

**Topic:** Natural Resource Protection & Conservation  
**Resource Type:** Regulations  
**State:** Arizona  
**Jurisdiction Type:** Municipal  
**Municipality:** City of Scottsdale  
**Year (adopted, written, etc.):** 2001  
**Community Type - applicable to:** Urban; Suburban  
**Title:** City of Scottsdale Environmentally Sensitive Lands Ordinance  
**Document Last Updated in Database:** April 16, 2017

### ***Abstract***

This ordinance works to preserve native desert lands and open space from development as on-lot easements or separate lots within any given property or subdivision. Natural Area Open Space (NAOS) within any given property is determined by slope and landform category and has protected thousands of acres of desert within the city's developing landscape.

### ***Resource***

#### **ENVIRONMENTALLY SENSITIVE LANDS ORDINANCE UPDATE**

**11-TA-2000#2**

**CHANGES MADE BY THE PLANNING COMMISSION ARE IN UPPER CASE BOLD RED LETTERS (SEE P. 17), CHANGES MADE BY STAFF AFTER THE PLANNING COMMISSION MEETING ARE IN UPPER CASE BOLD RED ITALIC LETTERS (SEE P. 17)**

#### **ARTICLE III.**

#### **DEFINITIONS**

#### **Sec. 3.100. GENERAL.**

*Flag lot* is a lot that is narrower along the roadway frontage than at the building site and employs a long, narrow driveway and lot line configuration that extends from the roadway to the building site.

*Revegetation* means replacement and restoration of areas containing scarred or destroyed native vegetation through the introduction of boxed or planted native plant

materials and /or comparable seed mix for the purpose of restoring NAOS (Natural Area Open Space) land, to a native condition.

*Wildland/urban interface* is an area where development and native desert wildland fuels areas meet at a well-defined boundary.

*Wildland/urban intermix* is an area where development and native desert wildland fuels areas meet with no clearly defined boundary.

## **ARTICLE VI.**

### **SUPPLEMENTARY DISTRICTS**

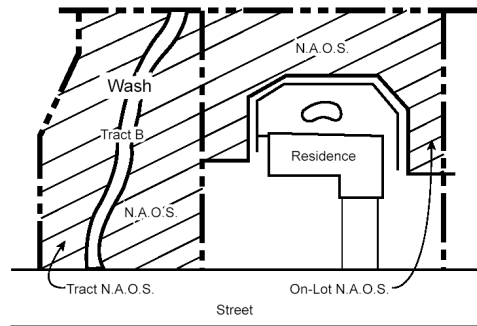
#### **Sec. 6.1010. ENVIRONMENTALLY SENSITIVE LANDS ORDINANCE.**

##### **Sec. 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.
- B. Protect and 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.

On-Lot vs. Tract N.A.O.S.



- F. Recognize and conserve the economic, educational, recreational, historic, archaeological, and other cultural assets of the environment that provide amenities and services for residents and visitors.
- 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 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; Ord. No. 3395, § 1, 12-11-01)

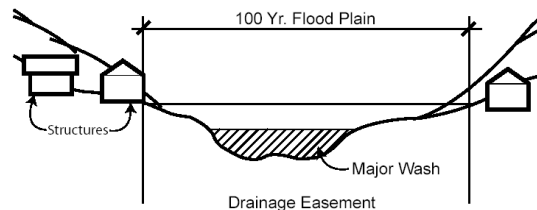
**Sec. 6.1020. APPLICABILITY OF REGULATIONS.**

**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 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 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

**Major Washes / Flood Plains**



- 2. Minor watercourses
- E. Exposed/shallow bedrock

- F. Undisturbed native vegetation
- G. Wildlife habitat
- H. Landform classes as indicated on the ESLO Landforms and Protected Peaks and Ridges Maps:
  - 1. Lower desert landform
  - 2. Upper desert landform
  - 3. Hillside landform

(Ord. No. 3395, § 1, 12-11-01)

**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 sections 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.

(Ord. No. 3395, § 1, 12-11-01)

**Sec. 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 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 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; Ord. No. 3395, § 1, 12-11-01)

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

- A. Special exceptions from the ESL regulations may be approved by the 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 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; Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1030. APPROVALS REQUIRED.**

**Sec. 6.1031. Rezoning 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:

- 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.
- 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.
- 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*).

