OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
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ELECTRONIC RECORDING
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ORDINANCE NUMBER 653

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE ZONING ORDINANCE AND AMENDING THE ZONING MAP FROM R-43 TO SUP DISTRICT (RESORT), TO PROVIDE FOR THE ISSUANCE OF A SPECIAL USE PERMIT FOR PROPERTY, TO NOW BE ZONED SUP DISTRICT (RESORT), LOCATED AT 5525 EAST LINCOLN DRIVE AND 5641 EAST LINCOLN DRIVE, GENERALLY BORDERED BY LINCOLN DRIVE TO THE NORTH, 56TH STREET TO THE EAST AND WEST, AND MCDONALD DRIVE TO THE SOUTH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Paradise Valley Planning Commission held public hearings on August 14, September 18, and September 24, 2012, in the manner prescribed by law, for the purpose of considering a rezoning of the property described in Exhibit A attached hereto ("Property," now known as the Mountain Shadows Resort, Paradise Valley) from R-43 to SUP District (Resort) and for the purpose of making a recommendation on a proposed Special Use Permit for the Property to the Town Council; and

WHEREAS, the Town Council held a public hearing at its meetings on October 25, November 1, and November 15, 2012, and on February 14, March 28, and April 18, 2013, as prescribed by law, to hear the request for the rezoning of the Property to SUP District (Resort) based upon the recommendation made by the Planning Commission as noted above, and to amend the Town Official Zoning Map to reflect the issuance of a new Special Use Permit for the entire Property; and

WHEREAS, pursuant to Article III of the Town Zoning Ordinance, the Town Council finds that the proposed rezoning is consistent with and conforms to the Land Use Map of the Town's adopted General Plan; and

WHEREAS, the Town Council has considered extensive written and oral input from various sources, including but not limited to the letter from the Mountain Shadows West Resort Committee dated March 12, 2013; and

WHEREAS, the Town Council now desires to approve a rezoning of the Property from R-43 to SUP District (Resort), subject to the terms and conditions of the Special Use Permit and Related Stipulations for Mountain Shadows Resort (Exhibit "B" hereto, incorporated herein by this reference, and hereinafter referred to as the "SUP" and the "Stipulations," respectively; provided, however, that the term "SUP" shall include the Stipulations and all other documents or instruments referred to in this ordinance, and in the Stipulations), and to amend the Zoning Map to reflect such rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA THAT:

SECTION 1. Findings. Based on all matters considered by the Town Council including written materials, oral comments, and deliberations, the Town Council finds that the proposed SUP District (Resort) rezoning is in accordance with Articles III and XI of the Town Zoning Ordinance. Specifically, the rezoning:

a. Is authorized by, and is in conformity with, the Town's adopted General Plan, as amended;

b. Furthers the goals and policies of the General Plan by (i) ensuring that the primary resort use and structures, and any accessory uses and structures, do not adversely affect the integrity and enjoyment of adjacent residential neighborhoods, (ii) addressing the effects of the proposed revitalization and improvement of the Property on traffic, natural features, light, noise, dust, and odor pollution, and (iii) setting specific limits on site development parameters to promote the security and aesthetic benefits of visual openness throughout the Town;

c. Will not be detrimental to, interfere with, or adversely affect existing land uses or the character of adjacent properties, persons residing or working in the vicinity, the neighborhood, the public health, safety, peace, comfort and general welfare, or the purpose of the zone in which it is proposed;

d. Will be in full conformity with the Zoning Ordinance and other ordinances of the Town and any conditions, requirements, or standards prescribed in the Stipulations;

e. Meets the intent of the Zoning Ordinance provisions relating to special use permits by incorporating (i) the implementation of the goals and policies of the General Plan, (ii) the development of substantial open space and/or recreational facilities held in common ownership, control or management, (iii) the development of adequate public and/or private streets, storm drainage, and sewer and water utilities to minimize impacts on adjacent properties, (iv) the preservation of significant natural land characteristics, open space, and view corridors, (v) the use of building design, site design, and construction of amenities to create a unique resort development, (vi) assurances of proper property maintenance through use of common control or management of the property, stringent development standards, and one or more property owners' associations and recorded covenants, conditions, and restrictions, (vii) the preservation and enhancement of the neighborhood's appearance, (viii) the construction and development of improvements that create substantial public benefits, and (ix) the incorporation of standards that ensure the development will have minimal impact on adjacent properties;

f. Modifies, where appropriate, certain SUP guidelines or development standards and permits related uses allowed in the SUP district in exchange for site enhancements

that improve overall site design or to promote the best interests of the Town or its residents;

g. Complies with and satisfies the requirements of the Town's Zoning Ordinance that the land uses approved in this SUP constitute a resort, including guest units and facilities necessary for administering and servicing the facility, on-site parking, and golf. The additional, accessory uses approved in this SUP include, but are not limited to, retail and residential uses, which are necessary for administering and servicing the facility as a whole. While the primary and accessory uses can vary in scale, the Minimum Resort Hotel Improvements (as defined in this SUP) are sufficient to constitute the primary use. The phasing, as contemplated in this ordinance and the associated development agreement, has been determined by the Town to comply with primary use and accessory use requirements in the Town's Zoning Ordinance; Section 1005 of the Town's Zoning Ordinance is intended to apply to the Town's single family residential districts and not to special use permits, including this Special Use Permit;

h. Meets the definition of resort and allowed uses by requiring a resort operated under a single unified management structure, containing adequate guest units for temporary residency in a physical setting that provides a high level of guest amenities, recreational opportunities, and a quality of design that includes sufficient architectural features, extensive open space, and landscaping, along with resort dwelling units and other resort-related uses as accessory uses;

i. Incorporates the Town's Special Use Permit Guidelines or replaces or adds guidelines to continue the generally-accepted vision for various standards contained in the Guidelines, while recognizing the unique characteristics of the site and other factors of development that merit more or less restrictive standards, where appropriate;

j. Provides for revitalization of resort uses on the Property, some of which were discontinued on certain portions of the Property in 2004, but others of which have been continuously operating since that time;

k. Has been approved by the Town Council after reviewing numerous written submissions and oral comments from neighboring residents (including Mountain Shadows East and Mountain Shadows West residents and representatives of their respective homeowners associations) and considering the recommendation of the Planning Commission, which has held numerous hearings, has considered issues beyond those listed in the Statement of Direction, and has addressed all issues within its purview in making its recommendation to the Town Council; and

l. Has been requested by the Owner, as defined in the Stipulations, as holder of fee title to the Property and the "owner" for purposes of Section 307 of the Zoning Ordinance and the Private Property Rights Protection Act; adjacent homeowners in Mountain Shadows West and Mountain Shadows East do not have legal or equitable interests in the Property that would also make them "owners."

SECTION 2. Rezoning. A parcel of land, as described in Exhibit "A" attached hereto, is hereby rezoned from R-43 to a new SUP District (Resort) designation, with such changes to be made on the Town's Official Zoning Map, such new SUP District (Resort) to allow for use of the Property as a resort and for those other uses permitted by the SUP (Exhibit "B" hereto, incorporated herein by the reference), and as limited in the SUP.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid, unconstitutional, or unenforceable by a court of competent jurisdiction in a final non-appealable judgment, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or enforceability of the remaining portions thereof.

SECTION 4. Effective Date. This ordinance shall become effective as of the Effective Date (as such term is defined in the Stipulations).

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this 18 day of April, 2013.

Scott P. LeMarr, Mayor

SIGNED AND ATTESTED TO THIS 18 DAY OF APRIL, 2013

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

ATTEST:

Duncan Miller, Town Clerk

STATE OF ARIZONA)
:ss.
COUNTY OF MARICOPA)

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the foregoing is a full, true, and correct copy of Ordinance Number 653 duly and regularly passed and adopted by a majority vote of the Town Council at a meeting duly called and held on the 18th day of April 2013. Said Ordinance appears in the minutes of said meeting, and it has not been rescinded or modified and is now in full force and effect.

I further certify that said municipal corporation is duly organized and existing, and has the power to take the action called for by the Ordinance.

TOWN CLERK OF PARADISE VALLEY SEAL 1961 MARICOPA COUNTY, ARIZONA

Duncan Miller, Town Clerk

VOTE

AYES: 7

NAYES: 0

NOT PRESENT: 0

ABSTAIN: 0

EXHIBIT "A"
TO
ORDINANCE NUMBER 653

Legal Description

The Special Use Permit for the Mountain Shadows Resort relates to the land legally described as:

EAST OF 56TH STREET - LOT I, LOT 1-A AND LOT 1-B OF "MOUNTAIN SHADOW RESORT AMENDED", BOOK 75 PAGE 34, M.C.R.

WEST OF 56TH STREET - LOT 128, LOT 130-A AND LOT 131 OF "MOUNTAIN SHADOW RESORT UNIT TWO-AMENDED", BOOK 95 PAGE 3, M.C.R. AND LOT 132 OF MOUNTAIN SHADOW RESORT UNIT TWO-AMENDED II" BOOK 940 PAGE 7, M.C.R. AND LOT 128-A AND LOT 129 OF "MOUNTAIN SHADOW RESORT UNIT TWO-AMENDED III", BOOK 1110 PAGE 37, M.C.R.

(Assessor's Parcel Numbers 169-30-063, 169-30-070, 169-30-071, 169-30-074, 169-30-073, 169-30-067A, 169-30-068A, 169-30-068B, 169-30-067B, 169-30-072, 169-43-004C, 169-43-005, 169-43-006)

But excluding Lot 68, Book 75 of Maps, Page 34, M.C.R., if inadvertently included within the foregoing description.

EXHIBIT "B"
TO
ORDINANCE NUMBER 653

TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT AND RELATED STIPULATIONS
FOR MOUNTAIN SHADOWS RESORT
SUP-12-5

I. PROJECT DESCRIPTION

Pursuant to Article XI of the Zoning Ordinance of the Town of Paradise Valley, Arizona (the "Town"), the Town hereby grants to MTS Land, LLC, a Delaware limited liability company, its successors and assigns, and to MTS Golf, LLC, a Delaware limited liability company, its successors and assigns (collectively, the "Owner"), Special Use Permit No. 12-5 (with these Stipulations, the "SUP") governing the use of the Property. All capitalized terms contained herein shall have the meanings ascribed to them parenthetically or otherwise in Ordinance No. 653 or otherwise in these Stipulations.

The Property is comprised of approximately 67.00 acres of land bisected by 56th Street between Lincoln Drive and McDonald Drive in the Town of Paradise Valley, Arizona, as more particularly described on Exhibit "A" to Ordinance No. 653; said Property to specifically exclude Lot 68, as defined below. This SUP is being granted by the Town to permit the continued use and operation of the Property as a resort and to allow demolition of existing improvements and redevelopment of the Property subject to and in accordance with these Stipulations and the 2013 Development Agreement.

Subject to these Stipulations, the improvements, facilities and uses authorized to be developed, redeveloped, and used on the Property, as described below, include the following: "Resort Hotel;" "Clubhouse;" "Resort Residential" and "Resort Estates;" "Golf Course;" "Resort Ancillary Facilities and Uses;" "Area C Retail;" and such other facilities and uses as are permitted herein. The Property and any part thereof may be sold or conveyed to one or more third parties and thereafter resold or reconveyed to one or more third parties and used as permitted in this SUP.

II. DEFINITIONS

"2013 Development Agreement" means a development agreement between the Town and the Owner entered into pursuant to the terms of A.R.S. § 9-500.05, which is to be executed contemporaneously with adoption of this SUP.

"Affiliate," as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or spouse or children of such person, if such person is a natural person. For the purposes of this definition, (i) "control" (including with correlative meaning, the terms "controlling," "controlled by" and "under common control"), as

applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the beneficial ownership of voting securities, by contract or otherwise, and (ii) "person" means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, limited liability companies, limited liability partnerships, limited liability limited partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

"Approval Date" means the date on which both of the following have occurred (i) Ordinance No. 653 is approved (i.e., voted on) by the Town Council of the Town of Paradise Valley, Arizona and (ii) signed by the Mayor.

"Approved Plans" means those certain plans and other documents certified by the Town Clerk that are listed in Schedule "1," attached hereto and incorporated herein by this reference.

"Area A," "Area B," "Area C," "Area D," and "Area E" means those portions of the Property as shown on Sheet 2 of the Approved Plans. Whenever in these Stipulations a reference is made to an "Area," such reference is to one or more particular Areas on Sheet 2 of the Approved Plans.

"Area C Retail" means one or more full service, sit down restaurants (not a fast food restaurant) and/or a gourmet food shop (such as are operated by Dean & DeLuca or Le Grande Orange) and retail facilities, to the extent located within the reduced setback area within Area C as allowed by Stipulation 61, and which are open to the general public, offering for sale goods and merchandise or certain services as described herein below. Provided restaurants and/or gourmet food shops described above initially occupy a minimum combined Floor Area of five thousand (5,000) square feet in one or more buildings, a maximum Floor Area of two thousand five hundred (2,500) square feet of other retail facilities described below may also be located in Area C (provided, however, no other such retail facilities may open for business until at least one restaurant or gourmet food shop has initially opened for business). The following other types of retail business may operate in not more than an aggregate of two thousand five hundred (2,500) square feet of floor area: a café (such as Starbucks or Coffee Bean); full service salon; jewelry store; art gallery; a resort sales and marketing facility selling resort services, Resort Units or the Resort Rental Management Program (including services and sales related thereto). The restaurants or gourmet food shops (which may be separate facilities or one facility) may include some or all of the following facilities and/or uses: the sale of alcohol including beer, wine or liquors (for on or off site consumption); outdoor cooking facilities; outdoor dining facilities; the sale of any combination of cooked, prepared, frozen, fresh or pre-packaged foods, fresh fruits and vegetables, groceries, gift items and apparel, sundries, cosmetics, over the counter pharmaceuticals, housewares and related kitchen, indoor and/or outdoor dining items; deli items, coffee, tea, ice cream, frozen yogurt; snacks; fresh or artificial flower sales; art; jewelry; fashion eyewear, footwear and apparel; tobacco products; newspapers, books and periodicals. Area C Retail specifically excludes the sale of medical marijuana and stores commonly referred to as convenience store, gas station, or minimart (such as brands like Circle K, 7 Eleven, AM PM Minimart, Quick Trip or similar brands of retail establishments that sell as the principal part of their business convenience goods, such as prepackaged food items, tobacco, periodicals and other household goods, collectively "convenience store"); provided that a convenience store does

not include a restaurant or gourmet food shop described above selling the foregoing. Except as provided above, Area C Retail does not include establishments that are principally engaged in the provision of services (as opposed to restaurant and retail facilities) that are not subject to the Town's transaction privilege tax or the gross receipts derived from retail sales activities.

"Bankruptcy Cases" means the following cases being heard by the United States Bankruptcy Court for the District of Arizona: In re: MTS Land, LLC, a Delaware limited liability company, Case No. 2:12-bk-16257-EWH , including any appeal thereof, and In re: MTS Golf, LLC, a Delaware limited liability company, Case No. 2:12-bk-16259-EWH, including any appeal thereof. The "Bankruptcy Court" means the United States Bankruptcy Court for the District of Arizona hearing such cases.

"Bankruptcy Court Approval" means the entry pursuant to Sections 363 and/or 1129 of the Bankruptcy Code and Bankruptcy Rules 3020 and/or 9019, after notice and hearing, of an order or orders of the Bankruptcy Court approving and authorizing MTS Land/Golf to enter into and carry out the 2013 Development Agreement and the Settlement Agreement or the entry of a confirmation order in the Bankruptcy Cases by the Bankruptcy Court confirming the Plan incorporating the 2013 Development Agreement and the Settlement Agreement, with all such orders being Final Orders (as defined below).

"Branded Residence" means a Resort Residential unit which has been designed and finished with standards adopted by an organization which provides services for the branding of residences. Such Branded Residences are limited to Four Seasons residences, Ritz Carlton residences, St. Regis residences, Marriott Autograph Collection residences, Montage residences, or such other brands as the Town Manager approves, but provided that the Town Manager has first distributed to the Town Council and staff the proposed new brand at least two weeks prior to the Town Manager's decision. The brand of the Branded Residences shall be the same as the brand of the Principal Resort Hotel. While the specifications for Branded Residences may be different from Hotel Keys which comprise the Minimum Hotel Keys, they should be compatible in design with the Hotel Keys. Branded Residences may be sold and resold and or rented and re-rented through the Resort Rental Management Program or through a program adopted for their management. A Branded Residence may be uniquely customized and furnished by its owner.

