ~~d. Drainage master plan~~

- e. ~~Water master plan~~
- f. ~~Wastewater master plan~~
- g. ~~Environmental design concept master plan~~

~~Sec. 7.845. Development Review Board applications.~~

~~In addition to the standard submittal requirements for development review all applications for Development Review Board review, shall include a detailed site plan with the following information, reports and maps:~~

- A. ~~The proposed area in acres of land affected by each environmental condition listed in section 7.821 as may be necessary to determine NAOS or intensity.~~
- B. ~~A grading report indicating the proposed methods and sequencing of grading, proposed locations for stockpiling or disposing of unused materials, and plans for minimizing wind and water erosion on graded areas during development and construction.~~
- C. ~~In the hillside landform a visual analysis presentation which clearly portrays the major views to the site from viewpoints designated by the city on the ESLO Special Features Maps, the principal or unique visual features on or adjacent to the site, and the visual character and impact of the development project. This presentation may include such materials as slides, photographs, cross sections, maps, computer simulations, perspectives or models.~~

~~(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99)~~

**SEC. 6.1100. MAINTENANCE AND VIOLATIONS**

- A. MAINTENANCE - IMPROVED AREAS.** The owner of private property on which grading or other work has been performed pursuant to a grading plan approved under the ESL regulations, shall maintain in perpetuity and repair all graded surfaces and erosion control devices, retaining walls, drainage structures or devices, and planting and ground covers according to specifications established by the city.
- B. MAINTENANCE - NATURAL AREA OPEN SPACE (NAOS).**

- 1. NAOS SHALL BE PERMANENTLY PRESERVED IN ITS NATURAL CONDITION TO BE SELF-SUSTAINING.**
- 2. THE REMOVAL OF SMALL AMOUNTS OF MAN-MADE TRASH AND DEBRIS THAT MAY ACCUMULATE WITHIN NAOS IS PERMITTED.**
- 3. CLEARING, PRUNING, RAKING, AND LANDSCAPING WITHIN NAOS AREAS IS PROHIBITED EXCEPT AS PROVIDED IN SUBSECTIONS 4, 5, AND 6 BELOW.**
- 4. MAINTENANCE OF PUBLIC NON-PAVED TRAILS WITHIN NAOS SHALL BE SUBJECT TO SPECIFIC APPROVAL BY CITY STAFF.**
- 5. THE REMOVAL OF MAN-MADE DUMPING PILES, AND SPECIFIED INVASIVE, NON-INDIGENOUS PLANTS AND WEEDS WITHIN NAOS SHALL BE SUBJECT TO SPECIFIC APPROVAL BY CITY STAFF.**
- 6. A DEFENSIBLE SPACE WILL BE PERMITTED TO BE ESTABLISHED AND MAINTAINED AROUND HOMES IN WILDLAND/URBAN INTERFACE AND INTERMIX AREAS AS DEFINED IN SECTION 3.100. THE REMOVAL OF FLASH FUELS, WHICH INCLUDE INVASIVE ANNUAL GRASSES, FOR AN AREA OF THIRTY (30) FEET FROM A HABITABLE STRUCTURE, TO PROVIDE FOR FIRE SAFETY AROUND DWELLINGS, IS PERMITTED, BUT SHALL NOT RESULT IN THE DESTRUCTION OF NATIVE PLANTS\* WITHIN NAOS.**
- 7. DEAD OR DYING NATIVE PLANTS WITHIN NAOS SHALL BE LEFT IN PLACE TO PROVIDE WILDLIFE HABITAT.**
- 8. NAOS EASEMENTS MAY BE RELEASED BY THE ZONING ADMINISTRATOR ONLY TO THE EXTENT SUCH RELEASES CONFORM TO THE STANDARDS SET FORTH IN SECTION 6.1060 F.**

**\*NATIVE PLANTS INCLUDE THE SPECIFIC SPECIES DEFINED IN ARTICLE V, PROTECTION OF NATIVE PLANTS, SECTION 46-105 THROUGH 46-120 OF THE CITY CODE.**

**C. VIOLATIONS.**

1. **A VIOLATION OF ANY PROVISION OF THE ESL DISTRICT SHALL BE SUBJECT TO THE VIOLATION AND PENALTY PROVISIONS IN ARTICLE I OF THE ZONING ORDINANCE.**
2. **UPON CONVICTION FOR A VIOLATION OF ANY PROVISION OF SEC. 6.1100. OR THE CONDITIONS OF A PERMIT ISSUED HEREUNDER, THE COURT SHALL IMPOSE A FEE OF FIFTY DOLLARS (\$50) FOR A PRESERVATION FUND, IN ADDITION TO ANY OTHER FINES OR PENALTIES.**
3. **FUNDS OBTAINED FROM THIS FEE SHALL BE USED TO SUPPLEMENT THE CITY'S PRESERVATION EFFORTS THROUGH DEPOSIT INTO THE TRUST FOR MCDOWELL MOUNTAIN LAND ACQUISITION.**

#### **SEC. 6.1110. APPEALS**

The applicant may appeal a decision of the **CITY MANAGER OR DESIGNEE** to the ~~DRB~~ **DEVELOPMENT REVIEW BOARD**. The appeal must be in writing, filed with the development services department within fifteen (15) days of the date on which written notice of the decision was mailed to the applicant, and must state the reasons for appeal, and the relief requested. The **CITY MANAGER OR DESIGNEE** shall place the appeal on the next available ~~DRB~~ **DEVELOPMENT REVIEW BOARD** agenda and shall notify the applicant in writing of the time and place at which the ~~DRB~~ **DEVELOPMENT REVIEW BOARD** will consider the appeal. Decisions of the ~~DRB~~ **DEVELOPMENT REVIEW BOARD** may be appealed to the City Council as provided in section 1.907 of this Ordinance.