- D. Human lives and property are protected from unstable slopes, flooding, and other safety hazards.
- E. The placement, grouping, scale, and shaping of structures complements the natural landscape.
- F. Large, graded bare areas are fully revegetated.

(Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1032. Plats.**

All applications for preliminary plats in the ESL Overlay District shall be reviewed for compliance with the ESL provisions and approved by the Development Review Board.

(Ord. No. 3395, § 1, 12-11-01)

**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)).

(Ord. No. 3395, § 1, 12-11-01)

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

A. When a master development plan is required, a rezoning 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.

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.

- 1. The master plans shall be provided for the entire development project unless it can be demonstrated to the 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.

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.



- 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 6.1094(B)(1), or to other master plans approved as part of a rezoning, 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.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3395, § 1, 12-11-01)

#### **Sec. 6.1040. ESL USE RESTRICTIONS**

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

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.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3395, § 1, 12-11-01)

#### **Sec. 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 section 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, section 6.1081. 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)~~ **6.1031**.
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 and that the proposed intensity is compatible with the considerations listed in section 6.1031. In making its determination, the City Council shall consider the following factors:

- a. Visibility and viewpoints of the proposed developments from scenic corridors, collector and arterial streets.
  - b. The impact of the development on the environmental conditions listed in section 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 construction envelope is located. The purpose of this provision is to provide flexibility in lot configuration.
- 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 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 exceptions under this section shall include the submittals set forth in section 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 6.1050A., 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.

**Development Intensity in the Hillside Landform**

Slope Category	Landform Condition	Base Lot Area Per Dwelling Unit	Potential Density
Under 25%	Major/Minor washes Protected peaks/ridges	5 Acres	*Subject to Council Approval
25-35%	Exposed bedrock shallow bedrock	20 Acres	*Subject to Council Approval
Over 35%	Boulders, unstable slopes	40 Acres	*Subject to Council Approval

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 6.1050A. 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; Ord. No. 3395, § 1, 12-11-01)

**Sec. 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 based on slope and landform category is provided in Table A.

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 6.1060F., the more restrictive provisions of Section 6.1060F. shall take precedence.

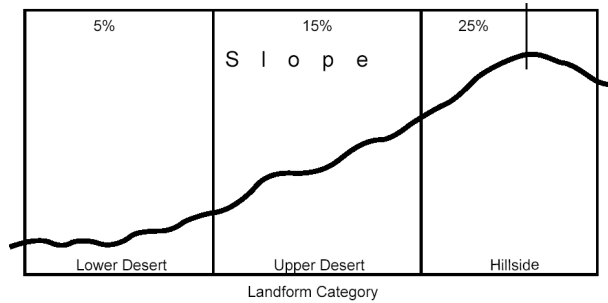
2. Land designated as NAOS shall be permanently maintained as open space. The applicant shall demonstrate to the satisfaction of the City Attorney that the entire NAOS area will be permanently maintained as natural area open space through easements, donation or dedication to the city and/or conservancy, land trust or similar entity. 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.

	Lower	Desert	Upper	Desert	Hillside
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	Landform	Landform	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. 6.1060B)	15% (See Sec. 6.1060F. for minimum dimensions)	20% (See Sec. 6.1060F. for minimum dimensions)	40% (See Sec. 6.1060F. for minimum dimensions)

3. If NAOS is located in a common tract owned by a homeowners association, the property shall be maintained through a common maintenance agreement.
4. 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.)
5. Common-tract NAOS locations and boundaries, including precise acreage, shall be shown on the subdivision plat and/or map of dedication.
6. 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 or concurrent with filing a final subdivision plat and/or map of dedication.