"CC&Rs" means one or more sets of conditions, covenants and restrictions applicable to discrete portions of the Property that, among other things, implement provisions of these Stipulations.

"Clubhouse" means either the golf clubhouse existing as of the Approval Date ("Existing Clubhouse"), or such golf clubhouse as remodeled, relocated and/or rebuilt, from time to time, which may be in one or more buildings. Any Clubhouse may include all facilities and uses typically found in golf clubhouses, and any use allowed in a Resort Hotel.

"Courtyard Areas" means any residential courtyard areas as defined in Article XXIV of the Town Zoning Ordinance.

"Effective Date" means the date on which all of the following have occurred: (i) this SUP, the 2013 Development Agreement, and the Settlement Agreement have been adopted and approved

by the Town Council, executed by duly authorized representatives of the Town and Owner, and recorded (if applicable) in the office of the Recorder of Maricopa County, Arizona, and any applicable referendum period has expired without referral, or any proposed referendum has been declared invalid in a final non-appealable judgment by a court of competent jurisdiction, or this SUP (or the 2013 Development Agreement, as applicable) has been approved by the voters at a referendum election conducted in accordance with Applicable Laws and (ii) the 2013 Development Agreement and the Settlement Agreement have received Bankruptcy Court Approval.

"Existing Entitlements" means whatever rights the Owner had with respect to the use and development of the Property prior to the Approval Date.

"Final Order" means an order, judgment, or other decree of the Bankruptcy Court entered on the docket, that has not been reversed, reconsidered, stayed, modified, or amended, that is in full force and effect, and as to such order or judgment: (i) the time to appeal, seek review or rehearing, or petition for certiorari has expired and no timely filed appeal or petition for review, rehearing, remand, or certiorari is pending; (ii) any appeal taken or petition for certiorari or request for reconsideration or further review or rehearing filed: (a) has been resolved by the highest court to which the order or judgment was appealed or from which review, rehearing, or certiorari was sought; or (b) has not yet been resolved by such highest court, but a stay has not been timely filed with respect to such order or, if timely filed, has been denied. Notwithstanding the foregoing, each of an order under Bankruptcy Code and Bankruptcy Rules 3020 and/or 9019 or a plan confirmation order shall specifically become a Final Order on the first (1st) business day that is the fifteenth (15th) day after the entry of an order of the Bankruptcy Court, either as an order under Bankruptcy Code and Bankruptcy Rules 3020 and/or 9019 or a plan confirmation order unless any appeal of any such order was accompanied by a stay pending appeal.

"Floor Area" means the area under roof added to the floor area of any second and third story; provided, however that "Floor Area" also includes the Courtyard Areas for any Resort Estates, the horizontal solid portion(s) of trellises and/or open weave roofs, and all the horizontal solid portion of area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. Floor Area excludes the floor area of any fully subterranean portions of a building, Courtyard Areas for all structures other than Resort Estates, and the portion of any roof overhangs which are not over useable exterior spaces (all as illustrated on Sheet 2.1 of the Approved Plans). In the case of the Principal Resort Hotel, and notwithstanding the preceding sentence, Floor Area includes subterranean portions of buildings that are part of the Principal Resort Hotel and contain areas that are not generally intended to be accessed by the general public and hotel guests, such as, but not limited to kitchens, employee locker rooms, cafeterias and/or break rooms, staff offices, security offices, administrative offices, laundry facilities, storage, maintenance facilities, utility rooms, and other facilities that are typically described as "back of house" facilities.

"Golf Course" means the 18-hole golf course and any practice facility (including outdoor putting, pitching, and driving areas), as it exists as of the Approval Date or as it may be redeveloped, generally as depicted on Sheet 6 of the Approved Plans.

"Golf Facilities" means those uses typically found in golf courses in Maricopa County, including but not limited to clubhouses, pro shop, starter facilities, restrooms, locker rooms, pump stations, parking, irrigation systems, indoor video driving ranges, golf cart storage, but excluding the Golf Course maintenance building/maintenance yard which shall be located as depicted on Sheet 5 of the Approved Plans.

"Hotel Key" means a Resort Unit located in Area B, served by a single key, which is part of a Resort Hotel, designed and constructed with all furnishings, fixtures and equipment necessary to operate as a single unit for transient occupancy use as a part of such Resort Hotel. Each Hotel Key shall have at least one full bath and a direct lockable connection from the exterior or a corridor. A Hotel Key may be located in a primary Resort Hotel structure (in a building that includes guest registration, reception and other allowed uses) or in any number of other buildings (which may be across private drives from other Resort Hotel structures) integrated or associated with such Resort Hotel through landscaping or otherwise, including in a building or buildings with Resort Residential. A Hotel Key may be interconnected with another Hotel Key unit through a lockable connection, so that more than one Hotel Key may be rented as a single unit.

"Lot 68" means lot 68 (as shown on the plat of Mountain Shadow Resort Amended, recorded in Book 75 of Maps, page 34, official records of Maricopa County Recorder).

"Minimum Hotel Keys" means the one hundred (100) Hotel Keys included as part of the Principal Resort Hotel and owned by a single legal Owner which also owns the Minimum Resort Hotel Improvements.

"Minimum Resort Hotel Improvements" means the minimum improvements included in the initial design and construction of the Principal Resort Hotel and including not less than, all of the following elements:

(a) The Minimum Hotel Keys, provided that Hotel Keys in excess of the Minimum Hotel Keys may be owned by an Owner(s) other than the Owner of the Principal Resort Hotel.

(b) One (1) full service restaurant with seating capacity for not fewer than one hundred (100) persons which, together with other restaurants and food service areas, are collectively capable of serving three (3) daily meals and providing room service to the Minimum Hotel Keys.

(c) At least one (1) swimming pool along with facilities (which may be remote from the pool) intended to provide food and beverage service to Resort Hotel guests at the pool.

(d) At least one (1) heated whirlpool (such as a "Jacuzzi").

(e) At least one (1) fitness area to accommodate professional-grade exercise machines and related equipment.

(f) An area or areas for providing spa services such as massage services.

(g) A dedicated reception area to accommodate guest check-in, concierge and cashier.

(h) A dedicated area to accommodate vehicle or passenger drop off (such as valet parking services) for Resort Hotel guests.

"Mountain Shadows East" means the fifty-nine (59) lots as depicted on the plat "Mountain Shadow Resort Amended," recorded in Book 75, Page 34, official records of Maricopa County Recorder on January 20, 1958.

"Mountain Shadows West" means the fifty-nine (59) lots as depicted on the plat "Mountain Shadow Resort Unit Two – Amended," recorded in Book 95, Page 3, official records of Maricopa County Recorder on June 6, 1961.

"Open Space Criteria" means the following criteria related to the height and setback of buildings: No building shall penetrate an imaginary plane beginning at sixteen (16) feet above Original Natural Grade and twenty (20) feet from the exterior property lines of the Property, which plane slopes upward at a ratio of one (1) foot vertically for each five (5) feet horizontally measured perpendicular to the nearest exterior property line of the Property. This limitation shall apply until the maximum allowable height is reached. See illustration Sheet 2.1 of Approved Plans.

"Original Natural Grade" is defined and set forth on Sheet 4 of the Approved Plans.

"Owner" means collectively or separately MTS Land, LLC, a Delaware limited liability company, and MTS Golf, LLC, a Delaware limited liability company, and their respective successors and assigns, as well as any subsequent owner of any portion or portions of the Property, including but not limited to, an owner of a Resort Hotel, any Resort Unit, any Resort Estates lot, the Golf Course, any part of Area C Retail, or one or more combinations thereof. An Owner may be an individual, corporation, partnership, limited liability company, trust, land trust, business trust or other organization, or similar entity, which in turn may be owned by individuals, shareholders, partners, members or benefitted parties under trust agreements, all of which may take any legal form, and may allocate interests in profits, loss, control or use.

"Party" or "Parties" means the Town and Owner, or their successors or assigns.

"Principal Resort Hotel" means the Resort Hotel designated as such and which includes the Minimum Resort Hotel Improvements and not less than one hundred twenty thousand (120,000) square feet of Floor Area, provided, however, in the event the Principal Resort Hotel contains not less than one hundred twenty (120) Hotel Keys which are owned by the Principal Resort Hotel Owner the minimum Floor Area shall be one hundred eight thousand (108,000). The Principal Resort Hotel shall be owned by a single legal Owner (provided Hotel Keys in excess of the Minimum Hotel Keys may be owned by another Owner(s)).

"Property" means the real property described in Exhibit "A" to Ordinance No. 653.

"Resort" means the entire Property and all facilities and other improvements existing, developed or redeveloped and used or useful on the Property in general conformance with the Approved Plans and/or these Stipulations.

"Resort Ancillary Facilities and Uses" means all facilities and uses related or incidental to the operation of a resort or resort hotel, including specifically, but without limitation: restaurants, bars and lounges; spas and salons; fitness facilities; barbershops; indoor and outdoor meeting, convention, display, exhibit, wedding and social function facilities; sale of food and alcohol (for on or off site consumption); catering facilities; outdoor cooking facilities; outdoor dining facilities; gourmet food shops (offering any combination of cooked, frozen, fresh, prepared or pre-packaged foods, beer, wines, liquors, gifts, fresh fruits and vegetables, groceries, sundries, cosmetics, over the counter pharmaceuticals, house wares, and related kitchen, indoor and/or outdoor dining items); deli, coffee, tea, ice cream, yogurt and similar shops or sales; snack bars; central plant, maintenance shop, engineering facilities, housekeeping facilities, laundry, storage and support facilities; valet and other parking facilities, parking decks, garages and areas; automobile rentals; gift and sundries shops; flower sales; art and art galleries; jewelry and jewelry shops; fashion eyewear, footwear and apparel sales; sale of hotel items such as furniture, bedding, art, toiletries; other resort retail; marketing, sale and resale of Resort Units, Resort Residential or Resort Estates (including through a real estate sales office) and other resort sales and marketing; travel agency offices; tour and other off-site activity offices; administrative, support and other resort offices including temporary offices and facilities for construction, sales, marketing, and design (including the temporary use permit facilities currently located at the southwest corner of 56th Street and Lincoln Drive); indoor and outdoor entertainment facilities; ramadas; pools; cabanas; tents; golf, tennis, and other recreational or sport uses and services, amenities, recreational facilities and fitness facilities. Any such use or facility may be within any Resort Hotel, Clubhouse or separate building(s) including individually or grouped in one or more buildings or facilities.

"Resort Estates" means all of the lots to be improved with residences in Area E.

"Resort Hotel" means one or more hotel(s) to be designed and constructed within Area B. At least one Resort Hotel shall be the Principal Resort Hotel that at all times contains the Minimum Resort Hotel Improvements (subject to force majeure, remodeling, alteration, reconstruction, redevelopment, and similar events). Resort Hotels provide accommodations for transient occupants and related facilities and services, and also may include Resort Residential, the Clubhouse (or portions thereof), and any Resort Ancillary Facilities and Uses.

"Resort Hotel Manager" means the Owner of any Resort Hotel, including any Affiliate thereof or a third party hotel management company which manages any Resort Hotel. A Resort Hotel Manager may also manage any other portions of the Resort, including but not limited to the Golf Course, the Clubhouse, Resort Residential, Resort Estates, and Hotel Keys. If any Resort Hotel Manager is not the Owner of a Resort Hotel (or an affiliate of such Owner), it shall initially be a hotel management company which has not less than five (5) years' experience managing full service hotels or resorts or which currently manages not fewer than five (5) full service hotels or resorts. If there is more than one (1) Resort Hotel, there may be more than one (1) Resort Hotel Manager. Any Resort Hotel Manager may enter into one or more agreements, and/or designate

others to operate, manage, or provide services to or for one or more different parts, uses, or services within or which are a part of any Resort Hotel, including by Affiliates of such Resort Hotel Manager, or Third Party(ies).

"Resort Hotel Owner" means the single legal owner of each Resort Hotel.

"Resort Rental Management Program" means a rental management program offered and managed by the Owner of any Resort Hotel (or Affiliate thereof) or a Resort Hotel Manager (or Affiliate thereof) which provides rental management service for all Hotel Keys for such Resort Hotel and other Resort Units where an Owner elects to include such residences in such Resort Rental Management Program.

"Resort Residential" means the Resort Units, exclusive of any Hotel Keys, located on the west side of 56th Street in Area B.

"Resort Sign Guideline" and "Resort Sign Program" means plans and/or a narrative describing signage for the Resort as described in Stipulations 29 and 30 of these Stipulations.

"Resort Unit" means all Hotel Keys and all other residential units (including Resort Residential and Resort Estates), which may include a room or group of rooms which can be locked and served by a single key (or multiple keys). A Resort Unit may be served by one or more bathrooms, and may be with or without cooking facilities or kitchens. Except for the requirement that the Minimum Hotel Keys be owned by the Principal Resort Hotel Owner, a Resort Unit may, subject to these Stipulations, be owned by either an Owner or a Third Party and may be sold, resold, or may be rented and re-rented from time to time, including for transient occupancy; and provided further that, except for the requirement that the Minimum Hotel Keys be owned by the Principal Resort Hotel Owner and managed by the Resort Hotel Manager thereof, a Resort Unit may only, subject to these Stipulations, be used for any type of residential occupancy (including transient occupancy) and may be created as separate legal units through one or more plats or horizontal property regimes through one or more maps.

"Settlement Agreement" means the "Waiver, Release and Settlement Agreement" entered into by, between, and among the Town and Owner concurrently with Town's approval of this Special Use Permit and the Parties entering into the 2013 Development Agreement.

"Special Use Permit" or "SUP" means Special Use Permit No. 12-5, which includes exhibits thereto, these Stipulations, and all Schedules hereto.

"Special Use Permit Guidelines" means special use permit guidelines adopted by the Town and in effect as of the Approval Date.

"Third Party" means, with respect to a good faith transaction, any individual or entity other than a Party, an Affiliate of any Party, a principal of a Party or an Affiliate of a principal of any Party, and a spouse, parent, child of a principal of a Party or of an Affiliate of any Party.

"Town" means the Town of Paradise Valley, Arizona.

"Town Manager" means the Town Manager or his designee.

"Town's Landscape Guidelines" means those certain landscape guidelines accepted by the Town Council dated September 26, 1996.

"Vacation Club" means the ownership of a group of Resort Units, with such group of units designed and constructed with all furnishings, fixtures, and equipment necessary to operate as single units for transient occupancy by a recognized operator of vacation clubs or an entity controlled and/or managed thereby. A recognized operator of vacation clubs is limited to Hilton Grand Vacations, Hyatt Vacation Club, Marriott Vacation Club International, or such other operator as the Town Manager approves. The foregoing definition is not intended to affect the right of an Owner(s) of a Resort Unit(s) to place such Resort Unit(s) in a Resort Rental Management Program.

"Zoning Ordinance" means the Town's zoning ordinance in effect as of the Approval Date, attached hereto as Schedule "2."

III. STIPULATIONS

A. GENERAL

1. In the event of a conflict between these Stipulations and the Approved Plans, these Stipulations shall govern.

2. Unless otherwise determined by a Final Order in the Bankruptcy Cases or the final order of another court with jurisdiction, or as otherwise set forth in this Special Use Permit, the 2013 Development Agreement, or the Settlement Agreement, as of the Effective Date this Special Use Permit shall supersede and replace the Existing Entitlements. Unless and until the Effective Date occurs, the Existing Entitlements shall remain in full force and effect.

3. This Special Use Permit, as it may be amended or superseded from time to time, shall run with the land (i.e., the Property and each part thereof) and any person having or subsequently acquiring title to any portion of the Property shall be subject to this Special Use Permit only as it applies to the portion of the Property owned by such person. Once an Owner (including without limitation any owner of a Resort Unit, including each Resort Residential unit, Resort Estates lot, Resort Hotel, Area C Retail or any other Owner) no longer owns a portion of the Property, such prior Owner shall no longer be subject to this Special Use Permit with respect to such portion of the Property no longer owned, but the then current Owner shall be subject to this Special Use Permit.

4. If any portion of the Resort is used in violation of the terms of this Special Use Permit, the Town may, after fair notice, a hearing and a reasonable

opportunity to correct, impose a monetary sanction on the then Owner of such portion, in an amount not to exceed the maximum amount allowed for violations of the Town Zoning Ordinance for each day such violation exists, in addition to all other orders or sanctions permitted by applicable laws. No such remedy shall be applied to any other Owner or portion of the Resort that is not in violation of this Special Use Permit.

5. The use of the Property shall at all times conform to all applicable State laws and Town ordinances, except that if there is a conflict between this Special Use Permit and any Town ordinance or other Town requirement, the terms of Stipulation 11 shall be applied to resolve any such conflict.

6. The redevelopment of, and construction on, the Property shall, subject to these Stipulations, substantially conform to the intent of the Approved Plans. Each of the Approved Plans is hereby incorporated into this Special Use Permit and made an integral part hereof.

7. A mylar and electronic version of the Approved Plans shall be submitted to the Town within sixty (60) days after the Approval Date.

8. Nothing in this Special Use Permit or otherwise shall require the operation of the Resort under the name "Mountain Shadows," "Mountain Shadows Resort" or any similar or other name. No further consent shall be required to enable the Owner to transfer all or any portion of the Resort, name or rename the Resort, or select or reselect brands or management companies of the Resort, except as may be required by the 2013 Development Agreement; and further provided that the Property shall be subject to this SUP notwithstanding any such transfer. None of the Resort Units or any part of the Property shall, at any time, be operated as a Time-Share Project, as such term is currently defined by the Town Zoning Ordinance. Notwithstanding any prohibition of Time-Share Projects, if a Resort Unit (exclusive of the Minimum Hotel Keys) is owned or operated by an Owner for residential use where use of the Resort Unit is allocated amongst the owners of such Owner, Affiliates or parties otherwise related to or benefitted from such Owner, such use is allowed, provided that the parties who are allocated such use shall not have a right to a recurring specified period of use of a specific Resort Unit on a specific annual or other periodic basis. The foregoing sentence is intended to allow Vacation Clubs (and their constituent owners or related parties) to own or use a Resort Unit.

9. If any section, subsection, sentence, clause or phrase of this Special Use Permit is for any reason held invalid or unenforceable in a final, non-appealable judgment of any court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this Special Use Permit.

10. The Town and the Owner believe and intend that the provisions of this Special Use Permit are valid and enforceable. In the unlikely event that this Special Use Permit is declared by a court of competent jurisdiction to be invalid or unenforceable, the Resort (as then constructed) may continue to be used and operated as a legal non-conforming use in accordance with these Stipulations until such time as a special use permit or other applicable zoning for the Resort is issued or reissued by the Town for the Property.

11. The Town Manager's approval or determination is provided for in several instances in these Stipulations. The Town Manager shall base his approval on standards and criteria set forth in this SUP, the 2013 Development Agreement, the Town Code, and the Zoning Ordinance, as reasonably applicable, with the intent to implement the viable development of the Resort as provided in this SUP and the 2013 Development Agreement. Recognizing that the final design and building permit process for which any particular approval of the Town Manager is sought involves multiple stages, including conceptual, schematic, design development and construction documents, an Owner may seek the approval of the Town Manager at one or more stages of such design. Notwithstanding the foregoing, no construction may occur with respect to any particular element or structure until necessary permits for that element or structure are issued. An Owner may rely upon an approval in proceeding from one stage of design to the next. Where proposed construction is not specifically and clearly disallowed by this Special Use Permit and/or the 2013 Development Agreement, the Town Manager is authorized to allow such construction even if it deviates from the Special Use Permit Guidelines. Although the Parties intend that this Special Use Permit, 2013 Development Agreement, Zoning Ordinance, and the Town Code state a consistent relationship between them, the Parties agree that in the event of a conflict between these documents that the order of priority shall be the (1) Special Use Permit, (2) 2013 Development Agreement, (3) Zoning Ordinance and (4) Town Code and agree that the higher priority document shall control.

B. DEMOLITION

12. A schedule for demolition by Owner of the vertical portions of certain existing improvements shall be as provided in the 2013 Development Agreement.

C. DEVELOPMENT

13. All permanent public utilities within the Resort shall be underground (excluding certain equipment that is typically installed above ground which shall be appropriately screened, such as transformers, meters, and other equipment) and located within appropriate easements. The Town

Manager may, from time to time, require the granting of such easements to utility companies as deemed reasonably appropriate by entities providing utilities benefitting the Resort that are not covered by easements shown on the final plat or set forth in the recorded CC&Rs for the Resort, Resort Hotel, Resort Residential or Resort Estates. Sewage shall be disposed of by connection with the existing City of Phoenix sewer system lines in Lincoln Drive and/or 56th Street. All new water and sewage facilities shall be constructed in accordance with plans approved by the Town Manager.

14. It is anticipated that construction on, and redevelopment of, the Property will be conducted in phases. No construction permit shall be issued for any phase of construction on the Property until appropriate engineering or architectural plans are submitted to the Town and the issuance of such construction permit for that particular activity is approved by the Town Manager. Submitted plans shall be required to meet the building code most recently adopted by the Town. This provision shall not restrict or limit the continued maintenance, repair or replacement of the Golf Course, Clubhouse, parking areas, lighting facilities, landscaping, the temporary trailers, tennis courts, tennis club building, or any other facility used or useful, including but not limited to arbor care, irrigation system repair or replacement and other renovation of these existing features.

15. During any period of demolition and initial new construction of one or more phases within the Resort, temporary curb cuts (driveways) shall be allowed on Lincoln Drive and 56th Street to allow construction access to the Property both east and west of 56th Street; such temporary curb cuts and their location shall be approved by the Town Manager. A maximum of three (3) such temporary curb cuts (in addition to any permanent curb cuts shown on Sheet 3 of the Approved Plans) shall be allowed on each side of 56th Street between Lincoln Drive and the southern boundaries of the Property. A maximum of two (2) such temporary curb cuts shall be allowed along Lincoln Drive west of 56th Street and one (1) temporary curb cut shall be allowed along Lincoln Drive east of 56th Street. The existing curb cut along McDonald may continue to be used and may be relocated subject to the approval of the Town Manager. Temporary construction driveway locations are subject to the review and approval by the Town Manager.

16. All new construction shall satisfy all fire department requirements for each component of work (which may include temporary fire protection facilities) prior to the issuance of any building permit for such work.

17. Prior to the issuance of a certificate of occupancy for any individual structure, adequate fire, emergency and other vehicle access and adequate fire service shall be provided for such structure and the particular phase of development in which such structure is located, as determined by the Town Manager.

18. Owner(s) shall submit a construction phasing schedule prior to the issuance of any building permit for a particular new structure within a phase to ensure compliance with all Town ordinances and in order to minimize construction nuisances. This schedule may encompass the building of multiple new structures within a particular phase, and may be modified or amended from time to time. This construction/phasing schedule shall provide information on the following:

- Dust and noise control measures
- Vehicle /equipment storage/parking
- Construction days/hours
- The general location of the following elements, which may be relocated from time to time:
  - Location(s) of a staging area(s) for construction supplies/equipment
  - Location of any construction trailer(s) and/or sanitary facility(s)
  - Location of on-site construction materials/debris storage
  - Location of fire lanes during the construction period
- The approximate beginning and ending for construction of structures within a phase

19. During the period of demolition or construction of new improvements, signs shall be posted on the Property (or at the entrance to a particular phase) indicating the name and phone number of a person the public may contact with construction-related concerns. Sign details such as the sign size, height and location shall be reviewed and approved by the Town Manager.

20. During demolition, site grading, and the initial construction of other on or offsite improvements, Owner(s) shall coordinate the sweeping of Lincoln Drive, 56th Street and McDonald Drive adjacent to the Property to remove construction-related dirt and debris, as reasonably required by the Town Manager.

21. The precise location and/or required screening of any backflow preventer or other similar equipment to the extent same would be visible from Lincoln Drive or 56th Street shall be approved by the Town Manager.

22. Any permanent curb cuts on Lincoln Drive west of 56th Street may, as determined by the Town Manager, require a deceleration lane, which shall be installed by Owner in conjunction with construction on the adjacent property. Since Owner will pay a sum certain to the Town as provided for in the 2013 Development Agreement for improvements to the 56th Street and McDonald Drive rights-of-way, the Town shall be solely responsible for constructing those improvements within the 56th Street and McDonald

Drive rights-of-way (including initial installation of landscaping), other than curb cuts into the Property which shall be installed by the Owner. The approximate locations of permanent curb cuts are shown on Sheet 3 of the Approved Plans. The final locations shall be based upon final site plans for various phases of the Resort.

23. The Property can be developed in one or more phases, by one or more Owners, including portions east or west of 56th Street and separate phases within each development Area, as determined by the Owner(s) and subject to such other restrictions and limitations contained in those Stipulations which specifically apply to each such phase. Prior to issuance of building permits for any new structure within a particular phase, the Owner thereof shall submit a site plan showing the particular area of the Property on which such proposed building is located and setting forth the area of the phase which includes such structure. A phase shall include the necessary points of ingress and egress from public streets (which may occur through other phases or parts of the Property), associated parking areas, connections to internal private streets and features such as common use facilities to be constructed within such phase. The failure of an Owner of any part of the property or Area to comply with any provision of these Stipulations shall not impact property in any other part of the property or Area, as long as such other parts of the property or Areas are not owned by the same Owner(s).

24. The Owner shall arrange for construction phasing within any particular phase in the following sequence:

    a. Commence native plant salvage (for those plant materials required to be salvaged pursuant to Town Code §5-8-4 and deemed by a Native Plant Preservation Plan (prepared by each particular Owner for each particular phase) to be certain to survive and worthy of salvage), dust and erosion control measures, job-site mobilization and set-up, and the like.

    b. Upon completion of the salvage, commence horizontal or civil improvements and site work within such phase, including appropriate erosion and dust control.

    c. Upon or prior to substantial completion of the civil improvements and site work as reasonably necessary to commence perimeter walls and landscaping for such phase, including areas immediately adjoining such phase, the perimeter landscape plan(s) shall be submitted, reviewed and approved by the Town Manager. Installation of perimeter landscaping shall not be required to commence until adjacent site or structure improvements are sufficiently complete such that additional work will not harm the proposed landscape elements.

Perimeter landscaping is landscaping between a public right-of-way and any proposed perimeter wall on the Property, or twenty (20) feet back of such right-of-way, whichever is less.

d. Any required deceleration lanes on Lincoln Drive or curb cuts on Lincoln Drive, 56th Street, or McDonald Drive may be scheduled independently of the foregoing, in a manner consistent with the anticipated completion of structures within a phase as approved by the Town Manager.

e. The Owner shall, at all times, provide a paved access drive at least twenty-two (22) feet in width from Lincoln Drive or 56th Street to the Mountain Shadows West guardhouse. The Owner may also sell, lease or grant an easement for the maintenance and/or reconstruction of the Mountain Shadows West guardhouse at its current location or another location serviced by the foregoing access drive.

f. A twenty (20) foot wide area from 56th Street to Lot 68, as shown on Sheet 5.1 of the Approved Plans, shall be reserved for such use as is provided in a separate special use permit relating to such property.

g. The Owner shall at all times provide continuous paved access at least twenty-two (22) feet in width from Lincoln Drive to the location of the existing Mountain Shadows East guard house, either using the eastern most existing access drive off of Lincoln (shown on Sheet 5.1), or through a newly relocated access drive off of Lincoln Drive west of such drive.

D. HEIGHT AND HEIGHT MEASUREMENT AND RELATED ISSUES

25. An Original Natural Grade Plan (Sheet 4 of the Approved Plans) has been established by the Town Engineer and Owner's engineer, and the Town Council finds the grades established by the Original Natural Grade Plan acceptable, and shall be used to establish maximum height of any new structure built on the Property. Since the Property has a sloping topography it is accepted that finish grades for new structures may require cut and/or fill and/or retaining walls or structures to support finished grades which transverse a slope.

26. Sheets 5 and 5.1 of the Approved Plans set forth the maximum height of any new structure within particular areas of the Property measured in the manner set forth herein below. Larger individual structures which traverse grades may have more than one (1) elevation at finished grade, and such structures may thus have more than one (1) maximum height, which will be measured with respect to that portion of such structure that has the same elevation at finished grade.

27. The maximum height of a structure (or portion thereof where larger structures have more than one height as described above) shall be the maximum height above Original Natural Grade (or if the finished grade at a structure is lower than Original Natural Grade, the maximum height shall be measured from the finished grade, except as noted on Sheet 5) within each particular area set forth on Sheet 5 or 5.1 of the Approved Plans. Measurement is determined by determining a mid-point of finished grade equal distance from the high point and low point adjacent to such structure (or portion thereof) as illustrated on Sheet 4 of the Approved Plans.

28. Maximum height shall be measured at such midpoint, as illustrated on Sheet 4 of the Approved Plans. If finished grade at a structure is lower than Original Natural Grade, the maximum height shall be measured from the finished grade at each midpoint used for measuring the height of a structure or portion thereof, except as noted on Sheet 5. Notwithstanding the foregoing, in no event shall the vertical extent of a structure (or portion thereof) measured from finished grade at such midpoint, exceed the number of feet listed in each area of Sheets 5 and 5.1 of the Approved Plans, provided however a structure which traverses from one height area to another shall only be limited by the height in each particular area. The following building components are allowed to exceed the maximum height of each structure (or portion thereof) as follows:

- Chimney – three (3) feet
- Elevator enclosure – three (3) feet
- Towers or other architectural features, excluding mechanical equipment or mechanical equipment screens – three (3) feet

29. Subsequent to the Approval Date, Owner shall submit comprehensive Resort Sign Guidelines for the overall Resort for review and approval by the Town Manager, such guidelines to be consistent with the Special Use Permit Guidelines as modified in Stipulation 30 or otherwise approved by the Town Manager. After approval of the Resort Sign Guidelines, the Owner may submit a Resort Sign Program specific to a certain phase of construction for review and approval by the Town Manager, such Resort Sign Program(s) to be consistent with the Resort Sign Guidelines. Any sign installed in compliance with the Special Use Permit Guidelines or any approved Resort Sign Program shall not require further review by the Town, except for the issuance of any required building permit.

30. It shall be the objective of the Resort Sign Guidelines that the Resort, each Resort Hotel and components thereof, each Area C Retail or service establishment, the Golf Course and Clubhouse, the Resort Estates and Resort Residential units have appropriate identifying signage including both monument signage visible from Lincoln Drive, McDonald Drive, and

56th Street as well as interior monument, building and directional signage. Each of the foregoing components may have building-mounted signs that identify the activities and name of each business within, such as restaurants, spa, bar or lounge, reception, retail shops and pro shop. Monument signs shall be allowed at the locations shown on Sheet 3 and identified as Type 1, 2, or 3 monument signs which shall be limited to the following sizes (each side) and quantities:

TYPE	MAX. HEIGHT AND LENGTH OF TOTAL STRUCTURE	AGGREGATE* SQ. FT. OF SIGN COPY PER SIGN	QUANTITY
1	6' high x 20' long	50 square feet	1
2	5' high x 15' long	35 square feet	3
3	3'6" high x 8' long	30 square feet	5

*Aggregate means that both sides of a double faced sign count towards the total square feet. Area of sign copy shall be calculated based on the definition of Free-standing Letter Sign in Article II of the Zoning Ordinance.

The foregoing heights are measured from finished grade adjacent to the sign. The Resort Sign Guidelines, once approved by the Town Manager, shall govern the overall signage for the Resort and shall set forth sizes for various types of signs, locations, design, type of illumination, and mounting. Such signs shall also meet the fifty (50) foot corner vision criteria in Town Code Section 8-1-13.

Within the Resort, directional signage may be appropriately placed to direct Resort guests, employees, vendors, and others and may include private street signs, building signs, and other such features, all with appropriate illumination. Maximum height of interior directional signs shall be seven (7) feet, shall not exceed an area of twenty (20) square feet per side, and shall not be located closer than fifty (50) feet from public rights-of-way, except as may be approved by the Town Manager.

31. No above ground structures shall be placed in a right-of-way easement except approved monument signs and any other approved structures allowed by this Special Use Permit.

32. All mechanical equipment, including pool and fountain equipment, shall be screened so that it is not visible from properties not a part of this Special Use Permit and from public rights-of-way. All pool heaters are to be low-profile in configuration. Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to. If applicable, mechanical screening may provide the necessary noise attenuation for any mechanical equipment. All mechanical equipment, along with any screens used for attenuation of

noise, shall comply with the allowable noise levels as defined in the Town's noise ordinance as it exists as of the Approval Date. Noise measurement shall include any installed screening or other attenuation devices.