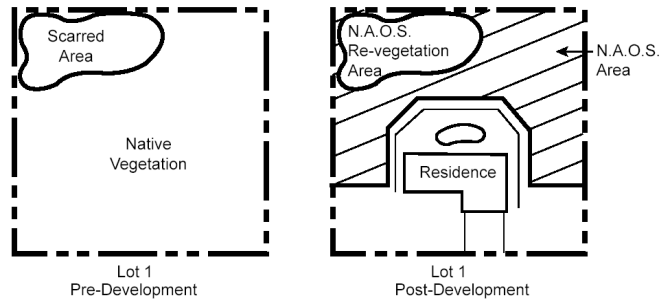
### Slope Analysis



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 Conservation Open Space COS and Hillside Conservation HC areas.* An owner is entitled to reduce the required NAOS by calculating the percentage of the total parcel that is zoned conservation open space (COS) and Hillside Conservation (HC) areas , and reducing the NAOS requirement for the remainder of the property by this same percentage.
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) square foot for each revegetated one (1) square foot of the regional drainage facility (1:1).
  - b. The NAOS requirement shall be reduced one (1) square foot for each two (2) 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.

### N.A.O.S. Re-vegetation Credit



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) square feet for every one (1) 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 6.1060D.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) square feet for each one (1) 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 ten (10) trees/cacti per acre. Where these provisions conflict with the minimum NAOS dimensions described in Section 6.1060F., the more restrictive provisions of Section 6.1060F. 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.

#### C. *Density Incentive for Increases in NAOS.*

1. A density incentive bonus not to exceed twenty (20) percent of the density otherwise allowed under ~~the terms of the Zoning Ordinance~~ Table B, Section 6.1018, Base Intensity by Zoning Category may be granted to applicants who provide more meaningful NAOS than is required in section 6.1060A. 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 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 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 6.1060B.3. to increase the maximum percentage of revegetated NAOS above thirty (30) percent. Revegetated areas shall meet following requirements:
  - a. Planting programs for revegetated areas may include transplanted and seeded methods of application and shall include. ~~Provide~~ a list of proposed plant species and quantities. (see section 6.1091A.1.k.)
  - b. Planting programs shall be consistent with the slope aspect of the surrounding natural vegetation, and shall be consistent 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 city manager or designee. Decisions of the city manager or designee may be appealed to the Development Review Board as provided in section 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~~, the existing natural vegetation on similar terrain in the vicinity.

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.*

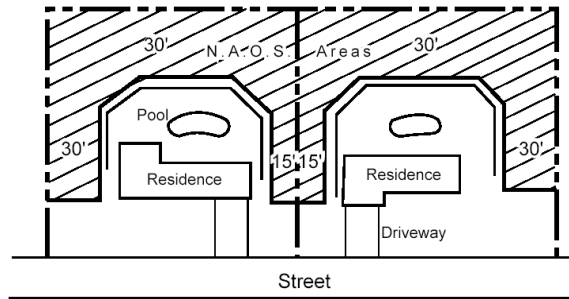
- a. The minimum contiguous area for NAOS is four thousand (4,000) square feet.
- b. The minimum horizontal dimension for NAOS areas is thirty (30) feet, except that the minimum horizontal dimension for NAOS located along roadsides will be twenty (20) feet.
- c. Where the minimum finished lot size is 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 the city manager or designee approves placement in contiguous areas on adjacent lots. See Section 6.1070A. for on-lot NAOS design standards and Section 6.1090 for on-lot NAOS submittal requirements.

2. *Modification of NAOS dimensions.* The city manager or designee may approve modifications to the minimum NAOS dimensions set forth above, subject to the following criteria:

- a. The NAOS location standards set forth in paragraph 3. are met.

- b. Reductions in dimensions will maintain NAOS areas that are easily recognizable and that 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.

Minimum N.A.O.S. Dimensions



3. *NAOS location.* The location of NAOS on a site plan or preliminary plat shall be based on the following:
  - 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.
  - c. 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.
  - d. Distribution throughout the developed area and avoidance of concentration in one (1) location.
  - e. 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.
  - f. Location in areas visible from streets or common areas.
  - ~~f. The need for visibility of NAOS from streets or common areas.~~
  - g. The need for unimpeded wildlife access and movement within and between all common-tract NAOS areas, 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.