E. DEVELOPMENT AREAS

AREA A - GOLF COURSE

33. Area A contains portions of the existing Golf Course; portions of the existing Golf Course are also in Area B. The Golf Course may continue to be used, operated, repaired, maintained, and replaced, as it currently is improved and used, including maintenance and refurbishment of existing tee boxes, greens, sand traps and other hazards, cart paths, walls, water features, landscape elements, restrooms, irrigation systems and maintenance facilities, all as would typically occur in an operating golf course.

34. Within twelve (12) months after the Effective Date (or such later date if Owner extends the date as provided below), the Owner shall commence alterations of the Golf Course to include the following alterations, the areas of which are depicted on Sheet 6 of the Approved Plans (the "Initial Renovation").

    a. Within thirty (30) business days after the Effective Date (or such later date if Owner extends the date as provided below), the Owner shall submit to the Town a schematic plan for the Initial Renovation.

    b. Install within the area labeled "New Golf Area" new golf improvements to include a tee box, green and fairway. This New Golf Area may also be used and improved as a multipurpose golf area to include practice areas, pitching areas, putting areas, training and teaching areas, and outdoor event space.

    c. Modify existing golf holes 3, 6, 15, and 18, generally as shown on Sheet 6 of the Approved Plans to create a total of six (6) golf holes (including related tee boxes, hazards, fairways, and greens), so that after the elimination of existing holes 1 and 2, the altered Golf Course shall have eighteen (18) holes plus the New Golf Area.

    d. Remove existing holes 1 and 2 and those portions of the existing practice area located within Area B so that they will no longer be part of the Golf Course.

    e. The approximate location of tee boxes and greens are shown on Sheet 6 of the Approved Plans; the exact final locations, size, and shape will be determined by Owner in connection with the implementation of

items b and c above and in conformance with good golf course practices. No further building permit or approval shall be required to implement items b-d above, except such permits as may be required for irrigation, electrical, walls or grading. The exact size, shape and location of greens and holes within greens, hazards, water features, and other features may be modified from time to time in connection with managing and operating the Golf Course, in conformance with good golf course practices.

f. Once commenced, the alterations set forth in items b-d above shall be completed, subject to force majeure, within six (6) months.

g. Existing landscape elements within the Golf Course, such as trees, shrubs, flowers and other planted areas, may be added to, altered, removed and/or replaced from time to time in conformance with good golf course practices.

h. Existing irrigation systems, including pumps, motors, controllers, water lines and other related elements may be maintained, repaired and replaced from time to time in locations and amounts determined by Owner, in conformance with good golf course practices.

i. Existing lighting within the Golf Course may remain in current locations, or may be replaced with similar new fixtures.

The Initial Renovation, once completed, and subject to the rights to operate, repair, maintain, and renovate the Golf Course in conformance with good golf course practices, may continue for as long as the Owner chooses. The schedule of development in Stipulation 34(a) may be extended if Owner, in its sole discretion, gives written notice to the Town stating the length of the extension. Any single extension shall not exceed two (2) months. Owner may give multiple notices of extension so long as the collective length of the extension(s) of the Stipulation 34(a) requirement is not greater than eleven (11) months after the Effective Date. The overall schedule for the Initial Renovation as set forth in items a-i above shall automatically be extended for the duration of any proceedings before the Town's Board of Adjustment or a court of competent jurisdiction challenging this Special Use Permit or the 2013 Development Agreement. The Golf Course may be renovated pursuant to some other plan proposed by Owner, referred to as a "Major Renovation," or the Golf Course may cease operating as a golf course in conformance with Stipulation 35 below. If the Owner desires to undertake a Major Renovation, it shall submit detailed plans to the Town Manager for review and approval.

35. If the Owner desires to cease operating the Golf Course as a golf course ("Golf Cessation"), it shall provide not less than sixty (60) days written

notice to the Town of such determination. A cessation of Golf Course operations for periods of repair or renovation or for a period up to one (1) year as determined by Owner, shall not constitute Golf Cessation. In the event Golf Cessation occurs, the Owner shall thereafter maintain Area A as landscaped open space, which may include some or all of the landscape elements which exist at the time of such Golf Cessation. As part of the implementation of conversion to landscaped open space, the Owner may undertake such renovation as it determines to reduce the use of water for irrigation (such as removal of turf and replacement with desert landscape). The exact plans for such conversion shall be subject to the reasonable approval of the Town Manager. A conversion similar to the landscape elements, existing as of the Approval Date, contained in the open space areas of Mountain Shadows East's former golf course area (located on Lot 67A of the plat of Mountain Shadow Resort Amended, a subdivision recorded in Book 75 of Maps, page 34, records of Maricopa County, Arizona) is deemed acceptable.

36. The location of the maintenance yard and the location of maintenance building(s) within such maintenance yard within Area A are shown on Sheet 5 of the Approved Plans. The maintenance building(s) shall not have a Floor Area greater than eight thousand (8,000) square feet, shall not be taller than sixteen (16) feet from finished grade, and shall maintain setbacks as shown on Sheet 5 of the Approved Plans. Areas adjacent to new maintenance buildings (or the yard around such buildings) shall be landscaped with plant materials sufficient to appropriately screen the buildings when said landscaping is mature. Until such time as the new maintenance building is ready for occupancy and intended to replace any existing structure, existing maintenance structures and areas may continue to be utilized. The primary ingress and egress to and/or from the maintenance yard shall be either to the east or south. No more than six (6) employee parking spaces shall be at the maintenance yard. All other employees must park in other Resort parking areas. Deliveries, trash pick-ups, or other noise generating outside services involving mechanical equipment (excluding those addressed in Stipulation 41 and Stipulation 42), including large commercial trucks, shall be allowed to operate at the maintenance facility only between 7:00 a.m. to 5:00 p.m., Monday through Friday. No such activity, defined above, shall be allowed on weekends or legal holidays. These limitations above shall not apply for emergency situations or for overseeding and related turf maintenance activity.

37. Other Golf Facilities (but excluding the Clubhouse, above-ground golf cart storage buildings, indoor driving ranges, and locker rooms) may be built in Area A as follows:

a. Other Golf Facilities buildings are limited to a maximum Floor Area of two thousand (2,000) square feet combined.

b. All structures shall meet the Open Space Criteria.

c. Any new restroom buildings, pump stations and other similar above-ground facilities and equipment must be located at least twenty (20) feet from any property line not an internal property line within the Property subject to this Special Use Permit (provided existing facilities may remain in current locations and may be repaired, replaced or renovated in such location).

d. Areas directly adjacent to restroom buildings shall be landscaped with plant materials sufficient to appropriately screen buildings when said landscaping is mature.

38. The area adjacent to public right-of-way surrounding the Golf Course and within Area A along 56th Street and McDonald Drive currently is landscaped with an oleander hedge, which in part straddles the Property boundary ("Oleander Hedge"). The Oleander Hedge may remain in its current location, provided Owner shall maintain the Oleander Hedge to a height of not less than six (6) feet and not more than ten (10) feet, except in those areas where the golf course operator determines golf ball safety requires a taller Oleander Hedge. All oleanders in other areas may be removed. If the Oleander Hedge appears likely to die due to oleander leaf scorch disease or other natural causes, Owner shall, within five months after the determination has been made that the oleander hedge will die due to such disease or cause, replace the oleander hedge with another similar suitable "hedge" material, which shall be determined by submitting to the Town Manager, for his review and approval (within thirty days after its submittal) a plan to replace the oleanders with a similar suitable hedge. The replacement hedge may be maintained to a height of not less than six (6) feet and not more than ten (10) feet, except in those areas where the golf course operator determines golf ball safety requires a taller hedge.

39. Walls and fences along 56th Street and McDonald Drive bordering the Golf Course are permitted. If such wall or fence is existing, it can remain and be repaired or replaced in its existing location. If such wall or fence is in a new location, it can be immediately adjacent to the property line (but outside of any public right-of-way), provided that any such wall or fence is limited to six (6) feet in height and meets view fence opacity requirements in Article XXIV of the Town Zoning Ordinance. If a new solid, non-view fence/wall is proposed, it must meet height and setback requirements in Article XXIV of the Town Zoning Ordinance. At the corner of 56th Street and McDonald, all improvements and landscaping (including the Oleander Hedge) shall be in compliance with Town Code Section 8-1-13. Walls and fences may be built in any location in Area A

consistent with the Initial Renovation or a Major Renovation, provided such walls and fences do not exceed a height of six (6) feet and comply with Article XXIV of the Town Zoning Ordinance.

40. Golf cart storage may be in Area A, provided, however, that such storage shall be in subterranean structures only with related walls (for screening and to protect ramps, not to exceed a height of six (6) feet). The foregoing shall not restrict the at-grade staging and use of golf carts. If necessary, temporary (not to exceed eighteen (18) months from the commencement of the temporary use) at-grade golf cart storage (including a temporary structure for same) shall be allowed within Area A while a permanent golf cart storage structure is being constructed; such temporary structure shall observe the Town's Open Space Criteria.

41. Golf Course, maintenance areas and practice area hours of operation shall be no earlier than 5:00 am and no later than sixty (60) minutes after sunset, provided that practice areas in proximity to the Resort Hotel or Clubhouse may be used for other Resort ancillary uses with hours of operation as set forth in Stipulation 51.

42. Golf Course mowing shall not begin prior to 5:00 am. All Golf Course maintenance equipment shall be "Noise Friendly," as follows:

    a. "Noise Friendly" shall be defined as meeting all applicable governmental noise regulations for such equipment at the time of original purchase.

    b. The foregoing shall not prevent the continued use of maintenance equipment currently owned or used by Owner.

AREA B - RESORT HOTEL, RESORT RESIDENTIAL, GOLF FACILITIES

43. Area B may be developed to include any Resort Hotel, Resort Residential, portions of the Golf Course, Golf Facilities, Clubhouse, and any Resort Ancillary Facilities and Uses. Area B may be developed and redeveloped in one or more phases from time to time in multiple buildings or structures of various height and character, subject to these stipulations. Facilities or structures initially developed for a particular use may be converted or reused from time to time for other allowed uses provided that all other requirements of these stipulations are still met. Area B may be subdivided with one or more plats and/or maps from time to time. Resort Residential is allowed in Area B in various forms including attached or detached homes on subdivided lots or in one or more horizontal property regimes as reflected in one or more maps. The maximum Floor Area of Resort Residential development in Area B shall be three hundred thousand (300,000) square feet (the foregoing three hundred thousand (300,000) square feet is tabulated based on the actual Floor Area of the Resort

Residential units and not the Floor Area of any other allowed elements of the Resort, including, but not limited to, any Resort Hotel, Hotel Keys, Clubhouse, or Resort Ancillary Facilities and Uses). The height of any proposed new building or structure, or any portion thereof, shall not exceed the height in each area shown on Sheet 5 measured in accordance with Stipulations 25-28 herein. All demolition required under Stipulation 12 for Area B shall have been completed before any building permits are issued for vertical construction. Not later than one (1) year after the Effective Date, Owner shall submit to the Town a schedule of development stating when vertical construction of the Principal Resort Hotel will commence. The schedule of development in the preceding sentence may be extended if Owner, in its sole discretion, gives written notice to the Town stating the length of the extension. Any single extension shall not exceed three (3) months. Owner may give multiple notices of extension.

44. The Principal Resort Hotel may also be constructed in one (1) or more buildings in Area B provided all such buildings must have an integrated theme and share design cohesiveness, including architecture, signage, pedestrian and service vehicle connections to the primary Resort Hotel structure (the structure which includes guest reception and registration). The Minimum Hotel Keys shall be located in proximity (which may be across private drives or parking areas) to such primary Resort Hotel structure and utilized solely for Resort and Resort-related purposes, including only transient occupancy by guests of the Resort. Notwithstanding the foregoing, Clubhouse and Golf Facilities can be located in the Resort Hotel structure(s); provided, however, the Floor Area of such facilities which are solely dedicated to such use shall not count toward the minimum Floor Area for the Principal Resort Hotel Improvements. Facilities located within Clubhouse buildings which also provide function or service for the Principal Resort Hotel such as fitness, spa, restaurants, locker rooms, meeting rooms, offices, and storage shall be included in the minimum Floor Area requirement.

45. Each Resort Hotel Owner shall establish a single, unified rental management program and process for all Hotel Keys which are a part of such Resort Hotel.

46. The Clubhouse, including any golf cart storage, may either remain in its current location within Area B as of the Approval Date (the "Existing Clubhouse Setbacks") shown on Sheet 5 of the Approved Plans or be moved to any other location in Area B. If the existing location is utilized, the Clubhouse can be renovated in its existing location or torn down in whole or in part, and a new Clubhouse can be built in whole or in part. If torn down and rebuilt, in whole or in part, (i) the Clubhouse can be rebuilt utilizing the Existing Clubhouse Setbacks within the Existing Clubhouse

footprint and (ii) the height of such new and/or renovated Clubhouse within the Existing Clubhouse footprint shall be limited to sixteen (16) feet until a twenty (20) foot setback is reached, at which point the height may be increased as allowed by Sheet 5 of the Approved Plans. Any portion of a building or structure outside of the Existing Clubhouse footprint area will observe the setbacks and heights set forth on Sheet 5 of the Approved Plans.

47. The maximum height of any building that contains only Resort Residential units (as opposed to a mixture of Resort Residential units and Hotel Keys) in Development Area B shall not exceed two stories or twenty-eight (28) feet, as measured according to the terms of Stipulations 25-28, except as provided below. Only primary Resort Hotel structures (the structure which includes guest reception and registration) and other buildings that contain only Hotel Keys, Vacation Club units, Branded Residences (subject to the site plan approval requirement in the following sentence), and/or Resort Ancillary Facilities and Uses in any combination may be within three (3) story buildings, but in no event may any such building exceed thirty-six (36) feet in height as measured according to the terms of Stipulations 25-28. If three (3) story buildings that include Branded Residences are proposed for any portion of the Property, no such three (3) story buildings shall be allowed unless a site plan (depicting such portion of the Property solely related to Branded Residences in three (3) story buildings and showing the height and location of the three (3) story Branded Residences buildings and the Principal Resort Hotel buildings) is first approved by the Town Manager, in his sole and unfettered discretion. As an illustration of the combination of uses that may be allowed in three (3) story buildings, such buildings may contain any mix of Hotel Keys, Branded Residences and Resort Ancillary Facilities and Uses. As a further illustration, buildings that contain one or more Resort Residential units (that are not Branded Residences or Vacation Club units) but have Branded Residences, Hotel Keys, or Vacation Club Units may not be three (3) story buildings. If there are no proposed Branded Residences in three (3) story buildings, then no such site plan approval shall be required. Resort Residential units are allowed with a seventy (70) foot setback from Lincoln Drive only in the area specified on Sheet 5 of the Approved Plans, provided no portion of such units located between seventy (70) feet and one hundred (100) feet setback from Lincoln Drive shall exceed sixteen (16) feet above Original Natural Grade (as measured pursuant to Stipulation 25-28) or one story.

48. The following guidelines shall be incorporated in the design of any structure in excess of twenty-eight (28) feet above Original Natural Grade. The Town Manager will review any request by Owner to modify these guidelines to respond to the specific architectural character proposed for each project component, by unique requirements of a specific function or

building type, or by specific challenges presented by existing site conditions. Any such review by the Town Manager shall not unreasonably restrict such modifications as long as the intent of the guidelines is reasonably addressed.

a. No building should have an uninterrupted length greater than one hundred fifty (150) feet without an architectural feature to break the massing. Such feature may include any one of a change in color, orientation, material or offset. The portion of any single building which lies within two hundred (200) feet of Lincoln Drive shall not have an east-west dimension in excess of three hundred (300) feet and there shall be a physical separation between such building and the buildings adjacent to such building of not less than one-tenth (1/10) of one (1) foot of separation for each foot of the east-west dimension. By way of example, a building having a two hundred and fifty (250) foot east-west dimension shall maintain a twenty-five (25) foot separation to the buildings adjacent to the east and/or west of such building.

b. The east/west dimension of the portions of all buildings taller than twenty-eight (28) feet measured as provided in Stipulations 25-28 herein, the portions of which are within the buildings closest to Lincoln Drive and which lie within three hundred (300) feet of Lincoln Drive, shall not exceed four hundred fifty (450) lineal feet. The north/south dimension of the portions of all buildings taller than twenty eight (28) feet measured as provided in Stipulations 25-28 herein, the portions of which are within the buildings closest to 56th Street and which lie within two hundred (200) feet of 56th Street, shall not exceed three hundred fifty (350) lineal feet.

c. Vertical planes of buildings with a height greater than twenty-four (24) feet measured as provided in Stipulations 25-28 herein shall have an observable design change in plane, material, color, relief, or other appropriate design element(s) to create visual relief.

d. A reasonable and appropriate mix of building materials and building elements (such as stone, stucco, steel, timbers, windows, trellises, brise soleil, etc.) shall be utilized to break up continuous wall planes, and placed to help visually "ground" the buildings.

e. Recognizing that diversity and variation can help to create visual interest, as well as the fact that different building types will have different design requirements, a consistent design theme shall nonetheless be utilized throughout Area B to maintain a common design thread and help create a unified character and level of quality.

f. Roof overhangs may be utilized as an appropriate design response in the desert, as are other solar control and shade elements.