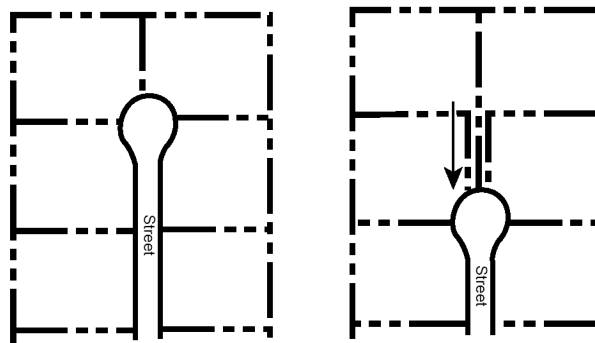
(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1070. Design standards.**

A. *General Standards.*

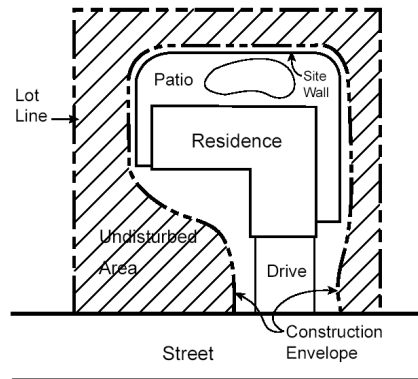
1. Development projects shall employ design techniques which reduce the disruption of the severely constrained areas (SCA) of a parcel defined in section 6.1081A.1., reduce the amount of streets and pavement, maximize open space, reduce the length of water and sewer systems, and minimize the restructuring of natural drainage systems.

Reduce the Amount of Streets

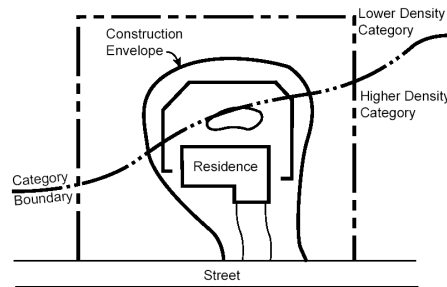


2. The intensity calculated in sections 6.1050 and 6.1080 shall be the maximum permitted intensity. A structure or residential building construction envelope that is located in more than one (1) density category in section 6.1050B. and C. shall be considered as located in the higher density area if the 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.

### Construction Envelope

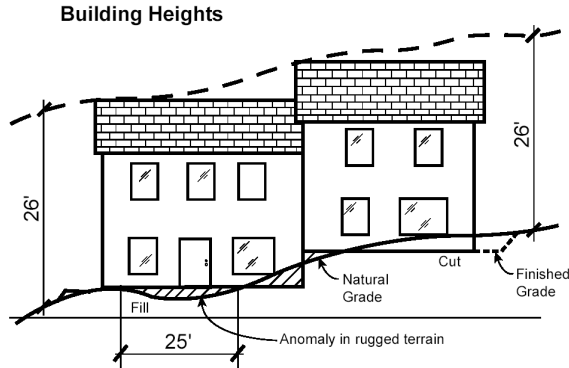


### Construction Envelopes in 2 Categories



3. Construction envelopes 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 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.*

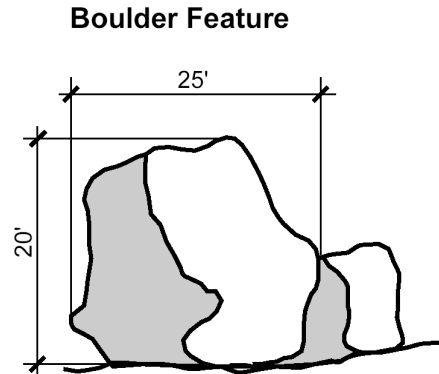
1. The maximum building height is that prescribed by the underlying district except as modified by the following:
  - a. The maximum building height in the ESL district shall be established by a plane measured vertically above the existing natural terrain elevation prior to grading; as the natural grade 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. ***IF THERE IS ANOTHER OVERLAY IN PLACE THAT HAS MORE RESTRICTIVE STANDARDS, THEN THOSE STANDARDS SHALL APPLY.*** (City Council policy direction will result in ordinance language for churches and other institutional buildings here.)