49. If walls and fences are constructed along Lincoln Drive and 56th Street, including within the setbacks shown on Sheets 5 and 5.1 (but not within the roadway easement along Lincoln Drive), such walls and fences shall be in accordance with Article XXIV of the Town Zoning Ordinance (except walls and fences along 56th Street shall have a minimum setback of fifteen (15) feet) and shall be measured from property lines; provided that a wall or fence that does not comply with Article XXIV may be approved by the Town Manager. If necessary to screen a parking structure contemplated by Stipulation 54(b), a wall along 56th Street shall be allowed to be six (6) feet tall on top of a two (2) foot berm between the roadway easement along Lincoln Drive to a point which is up to two hundred (200) feet south, but no further than the northerly most drive entry from 56th Street into Areas B and C. Said wall shall also meet the fifty (50) foot corner vision criteria in Town Code Section 8-1-13. Walls and fences may be built in any other location in Area B, including on or adjacent to interior property lines created by new plats or maps.

50. Common use pools (that is, pools intended for joint use by Resort guests as opposed to occupants of a single Resort Unit) shall, if installed, be set back a minimum of two hundred (200) feet from the western property line of Area A and shall be setback a minimum of sixty-five (65) feet from any Mountain Shadows West property line. Pools intended for use by a single Resort Unit shall be set back a minimum of forty (40) feet from exterior property boundaries. Setbacks are to be measured from the edge of the water surface of any such pool.

51. The maximum hours of public operation of the following specific uses/facilities shall be as set forth below:

a. Vendor deliveries (generally): 6 am - 7 pm. US Mail, private courier services such as UPS or FedEx, and emergency deliveries: at any time.

b. Pools, spas and jacuzzis (except pools, spas and jacuzzis located indoors or in enclosed private yards including yards such as presidential suites or Resort Hotel suites, which may be used 24 hours/day): 6 am - midnight

c. Restaurants and other food service facilities: 6 am - 2 am

d. Bars/lounges: 10 am – 3 am

e. Banquet facilities, receptions, weddings and socials: 6 am – 2 am

f. Resort retail: 7 am – midnight

g. Golf Facilities related retail - 5:30 am – midnight

h. Room service: 24 hours/day

i. Guest reception and guest services: 24 hours/day

j. Parking facilities: 24 hours/day

k. Spa & fitness facilities: 24 hours/day (use of such facilities by those who are not guests of the Resort, or owners or renters within the Resort and their guests shall be limited to 5 am – midnight).

l. Trash pickup: 7 am – 7 pm

m. Outdoor venues, events, or functions with music and/or amplified sound shall comply with the allowable noise levels as defined by the Town's current noise ordinance.

52. Each owner of any Resort Residential unit may occupy it, permit its guest(s) to occupy it, or make it available for rental for transient occupancy uses, residential uses or hospitality uses (rental of these units are not counted towards the Minimum Hotel Keys requirement, but would be considered a rental of a Resort Unit in excess of the Minimum Hotel Keys requirement). No Resort Unit that is not a Hotel Key within Area B may be used for any use or purpose other than residential use; provided, however, that such Resort Units may be included in the Resort Rental Management Program or used as provided in Stipulation 8 above.

53. Unlicensed support vehicles (that is, golf carts, utility vehicles, etc.) may be used to service the Resort (including Area B and other Areas), and to transport and provide persons or service to guests of the Resort and owners of the Resort Units and by owners of the Resort Residential and Resort Estates. The support vehicles shall not park on public streets.

54. Parking Structure(s) – Any parking provided or required under this . Special Use Permit for Area B may, at the Owner's choice, be located at-grade, below grade or a combination thereof in one or more parking structures or in one or more surface parking areas within Area B. The Owner shall submit plans (which initially may be conceptual or schematic drawing(s)) of any proposed parking structures to the Town Manager for determination whether they comply with this Stipulation 54. The following provisions shall apply to any above or below grade parking structures and surface parking areas:

a. Parking structures fully (other than ramps leading to or from) below grade (under a building or otherwise) are allowed, including within the one hundred foot (100) setback along Lincoln Drive (but not within the twenty five (25) foot roadway easement along Lincoln Drive) and the forty (40) foot setback along 56th Street (provided there is at least a fifteen (15) foot landscape setback along 56th Street).

b. Parking structures are also allowed, including within the areas described in item a above, which have their highest level (excluding screen walls) not more than three (3) feet above Original Natural Grade (measured as provided in Stipulations 25-28), provided they are screened from any public right-of-way by a wall which complies with Stipulation 49 and the illustrations shown on Sheet 2.1. The top of such screen wall must be a minimum of five (5) feet above the highest parking surface of such parking structure, measured on the exterior side.

c. Any parking structure which has its highest level (excluding screen walls) more than three (3) feet above Original Natural Grade (measured as provided in Stipulations 25-28) must have a setback of two hundred (200) feet from Lincoln Drive and 56th Street and one hundred (100) feet from an exterior Property boundary. The portion of any such parking structure more than three (3) feet above Original Natural Grade that provides required parking for Resort Residential shall be included in the maximum Floor Area calculation for Resort Residential in Area B.

d. Surface parking lots are allowed within Area B, subject to the following setback requirements:

   i. Lincoln Drive: twenty five (25) feet

   ii. 56th Street: fifteen (15) feet

   iii. Any exterior property boundary: forty (40) feet; provided any parking located within the existing parking area adjacent to the existing Clubhouse (see Sheet 5) shall be allowed in such locations (including within the existing maintenance shed area).

   iv. Any surface parking area within one hundred (100) feet of Lincoln Drive or 56th Street shall be appropriately screened by a six (6) foot wall in compliance with Stipulation 49.

   v. All surface parking lots may include appropriate signs, lighting (provided any lighting shall comply with Stipulation 100) and landscape as provided in this SUP or the Town's Special Use

Permit Guidelines as applicable or otherwise approved by the Town Manager.

55. Buses and other vehicles may be used to shuttle guests or employees to or from areas not located on the Resort, and between the Resort and other destinations (e.g., airport, shopping facilities, golf courses, etc.). All parking on any public street by any Resort guest, any Owner or their guests, employees of the Resort, any invitee of any Owner, any occupant of any portion of the Resort or any parking service provider is prohibited. Any agreement which allows any person to use the Resort for any purpose shall contain an acknowledgment that parking on any public street is prohibited. Any automobile rental facilities shall be limited to the storage of ten (10) rental cars on site.

56. At any time when the parking demand within the Resort is expected to exceed onsite capacity, the Owners of the affected areas shall initiate a parking management plan which may include valet parking or offsite parking arrangements (but not the use of parking on any public street within the Town).

AREA C - RESTAURANT/RETAIL

57. Area C is designated as an area which allows a limited amount of Area C Retail within the one hundred (100) foot setback from Lincoln Drive, subject to Stipulations 57-65. Facilities or structures initially developed for a particular use in Area C may be converted or reused or redeveloped from time to time for other allowed Area C uses. Area C may be used for any use allowed in Area B, including Area C Retail, subject to the following limitations:

    a. If no building or other structure within Area C is built and remains within the one hundred (100) foot setback from Lincoln Drive (other than allowed parking structures or parking lots and their related signs, lighting and landscape), then any use allowed in Area B shall be allowed in Area C, including Area C Retail, provided that the three hundred thousand (300,000) square feet limitation on maximum Floor Area of Resort Residential development shall not be increased.

    b. If any building or structure within Area C is built and remains within the one hundred (100) foot setback from Lincoln (other than allowed parking structures or parking lots and their related signs, lighting and landscape) as allowed by Stipulation 61 below, then only ten thousand (10,000) square feet of Floor Area of Area C Retail may be developed in Area C, in addition to outdoor dining, seating or public gathering areas (provided the covered portions of which shall be included in the maximum Floor Area as allowed above).

58. The hours of public operation for uses within Area C are as set forth in Stipulation 51.

59. The drive entry to parking areas located within Area C shall be off of 56th Street or through a Lincoln Drive access that is primarily intended to provide access to the Resort in general. No new entrance off of Lincoln Drive that is primarily intended to provide access to Area C Retail in Area C shall be permitted.

60. Massing and articulation shall be designed in a manner that is generally consistent with the architectural style of the overall Resort, as determined by the Town Manager.

61. Notwithstanding a one hundred (100) foot minimum setback for buildings along Lincoln Drive, as shown on Sheet 5 of the Approved Plans, up to two buildings (plus related outdoor seating areas, covered or uncovered patios, service, trash and loading areas) may be situated within the setback area, provided that the total lineal frontage of all buildings parallel to Lincoln Drive within the setback area shall not exceed one hundred and fifty (150) feet, the buildings shall be set back not less than forty (40) feet from Lincoln Drive or 56th Street, and such buildings within this reduced setback area shall not exceed twenty (20) feet in height as measured according to the terms of Stipulation 25 - 28. Any such buildings set within this reduced setback area may only be used for Area C Retail, and shall not exceed ten thousand (10,000) feet of Floor Area (other than parking structures or areas and related lighting, landscaping, and signs allowed hereunder).

62. If walls and fences are constructed along Lincoln Drive and 56th Street, including within the setbacks shown on Sheets 5 and 5.1 (but not within the roadway easement along Lincoln Drive), such walls and fences shall be in accordance with Article XXIV of the Town Zoning Ordinance (except walls and fences along 56th Street shall have a minimum setback of fifteen (15) feet) and shall be measured from property lines; provided that a wall or fence that does not comply with Article XXIV may be approved by the Town Manager. If necessary to screen a parking structure contemplated by Stipulation 54(b), a wall along 56th Street shall be allowed to be six (6) feet tall on top of a two (2) foot berm between the roadway easement along Lincoln Drive to a point which is up to two hundred (200) feet south, but no further than the northerly most drive entry from 56th Street into Areas B and C. Said wall shall also meet the fifty (50) foot corner vision criteria in Town Code Section 8-1-13. Walls and fences may be built in any other location in Area C, including on or adjacent to interior property lines created by new plats or maps.

63. Except as allowed by Stipulation 62, walls and fences along 56th Street shall have a maximum six (6) foot height with a setback of fifteen (15) feet. Walls and fences along 56th Street must incorporate design standards similar to the walls on the east side of 56th Street to provide continuity of design.

64. In addition to the Floor Area allowed for Area C uses, parking facilities shall be allowed, including use of such facilities by occupants, guests or employees of other areas within the Resort.

65. Parking structures are allowed in Area C, which comply with Stipulation 54(a) and (b). Surface parking areas are allowed in Area C, which comply with Stipulation 54(d).

AREA D - OPEN SPACE

66. Area D is intended to be improved and used only for open space/art and shall not be otherwise developed, except for landscaping and hardscaping, including but not limited to: pathways, seat walls, benches, sculptures, gazebos, trellises, entry monument signage, water features and underground storm water retention systems. Public access to Area D may be restricted in any manner to protect health, safety, and the character of the Resort. No roadways or other vehicular access shall be permitted on or across Area D. No parking of vehicles shall be permitted on any portion of Area D.

67. Final plans for Area D shall be prepared by a licensed landscape architect and reviewed and approved by the Town Manager. The intent of such final plans shall be to provide visual appeal, access and enjoyment of Area D as a park-like area with pedestrian connection to 56th Street and Lincoln Drive. Perimeter walls adjacent to Lincoln Drive and 56th Street shall be limited to three (3) feet above Original Natural Grade, as measured according to the terms of Stipulation 25-28, to retain soil, direct the flow of pedestrian traffic as part of the landscape design and to control the flow of water. Interior walls greater than three (3) feet in height may be approved by the Town Manager. Final plans shall also harmonize the offsite hardscape and landscape elements in any proposed offsite improvements for areas of 56th Street and Lincoln Drive directly adjacent to Area D. Subject to mutually agreed upon terms (including but not limited to the nature and type of any art), Owner shall grant a perpetual easement at no cost to the Town to place, access, maintain, repair and replace (at the Town's election and expense) art on Area D.

68. Final plans for Area D shall be submitted for review by the Town Manager prior to issuance of the first building permit for any Resort Estates (Area E) home. Work for Area D as set forth on approved final plans shall be completed prior to the issuance of the first certificate of

occupancy for any Resort Estates home in Area E. The maintenance obligations for Area D shall be the responsibility of the homeowners' association required to maintain the private streets and common areas within Area E and the owners of such other Areas as determined through associations created by Owners.

AREA E - RESORT ESTATES

69. Area E may only be improved with single-family residential homes and uses incidental or accessory thereto (such as barbecues, fences, fireplaces, pools, spas, etc.), as well as common areas and common use facilities and/or amenities (as provided for in Stipulation 79). Use of common areas and common use facilities and/or amenities may be accessible and usable by the Resort Estates owners and their invitees and other owners of homes in Mountain Shadows East and Mountain Shadows West. No residential unit within Area E may be used for any use or purpose other than single-family residential use as described in the Town's Zoning Ordinance; provided, however, that such residential units may be included in the Resort Rental Management Program. Overnight storage of recreational vehicles and boats either on individual lots (if outside of a garage) or on private streets shall be prohibited. There are no Floor Area restrictions in Area E.

70. The minimum lot size for any Resort Estates lot shall be eight thousand (8,000) square feet, except for those lots in the area shown in Sheet 5.1 of the Approved Plans where lot size is limited to a minimum ten thousand (10,000) square feet.

71. All platted private streets providing access between the Resort Estates lots or to and from such lots to the public right-of-way shall be thirty (30) feet (or more if determined by Owner) in width and shall have a minimum twenty-six (26) foot wide paved surface area.

72. Each Resort Estates lot shall have a minimum width of sixty (60) feet, provided, however, that those lots limited to a minimum ten thousand (10,000) square foot lot size (in the area shown on Sheet 5.1 of the Approved Plans) shall have a minimum width of seventy (70) feet. On lots that are not rectangular, the minimum width shall be measured at the center point of the lot.

73. Each owner of a Resort Estates lot may occupy it, permit its guest(s) to occupy it, or make it available for rental, including for transient occupancy uses, or residential uses. Each Resort Estates lot may only be rented as a single unit unless otherwise allowed by the Zoning Ordinance as it may be amended from time to time.

74. A single-family detached residence may be constructed on each Resort Estates lot shown on any future plat.

75. The following requirements shall apply to each residence to be constructed on each such lot:

a. Minimum Setbacks

i. Front yard – ten (10) feet

ii. Side yard – seven (7) feet (between adjacent primary structures; zero (0) lot lines are allowed with respect to two (2) adjoining residences; provided, however, that the aggregate side yard separation shall be not less than fourteen (14) feet). The allowed side yards are illustrated on Sheet 5.1 of the Approved Plans.

iii. Side yard with frontage – ten (10) feet

iv. Rear yard (other than adjacent to that portion of Lot 68 commonly known as Mountain Shadows East Drive) – twenty (20) feet

v. Rear yard (for lots adjacent to that portion of Lot 68 commonly known as Mountain Shadows East Drive) – minimum of twenty (20) and average of twenty-five (25) feet

b. All zero (0) lot line structures shall comply with legal separation requirements in the applicable building code.

c. Minimum Floor Area of a residence on a lot is two thousand (2,000) square feet.

d. Heights shall be set forth on Sheet 5.1 of the Approved Plans.

76. Accessory structures that do not exceed six (6) feet in height above Original Natural Grade, including, but not limited to, pools, barbeques, fire pits, fireplaces, water features and other accessory structures, shall be allowed within the boundaries of each Resort Estates lot, provided they are located behind and screened from public streets and that portion of Lot 68 commonly known as Mountain Shadows East Drive by the allowed walls.

77. Accessory structures over six (6) feet above Original Natural Grade shall be allowed on each Resort Estates lot, provided they are limited to fifteen (15) feet above Original Natural Grade and comply with the following setbacks:

a. Front yard – ten (10) feet

b. Side yard – five (5) feet

c. Side yard that abuts a street – ten (10) feet

d. Rear yard – ten (10) feet

A freestanding guesthouse is not an allowed accessory structure.

78. Interior fences and walls:

a. Fences or walls are allowed between lots or between a lot and any street or area used as a roadway (including Lot 68) provided they shall not exceed a height of six (6) feet above Original Natural Grade and shall maintain setback minimum of (except as provided for in Stipulation 79):

i. Front yard – ten (10) feet

ii. Side/Rear yards – zero (0) feet

iii. Side/rear yards adjoining a public right-of-way – fifteen (15) feet

iv. Side/rear yards adjoining that portion of Lot 68 commonly known as Mountain Shadows East Drive and other private streets – five (5) feet

v. Side/rear yards adjoining all other rights of way (including but not limited to the egress drive shown on Sheet 5.1) – zero (0) feet

b. For fences or walls of 3 feet or less, the following setbacks shall apply:

i. Front yard – five (5) feet

ii. Side/rear yards – zero (0) feet

iii. Side/rear yards adjoining a public right-of-way – fifteen (15) feet

iv. Side/rear yards adjoining that portion of Lot 68 commonly known as Mountain Shadows East Drive and other private streets – five (5) feet

v. Side/rear yards adjoining all other rights of way – zero (0) feet

79. Common areas and common use facilities and/or amenities may be constructed within Area E and may be modified or changed from time to time, which common areas and common use facilities and/or amenities may be used jointly by owners of Resort Estates lots, other Owners and guests of the Resort, and/or owners of lots in Mountain Shadows East and Mountain Shadows West. Such common areas and common use facilities and/or amenities can be constructed on any Resort Estates lot or tract or

other common area within Area E, but do not need to be constructed prior to issuance of certificates of occupancy for any Resort Estates lot and are not required to be built as part of a final plat for Area E unless specifically included on a final plat. Common areas and common use facilities and/or amenities may include but are not limited to pools, spas, cabanas, restrooms, locker rooms, fitness areas and food service areas. The total Floor Area for all such amenity buildings in Area E shall not exceed five thousand (5,000) square feet and the height of all such buildings shall not exceed sixteen (16) feet. The height of perimeter walls surrounding such common areas and common use facilities and/or amenities shall not exceed eight (8) feet. The minimum setback from Lincoln Drive for all amenity buildings shall be fifty-five (55) feet.

80. If construction has not commenced on any Resort Estates lot by a date that is two (2) years after issuance of the initial building permit for the first element of work (excluding the issuance of grading and demolition permits), on such lot, then any such Resort Estates lot shall be landscaped as reasonably required by the Town Manager.

81. The Resort Estates lots shall be separated from that portion of Lot 68 commonly known as Mountain Shadows East Drive by a six (6) foot wall built five (5) feet from the property line between that portion of Lot 68 commonly known as Mountain Shadows East Drive and Area E as shown on Sheet 5.1, except in those areas where a roadway easement is necessary to accommodate a Mountain Shadows East bypass lane associated with the Mountain Shadows East guardhouse. Said wall shall be constructed prior to the issuance of any building permits for the Resort Estates single-family home structures. No Resort Estates lots shall have a front yard adjoining that portion of Lot 68 commonly known as Mountain Shadows East Drive or have direct access onto that portion of Lot 68 commonly known as Mountain Shadows East Drive.

82. The final plat for Area E shall meet all requirements for on-site retention set forth in Town Code §5-10-3.

83. The Resort Estates, whose principal access is off of 56th Street, may be served by a guardhouse and/or gate, having a stacking distance for entry vehicles of at least one hundred and fifty (150) feet from a public right-of-way, and maintaining a minimum setback of twenty-five (25) feet from the property line along Lincoln Drive. The Floor Area of such guardhouse shall not exceed six hundred (600) square feet to allow for the guardhouse functions, restroom, and mail drop. The maximum height of such guardhouse shall not exceed sixteen (16) feet above Original Natural Grade. Control fences and gates shall be allowed to control the flow of traffic, provided that the height shall not exceed eight (8) feet above Original Natural Grade. Such guardhouse and/or gate may be used by both the Resort Estates and Mountain Shadows East.

84. Walls and fences along Lincoln Drive shall be in accordance with Article XXIV of the Town Zoning Ordinance and shall be measured from property lines, provided that a wall or fence that does not comply with Article XXIV may be approved by the Town Manager. Walls and fences along the east side of 56th Street shall have a minimum setback of fifteen (15) feet from the public right-of-way. The walls must utilize similar design standards similar to the walls on the west side of 56th Street, to provide continuity of design.

85. Prior to issuance of a certificate of occupancy for the first Resort Estates lot, all of the following shall have occurred:

    a. All demolition required under Stipulation 12 for Area E shall have been completed, grading permits for all of the Resort Estates lots shall have been issued, and grading pursuant to the approved grading plan for all such Resort Estates lots shall have been completed.

    b. All curb cuts to those portions of Lincoln Drive east of 56th Street required by Stipulation 22 shall have been substantially completed.

    c. All infrastructure required in conjunction with the final plat, such as storm drains, sewer, fire service, water, and electrical, serving such Resort Estates lot is complete, including such items as access roads as are shown on any approved plat.

86. All exterior lighting shall comply with Stipulations 100-102.

87. Except as otherwise allowed by Federal or State requirements, antenna and satellite dishes are permitted, as follows:

    a. Satellite dishes must not be located above the roof line. Satellite dishes and antennas greater than thirty-six (36) inches in diameter are permitted, provided that they are not mounted on the roof and meet all Town Code requirements, including full screening of equipment from view from public right-of-way or properties not part of this Special Use Permit.

    b. All wiring shall be contained within a structure, conduit or underground.

88. Unlicensed support vehicles (that is, golf carts, utility vehicles, etc.) may be used to service the Resort Estates, and to transport and provide persons or service to guests of the Resort and owners of any Resort Units. These support vehicles shall not park on public streets.

89. Signage for Area E shall be approved as part of a Resort Sign Program to be reviewed and approved by the Town Manager pursuant to Stipulation 29.

F. TEMPORARY USES/EASEMENT/MAINTENANCE

90. Temporary event tents or pavilions may be erected on Area A and Area B of the Property in accordance with the Town Code Special Event Permit requirements (Chapter 8). No event tent shall be higher than twenty-four (24) feet above Original Natural Grade or closer to any exterior property line than the minimum setbacks shown for a twenty-four (24) foot height building. Placement of event tents shall have no material adverse impact on parking or circulation on site. Temporary event tents or structures shall not be allowed for more than fourteen (14) consecutive days.

91. The following stipulations shall be set forth in easements and/or CC&Rs or other recorded instruments (which may include recorded plats or maps), to be recorded on (or otherwise encumber title to) the Resort or such part thereof for which such stipulation is germane. Such recordation shall occur concurrently with or prior to recordation of any applicable final plats or final maps as the case may be for a particular phase of development. As a condition to approval of the final plat or final map, such recorded instruments (other than the plat or map itself) shall be approved by the Town Manager. Easements within any lot or parcel will not affect setback measurements or determination of lot areas. Any lot within an Area can provide (by easement or otherwise) parking, drives, utilities, and signs for another lot within an Area, including lots owned by different Owners.

a. Easements

i. Vehicular and pedestrian access easements providing access to public rights-of-way as reasonably determined by the Owner and benefiting all Owners within the Resort east of 56th Street, or the Resort west of 56th Street, as the case may be, shall be dedicated and maintained. The adequacy of such easements shall be reasonably approved by the Town Manager.

ii. Utility and drainage easements shall be dedicated to the utility provider, the Town and/or the Owner as the case may be, as reasonably determined by the Town Manager. Any such easement shall be maintained in accordance with applicable requirements of the utility or the Town, as applicable. Where required by law, such easements shall be shown on the final plats or final maps.

b. General Maintenance Rights and Responsibilities

i. The Resort may be developed in one or more phases as determined by Owner(s) from time to time. A general infrastructure plan for each phase shall be formulated by each Owner which shall set forth common elements for roadways, utilities (including fire service), lighting, gates, landscape, walls and other elements for the use, benefit, enjoyment and safety of all of Owner's guests, employees and other invitees of the Resort. Some of such common elements may benefit all phases of the Resort, while others may serve only one or more phases of the Resort.

ii. A maintenance, repair and replacement regime shall be formulated by Owner(s) and incorporated into one or more CC&Rs which shall be a first priority lien (junior only to existing matters of record other than monetary liens and the 2013 Development Agreement) on the Resort or each particular phase, as the case may be. Said regime shall provide for governance through a master developer of the Resort or of a phase, or through an authorized or duly formulated association of certain, some, or all Owners of the Resort or phased parts thereof. Said regime shall set forth and contain the minimum following elements:

(a) All exterior portions of all structures and all roadways, parking areas, landscaping, walls, pools and lighting shall be kept and maintained in a first class condition, commensurate with a mixed use resort project serving multiple uses and Owners so that each part is benefited by the first class condition of each other part.

(b) Adequate and reasonable assessments shall be made of each Owner to reasonably fund estimated budgets for the maintenance, repair, replacement, and care of the completed Resort and/or each phase thereof.

(c) A governance mechanism to protect all Owners and insure the reasonable and adequate maintenance of all components of all phases of the Resort, including the power to access and enter upon the property of another for the purpose of enforcing the regime.

iii. Architectural guidelines to insure that the requirements of this Special Use Permit are adhered to in the initial and any redevelopment of the Resort. Such architectural guidelines may be administered through an Owner as master developer of the Resort or phase therein, a master association for the Resort, or an association for a particular phase as the case may be, it being the intention of the Town that the Resort be developed in a cohesive, cooperative and harmonious manner which adheres to the

requirements of this Special Use Permit and such other requirements Owner may formulate from time to time.

iv. Town Self-Help Remedy. A covenant will be recorded on (encumbering) Areas B and E of the Property (which may be set forth in the CC&R's) providing the Town with a right to perform repair of access roads and parking lots to the extent that repair of the access roads and parking lots for any of these areas of the Property is required, in the opinion of the Town Manager, for safety. In the event that the Town Manager finds that the access roads and parking lots for any of these areas of the Property is not reasonably maintained, he shall provide notice to the Owners of the affected area, of the Town's intent to exercise the self-help remedies afforded to the Town under the covenant and that if such deficiency is not cured within a reasonable period of time, following mailing of the notice by first class mail and Owner's option to request a hearing before the Town Manager, the Town may, in addition to any other remedies available at law to the Town, enter the Property and remedy the deficiency. In the event the Town utilizes such remedy, the Owner of the affected property will be responsible to repay the Town for its reasonable costs and expenses incurred in performing such remedial work within thirty (30) days after receipt of an invoice and reasonable supporting materials from the Town. If the Owner does not pay such amount to the Town within such thirty (30)-day period, the Town shall be entitled to file and/or record a lien on the segment of the Property on which the remedial work was performed, and enforce such lien as provided by Arizona law except the remedy of foreclosure.

92. Prior to the issuance of building permits (but not demolition permits) for a particular phase of development, Owner shall provide to the Town for each phase of development proposed, lighting, interior landscaping, circulation, parking, and interior signage plans (which may be the Resort Sign Guidelines). Such plans shall be reviewed and approved by the Town Manager taking into account this Special Use Permit, the 2013 Development Agreement, the Town's Special Use Permit Guidelines and other relevant Town ordinances.

G. PARKING & CIRCULATION

93. Parking for each residence on a Resort Estates lot in Area E shall equal not less than two (2) parking stalls contained in an enclosed garage, plus a driveway to such garage capable of parking two (2) cars.

Parking for Areas A, B and C shall be calculated based upon a parking study prepared by a licensed engineer and approved by the Town Manager. Such parking study may be for one phase or Area (A, B or C) or

for all of Area A, B and C, and may be updated from time to time as Areas A, B and C are developed, added to or redeveloped from time to time. The parking study for each such area or areas shall utilize the following criteria, and the Town Manager shall review the submitted parking study in accordance with the criteria set forth herein. The parking required for Areas A, B and C, or any particular phase thereof, shall be determined by first calculating the gross number of spaces required by Table 1 below. Internal capture of patrons shall be applied for each individual use and applied as a reduction to the gross parking required for the site as set forth in Table 2 below. After the consideration of internal capture, a shared parking analysis using the ITE methodology which considers the parking required for each use by time of day shall be applied. The result of all of these calculations shall be presented in a parking study prepared and sealed by a licensed engineer. Once the parking study is approved by the Town Manager, required parking for all new structures or uses shall be as set forth therein. If the net areas assumed in the parking study change, appropriate revisions (based upon this stipulation) to the parking study shall be made during the permitting process.

The parking rates to be applied to Areas A, B, and C structures, units, and uses are as follows unless a lower requirement for any component is supported by the parking study referred to in the preceding paragraph:

Table 1

SUP	Category	Parking Requirement
i.	Each Hotel Key	1.2 spaces
ii.	Each dwelling unit*	2 spaces
iii.	Restaurant	1 space per 50 square feet of net dining area
iv.	Meeting Rooms/ Auditoriums/ Group Assembly	1 space per two seats of public area (assumed to be 50 square feet)
v.	Retail	1 space per 300 square feet of net sales area
vi-a.	Office	1 space per 300 square feet of net occupied space
vi-b.	Service Establishment/Spa/Fitness/ Sales Establishments	1 space per 300 square feet of net occupied space

* A dwelling unit is any Resort Unit that is not a Hotel Key.

The following notes apply for the measurement of floor space/units to be applied to the parking calculation for each of the categories shown above.

i. A Hotel Key is one (1) unit containing any number of bedrooms so long as that unit cannot be separated into more than one (1) "locked" unit where each unit can be occupied separately. Where a Hotel Key can be separately "locked," parking shall equal one (1) space for each part which can be separately "locked" and occupied.

ii. A Resort Residential unit is one (1) unit containing any number of bedrooms so long as that unit cannot be separated into more than one (1) "locked" unit where each such "locked" unit can be occupied separately. Where a Resort Residential unit can be separately "locked," parking shall equal one (1) space for each part which can be separately "locked" and occupied.

iii. Net dining area is the net interior conditioned area measured from the interior surface of walls for areas within any restaurant designated for customer dining or bar (but excluding non-public areas).

iv. Public area for meetings rooms is the net interior conditioned area measured from the interior surface of walls within rooms such areas as boardrooms, meeting rooms, and ballrooms used for meetings, auditoriums, and group assembly rooms excluding pre-function space, foyer (including lobbies and corridors), restrooms and phone booths, and also excluding non-public areas or exterior areas.

v. Net sales area for retail is net interior conditioned area measured from the interior surface of walls for that portion of retail establishments which is available to the public (excluding employee or other non-public areas).

vi-a. Net occupied area for office includes net interior conditioned area within any Resort Hotel or Clubhouse, measured from the interior surface of walls demised and used for offices such as administration, accounting, payroll and valet but excluding non-public areas.

vi-b. Net area for service establishments (including spas, fitness, sales offices) is the net interior conditioned area measured from the interior surface of walls used for treatment rooms, exercise rooms, and other similar spaces occupied by patrons of the spa or the publically accessible areas of any service or sales establishment (but excluding areas used exclusively by employees and non-public areas), but including any offices (not included in item vi-a above).

Non-public areas shall all include all vertical and horizontal circulation such as corridors, hallways, stairways and elevations, all mechanical rooms or areas, equipment rooms, storage areas, closets, restrooms, garages, locker rooms, and areas used as lobby or reception.

Once the tabulation of parking is completed for each use using Table 1, the following reductions (using Table 2) shall be applied to each category based on their tendency to attract guests already using, staying, or residing at the Resort including existing residents of Mountain Shadows East and Mountain Shadows West.

Table 2

SUP	Category	Internal Capture Reduction
i.	Guest unit	0%
ii.	Dwelling unit	0%
iii.	Restaurant – associated with Resort Hotel/Clubhouse	60%
iii.	Restaurant – Poolside Grill	75%
iii.	Restaurant – separate building	50%
iv.	Meeting Rooms	50%
iv.	Auditoriums	50%
iv.	Group Assembly	75%
v.	Retail – associated with Resort Hotel/Clubhouse	100%
v.	Retail – separate building	50%
vi-a.	Office/Service Area – Employee	0%
vi-b.	Office/Service Area – Public	100%
vi-c.	Office/Service Area – Spa/Fitness	90%

The parking requirements for each category should then be evaluated for sharing by use and time of day (shared parking study). Values for the percentage of usage by hour should be obtained from the ITE Parking Generation and ITE Shared Parking Manual. The parking by use should be summed for each hour for one weekday and one weekend day to determine the largest parking impact over a twenty-four (24) hour period. The resulting number will be considered the parking requirement for Area B and C, or any part thereof. Different Owners may coordinate and share parking as provided in the approved parking study.