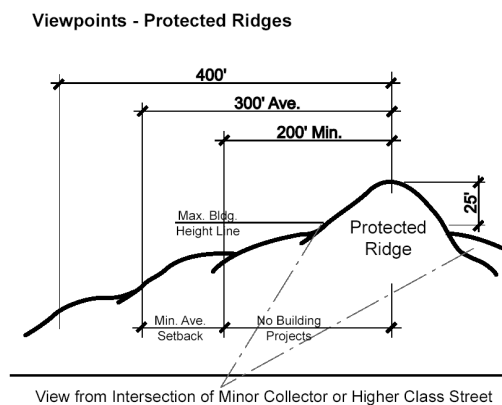
- c. The maximum building height in the hillside landform shall be the height prescribed by the underlying district or thirty (30) feet whichever is lower, except as modified by section 6.1070B.1.d. below.
- d. The Development Review Board may permit additional building heights in the hillside landform 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 twenty (20) 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.
  5. Minimize incidental impact from other natural hazards including erosion, subsidence, boulder rolling, rockfalls, flooding, flood related mud slides, unstable slopes and landsliding relating to the site and surrounding property.
- 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 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 as defined in Section 3.100, and be subject to subsection E, below.

4. Protected peaks and ridges on a property shall be shown on final plats at the time of City Council approval.

E. *Revisions of ESL Landform and Protected Peaks and Ridges Maps.* Landforms are identified on the ESL Landforms and Protected Peaks and Ridges Maps by the city. The maps may be revised as follows:

1. Applicants for a specific development project may request a change in all or part of the landform boundaries on the ESL Landforms and Protected Peaks and Ridges Maps prior to or concurrently with a development project application. The applicant shall submit technical data to the city manager or designee to support the request. If the 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.
2. Minor refinements to the ESL Landforms and Protected Peaks and Ridges maps shall be subject to the approval of the city manager or designee.
3. Major revisions of the ESL Landforms and Protected Peaks and Ridges 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.
4. A property owner may request a revision of the ESL Landforms and Protected Peaks and Ridges maps on their property independently from a submittal for a specific project. Such submittals shall follow all processes and



requirements in section 6.1070E1. 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 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 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 materials with high gloss finishes and bright, untarnished copper, aluminum, galvanized steel or other metallic surfaces, shall be textured or have a matte or ~~non-specular~~ non-reflective surface treatment to reduce the reflections of sunlight onto other property.
  - 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.

- g. No paint colors shall be used within any landform that have a LRV greater than thirty-five (35) percent.
- h. 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.
- i. 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 twenty (20) feet in height are prohibited. A list of indigenous plants is available from the Planning Systems and Development ~~Services~~ Department. Outdoor community recreation facilities, including parks and golf courses shall be allowed turf as specified in section 6.1070G1.j.
- j. 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 have an exterior treatment that has ~~be painted colors with~~ a LRV of less than thirty-five (35) percent or otherwise screened from view from the adjoining properties. 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.

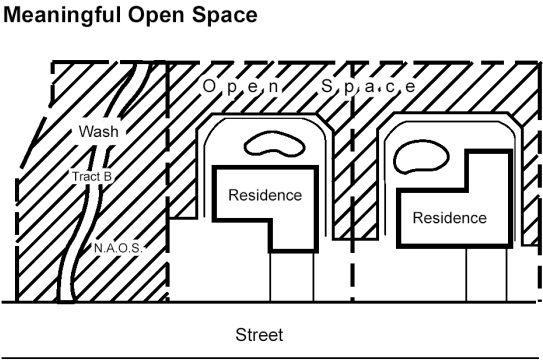
(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1071. Design guidelines.**

- 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.

(Ord. No. 3395, § 1, 12-11-01)

**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 through the use of amended development standards and the approval processes in sections 6.1083A. and B. 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 6.1021B.
  - c. Special features as listed in section 6.1021C.

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 B.
3. Density transfer calculations. The base intensity for the existing zoning shall be determined using Table 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 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.