Sixty (60) parking spaces currently exist for Golf Course and Clubhouse. The number of parking spaces required for the Golf Course and Clubhouse will not exceed sixty (60) spaces so long as the size of the Golf Course is no larger than eighteen (18) holes, the size of the Clubhouse (including all uses designated as contained therein including such uses which are also

available or used by any Resort Hotel, Owners, renters, or guests) does not exceed thirteen thousand (13,000) square feet of Floor Area, and the interior restaurant occupancy load does not exceed two hundred five (205). If the Clubhouse is greater than thirteen thousand (13,000) square feet of Floor Area, or the interior restaurant occupancy load is greater than two hundred five (205), additional parking shall be provided calculated in the manner above only for the excess amounts. Parking provided for the Golf Course and Clubhouse may be used in the shared parking study for Area B and C to calculate the total parking required for Areas A, B, and C.

94. All designated fire lanes shall maintain a vertical clearance of fourteen (14) feet above actual finished grade and a horizontal clearance of twenty (20) feet to allow passage of emergency vehicles, and must meet all Department of Transportation standards.

95. Trash service for the Resort shall be provided either directly by Owner or through one or more third party vendors.

96. All streets and drives within the Property are and shall remain private streets. All streets, sidewalks, and paved areas constructed shall remain private; provided, that all new streets constructed shall be of adequate width (generally not less than twenty-six (26) feet of pavement width) and design, as determined by the Town, to permit the provision of fire and police protection to the Property.

H. UNIFIED MANAGEMENT

97. There shall be at least one (1) person designated by the Resort at all times who has been thoroughly briefed on the provisions of this Special Use Permit and who has the authority to resolve, or to refer to others for resolution, all problems related to compliance with this Special Use Permit. All calls from Town residents to the Town or Resort regarding noise or disturbances shall be referred to and addressed by such person(s). Maintenance of the Resort in general and all common areas specifically, shall be coordinated through a single unified management entity, which may be the Principal Resort Hotel Owner or a master association of Owners.

98. At all times, the Property shall remain under unified management through a master association and shall be operated as an integrated resort facility. There may be sub-associations relating to specific Area(s) within the overall Property. Any allowed use within one Area can be associated with or used in conjunction with an allowed use within another Area, including but not limited to, parking, signs, facilities, and amenities.

I. CELLULAR ANTENNAS

99. Cellular and other wireless transmission antennas are permitted, provided that they comply with this Special Use Permit and all applicable Town ordinances, specifically including the current requirement to obtain a conditional use permit. Any cellular antennas shall be designed as integrated architectural features within the structures on the Property and any screening shall be in the same finish and color as the structure on which it is located. There shall be no unscreened projections of cellular antennas on any building above the roofline. Any lease agreement with a wireless operator will specifically allow entry by the Town and its agent for the purpose of inspection and compliance with Town ordinances and will require compliance with Article XII of the Town Zoning Ordinance.

J. LIGHTING

100. All exterior lighting, including on the exposed surface of any parking structure or parking lot or area, shall comply with the Town's Special Use Permit Guidelines as amended and supplemented by Stipulations 101 and 102, and shall be submitted to the Town Manager for review and approval. Notwithstanding the foregoing, pole lighting for parking structures or parking areas as allowed within the setback along Lincoln Drive or 56th Street in Areas B and C, as provided in Stipulations 54 and 65, shall be allowed with a sixty (60) foot setback from Lincoln Drive and 56th Street. Any other lighting for such parking facilities between the property line and such sixty (60) foot setback shall be wall mounted or within bollards at a height not greater than the adjacent screen walls.

101. If the Town receives a complaint from an offsite owner that the lamp or lighting or illumination device (as defined by the Town Zoning Ordinance Section 1023) within an exterior light fixture is visible from off the Property, the Town Manager may inspect the Property and require the Owner of such lighting fixture to shield such light source if the light emitting element is visible from outside the Property.

102. When determining project illumination, lighting shall be generally designed to comply with the maximum foot candles criteria in the table below. Project illumination shall be measured in the following manner: An area not less than two thousand five hundred (2,500) square feet or an area as determined by the Town Manager shall be used for sampling. Samples are to be taken on spacing not to exceed a ten (10) foot grid at the surface plane to produce an average reading for the measurements. In no event shall lighting, as measured at the ground surface at the exterior property line, exceed 0.5 foot candles.

USE AREA	MAX FOOTCANDLES *
Drive Entry/Intersections/Drop Off	5

Areas	
Interior Roadways	1
Parking Lots/Decks	1.6
Pathways	1
Service Areas; trash, loading, etc.	5
Pool Decks	5
Circulation Areas	5
Function Areas	5
Exterior Dining Areas (when in use for dining)	10
Landscaped Areas	5
Guestroom Entries	3
Guestroom Patios	5
Architectural Lighting	5
*Footcandle values are maintained values as defined by the IESNA	

K. LANDSCAPE STANDARDS

103. Perimeter landscaping plans (i.e., for those areas between the back of curb and southern edge of the twenty-five (25) foot roadway easement along Lincoln Drive and the area on 56th Street from the property line to the proposed perimeter walls adjoining Areas B, C, D and E) shall be submitted to the Town Manager for review and approval. Perimeter landscaping along Lincoln Drive shall be substantially compliant with the Town's Landscape Guidelines. If new construction allowed under this Special Use Permit does not start within three hundred sixty-five (365) days from issuance of a demolition permit, Owner must either, at Owner's option, replace landscaping or provide other screening where removal of existing landscaping/screening was necessary for demolition.

As a pre-requisite to obtaining a building permit for a particular phase of development, the Owner must demonstrate the existence of adequate perimeter screening for such phase prior to construction. For purposes of this requirement, adequate screening shall consist of an existing oleander hedge or a six (6) foot chain link fence with green screening.

L. CONDITIONAL APPROVAL

104. This SUP shall be effective as of the Effective Date if, but only if, the 2013 Development Agreement and Settlement Agreement are approved by the Town Council and signed by Owner. If the schedule of development set forth in either Stipulation 34(a) (relating to the schematic plan) or

Stipulation 43 (relating to construction of the Principal Resort Hotel) is not met, the Town Council, after notification by certified mail to the Owner, may schedule a public hearing to take administrative action to extend, remove, or determine compliance with the schedule for development or take legislative action to cause the Property to revert to the Existing Entitlements. The failure of Owner to meet the schedule of development in Stipulation 34 (a) or Stipulation 43 are the only reasons that the Town may take action to revert the SUP to the Existing Entitlements. After this SUP is recorded, if this SUP does not become effective or if it is no longer effective, then the Town shall promptly record a notice that this SUP did not become or is no longer effective.

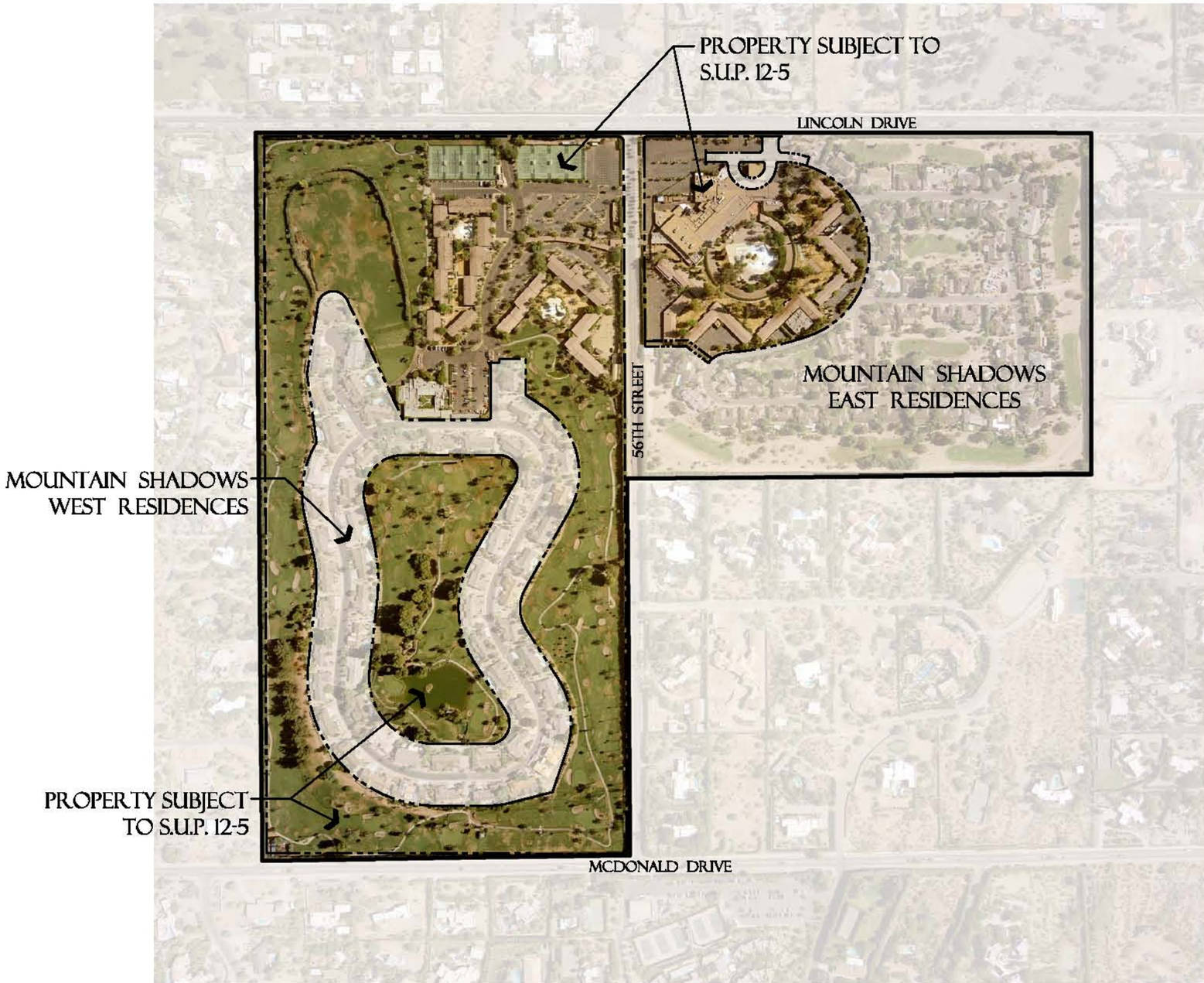
SCHEDULE "1"
TO
MOUNTAIN SHADOWS STIPULATIONS

Approved Plans

Sheet Number	Title	Date
2	Land Use Plan	February 22, 2013
2.1	Floor Area Illustrations	February 22, 2013
3	Ingress/Egress And Sign Location Diagram	February 22, 2013
4	Original Natural Grade (O.N.G.) Plan	February 22, 2013
5	Allowed Setbacks & Heights – West	February 22, 2013
5.1	Allowed Setbacks & Heights – East	February 22, 2013
6	Conceptual Golf Course Improvements Plan	March 26, 2013

This document is on file at the Town of Paradise Valley Clerk's Office and may be viewed during normal business hours.

Town Hall
6401 E Lincoln Drive
Paradise Valley, AZ 85253



AERIAL
EXISTING SITE

SCALE: 1" = 150'

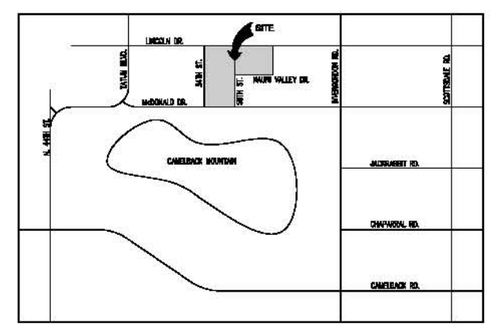
0 75 150 300

SCALE: 1" = 150'

N

SHEET INDEX:

NO.:	TITLE:
1	AERIAL / VICINITY MAP / TABLE OF CONTENTS
2	LAND USE PLAN
2.1	FLOOR AREA ILLUSTRATIONS
3	INGRESS / EGRESS DIAGRAM
4	ORIGINAL NATURAL GRADE PLAN
5	ALLOWED SETBACKS AND HEIGHTS - WEST
5.1	ALLOWED SETBACKS AND HEIGHTS - EAST
6	GOLF COURSE IMPROVEMENTS PLAN



VICINITY MAP NTS
PARADISE VALLEY, ARIZONA

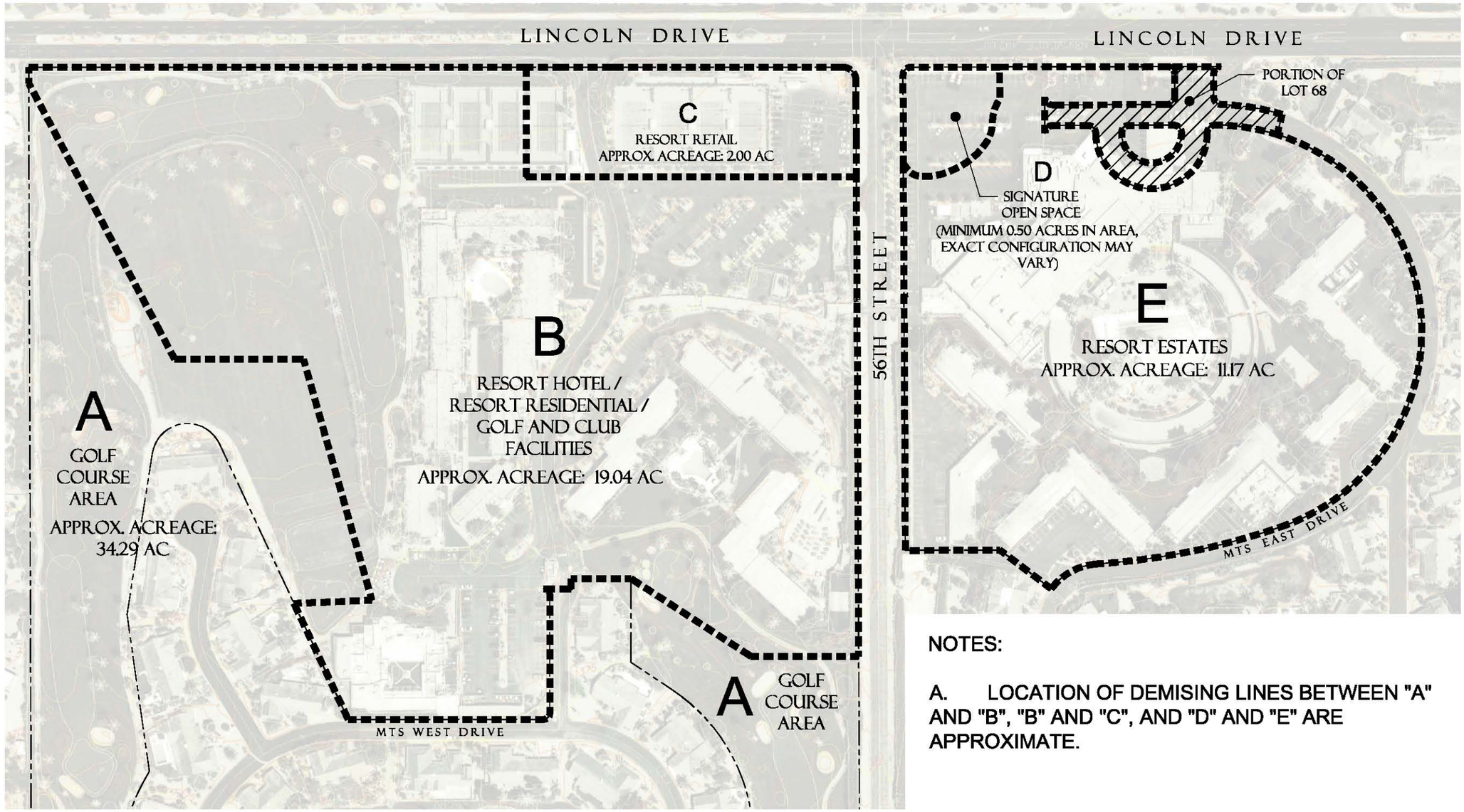
N

MOUNTAIN SHADOWS

AERIAL / VICINITY MAP / TABLE OF CONTENTS

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE
OVER SCALED DIMENSIONS.