#### 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
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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

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3395, § 1, 12-11-01)

**Sec. 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 may approve clustering if the application is in compliance with the standards in section 6.1083A. 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 B to determine the base intensity under existing zoning.
  - 2. Using sections 6.1050B. 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 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; Ord. No. 3395, § 1, 12-11-01)

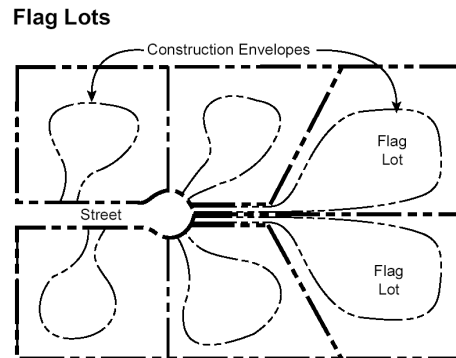
**Sec. 6.1083. Amended development standards.**

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

- A. *Development Review Board Public Hearing process.* The 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.
  4. The minimum area of the development is ten (10) gross acres.
  5. The minimum lot sizes may be reduced by no more than twenty-five (25) percent of the minimum lot size required in the underlying district.
  6. 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. However, 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.



8. 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.
9. 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.
10. The amended development standards are approved concurrently with the preliminary plat.
11. 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.
12. Demonstrate compliance with the design criteria stated in section 6.205 for planned residential development.
13. Any modified standards for the development shall be recorded on the final plat.
14. The applicant shall demonstrate to the satisfaction of the development review board that the modifications better achieve the purposes of ESL in section 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 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; Ord. No. 3395, § 1, 12-11-01)

#### **Sec. 6.1090. ESL SUBMITTAL REQUIREMENTS**

#### **Sec. 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. 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, including transplanting and/or reseeding methods and the list of plants and density of application.
  - l. Geotechnical report for sites with shallow bedrock and/or boulders.
  - m. Drainage and grading report and plan.
  - n. Archaeology data, reports, and/or plans as required by Chapter 46 of the City Code.
2. Additional submittal requirements for master planned projects:
- a. Master environmental design concept plan.
  - b. Phasing plan.
  - c. Circulation plan.
  - d. Water and wastewater plan.
3. Additional submittal requirements for preliminary plat and development review board submittals:
- a. Master environmental design concept plan.
  - b. Cuts and fills site plan.
  - c. Amended development standard justification report.
  - d. Vista/scenic corridors, including cross section details.
  - e. Public trail plan.
  - f. Landscaping plan.
  - g. Color and material samples.
  - h. Wall plans.

4. Modified submittal requirements. The city manager or designee may require additional information to identify or analyze specific environmental conditions, or may waive submittal requirements determined unnecessary for appropriate review of the project.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1092. Master Development Plan Submittal.**

- A. 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 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.

(Ord. No. 2305, § 1, 2-19-91; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3395, § 1, 12-11-01)

**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 6.1060F.

\*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 Section 6.1100. or the conditions of a permit issued hereunder, the court shall impose a fee of fifty dollars (\$50.00) 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.

(Ord. No. 3395, § 1, 12-11-01)

**Sec. 6.1110. Appeals.**

The applicant may appeal a decision of the city manager or designee to the development review board. The appeal must be in writing, filed with the Planning and 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 development review board agenda and shall notify the applicant in writing of the time and place at which the development review board will consider the appeal. Decisions of the development review board may be appealed to the City Council as provided in

section 1.907 of this Ordinance.

(Ord. No. 3395, § 1, 12-11-01)

### **State Enabling Statute**

Arizona Revised Statute

[ARS. Article 6 - Municipal Planning; 9-461.05](#) Arizona state law requires each city to adopt a general plan that guides the long term development goals of the city. The General plan is to be implemented by the Planning agency of the City. More specifically article 6 of Chapter 4 within title 9 (cities and towns) of the Arizona Revised Statute (Article 6 - Municipal Planning; 9-461.05 - General plans; authority; scope) directs each municipality to create a plan outlining community goals and development policies.

When the ESLO was revised and amended in 2001, it was also moved from Article VII to Article VI of Appendix B, the Basic Zoning Ordinance, within the Scottsdale Code of Ordinances. The Zoning Ordinances are a policy tool mandated by the General Plan of the City of Scottsdale.

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