Date: FEBRUARY 22, 2013	Project #	Sheet
Revision: MARCH 26, 2013	Issued for: SPECIAL USE PERMIT	1



NOTES:

A. LOCATION OF DEMISING LINES BETWEEN "A" AND "B", "B" AND "C", AND "D" AND "E" ARE APPROXIMATE.

MOUNTAIN SHADOWS

LAND USE PLAN

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

N

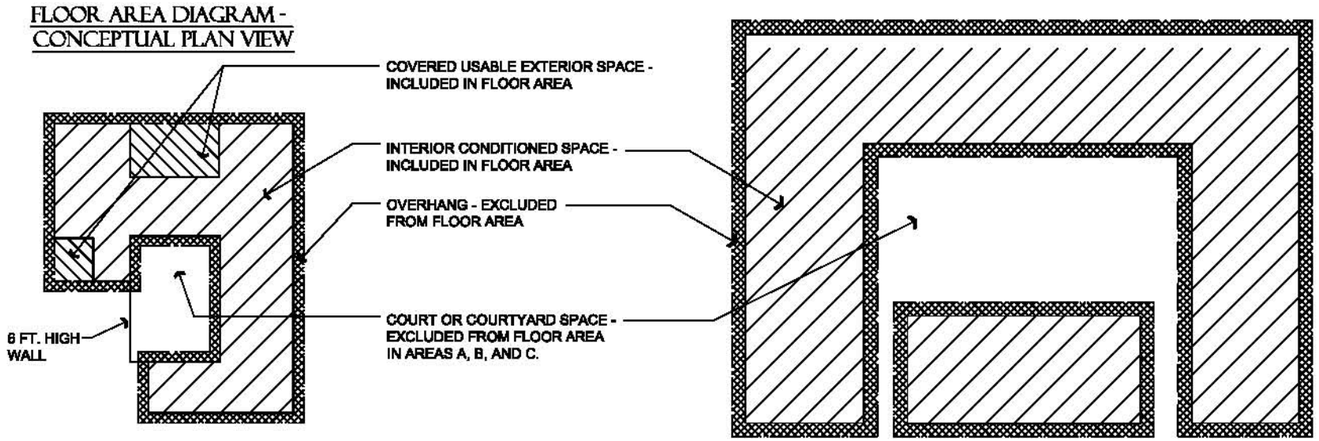
0 30 60 120

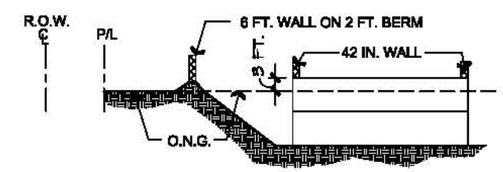
SCALE : 1" = 60'

Date: FEBRUARY 22, 2013	Project #	Sheet:
Revisions:	Issued for: SPECIAL USE PERMIT	2

THE DIAGRAMS ON THIS SHEET 2.1 SHALL BE USED TO ILLUSTRATE CERTAIN COMPONENTS OF THE DEFINITION AND DETERMINATION OF FLOOR AREA AS MORE SPECIFICALLY SET FORTH IN THE STIPULATIONS OF THIS S.U.P. 12-5.

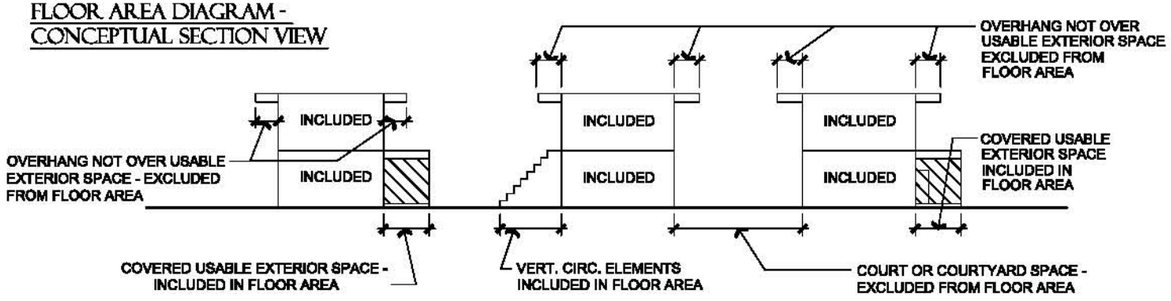
FLOOR AREA DIAGRAM - CONCEPTUAL PLAN VIEW

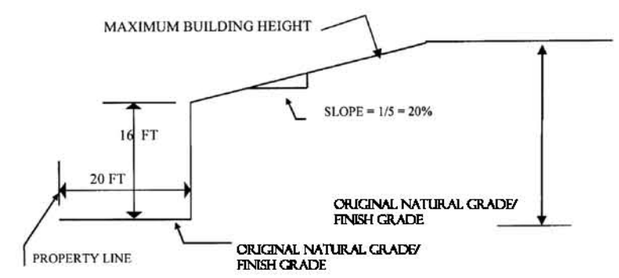




PARKING STRUCTURE ILLUSTRATION

FLOOR AREA DIAGRAM - CONCEPTUAL SECTION VIEW





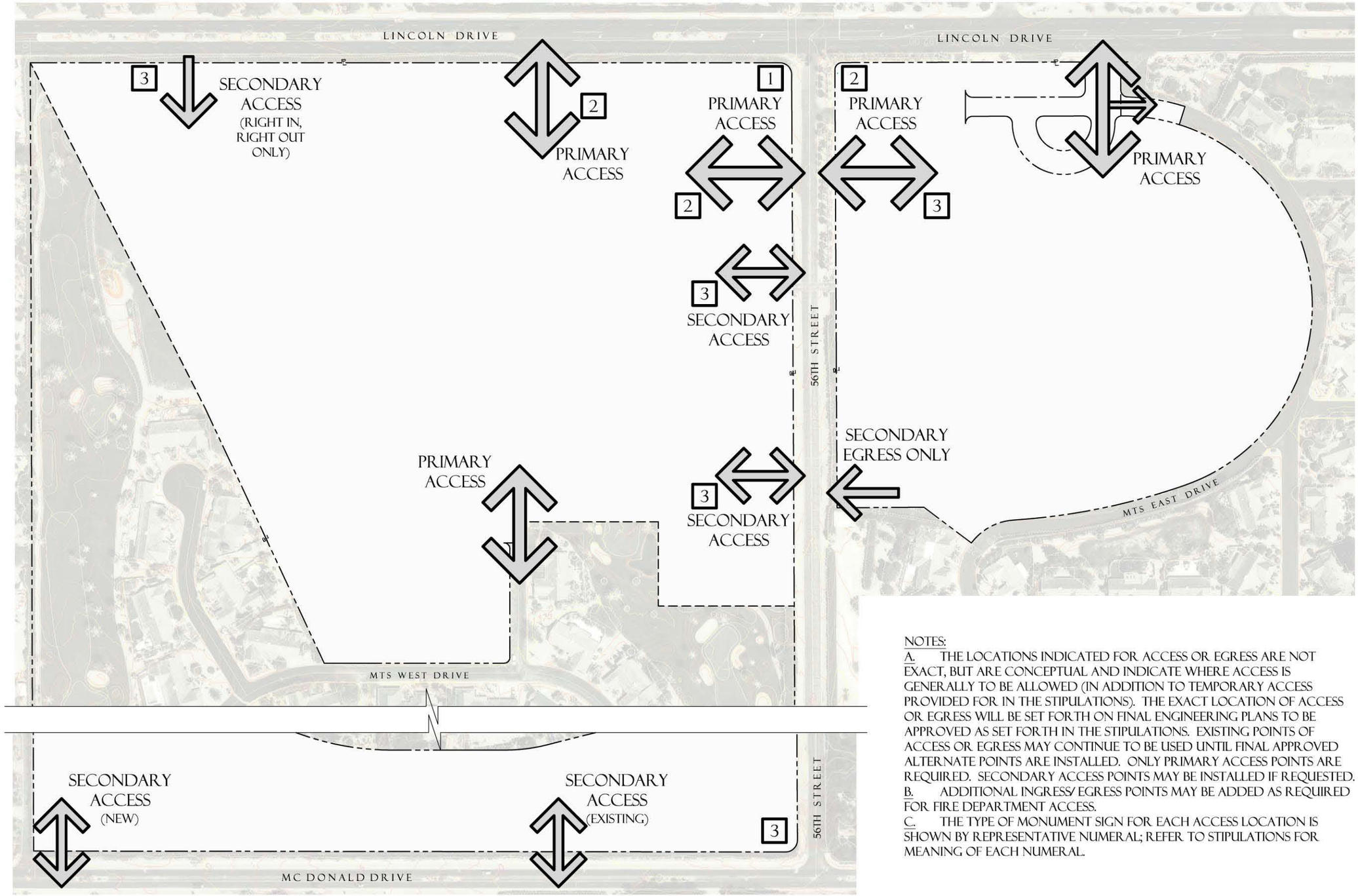
OPEN SPACE CRITERIA ILLUSTRATION

MOUNTAIN SHADOWS

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

FLOOR AREA ILLUSTRATIONS

Date: FEBRUARY 22, 2013	Project #	Sheet: 2.1
Revision:	Issued For: SPECIAL USE PERMIT	



NOTES:

A. THE LOCATIONS INDICATED FOR ACCESS OR EGRESS ARE NOT EXACT, BUT ARE CONCEPTUAL AND INDICATE WHERE ACCESS IS GENERALLY TO BE ALLOWED (IN ADDITION TO TEMPORARY ACCESS PROVIDED FOR IN THE STIPULATIONS). THE EXACT LOCATION OF ACCESS OR EGRESS WILL BE SET FORTH ON FINAL ENGINEERING PLANS TO BE APPROVED AS SET FORTH IN THE STIPULATIONS. EXISTING POINTS OF ACCESS OR EGRESS MAY CONTINUE TO BE USED UNTIL FINAL APPROVED ALTERNATE POINTS ARE INSTALLED. ONLY PRIMARY ACCESS POINTS ARE REQUIRED. SECONDARY ACCESS POINTS MAY BE INSTALLED IF REQUESTED.

B. ADDITIONAL INGRESS/ EGRESS POINTS MAY BE ADDED AS REQUIRED FOR FIRE DEPARTMENT ACCESS.

C. THE TYPE OF MONUMENT SIGN FOR EACH ACCESS LOCATION IS SHOWN BY REPRESENTATIVE NUMERAL; REFER TO STIPULATIONS FOR MEANING OF EACH NUMERAL.

MOUNTAIN SHADOWS

INGRESS / EGRESS AND SIGN LOCATION DIAGRAM

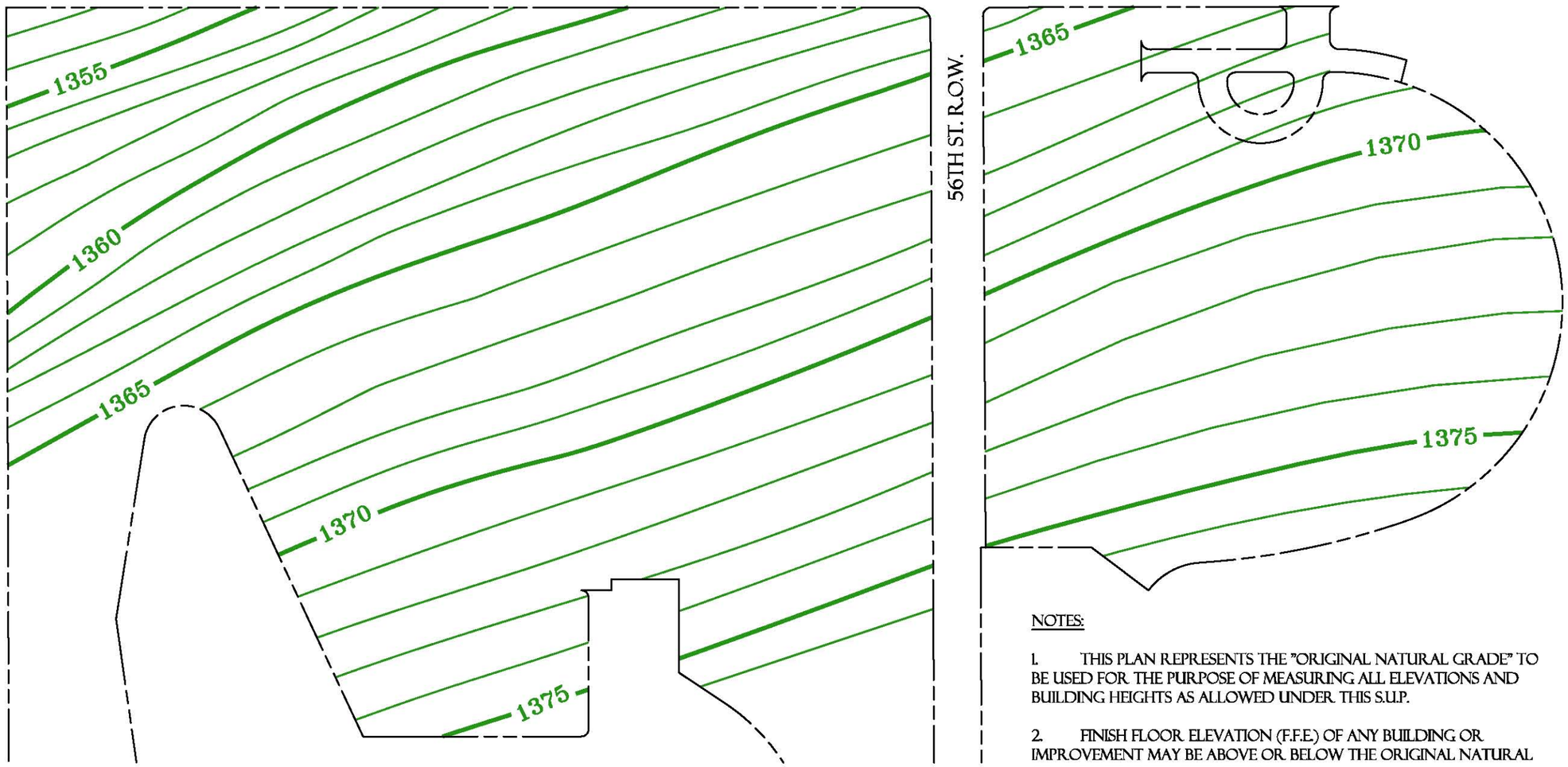
ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

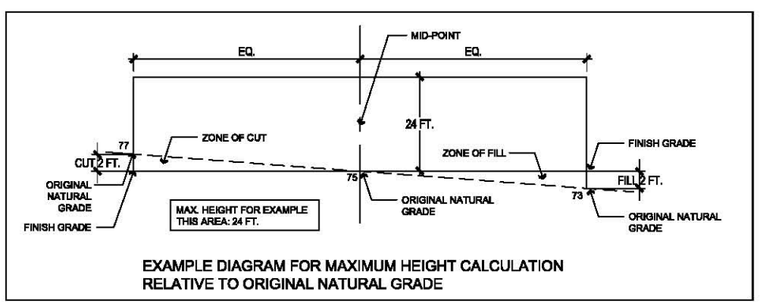
N

0 30 60 120

SCALE : 1" = 60'

Date: FEBRUARY 22, 2013	Project #	Sheet:
Revision:	Issued For: SPECIAL USE PERMIT	3





EXAMPLE DIAGRAM FOR MAXIMUM HEIGHT CALCULATION RELATIVE TO ORIGINAL NATURAL GRADE

NOTES:

1. THIS PLAN REPRESENTS THE "ORIGINAL NATURAL GRADE" TO BE USED FOR THE PURPOSE OF MEASURING ALL ELEVATIONS AND BUILDING HEIGHTS AS ALLOWED UNDER THIS S.U.P.

2. FINISH FLOOR ELEVATION (F.F.E.) OF ANY BUILDING OR IMPROVEMENT MAY BE ABOVE OR BELOW THE ORIGINAL NATURAL GRADE WITHOUT RESTRICTION.

3. THE MAXIMUM HEIGHT OF ANY SINGLE BUILDING OR IMPROVEMENT SHALL BE MEASURED FROM THE MID-POINT EQUIDISTANT FROM THE HIGH POINT AND LOW POINT OF THE ORIGINAL NATURAL GRADE IMMEDIATELY ADJACENT TO SUCH BUILDING OR IMPROVEMENT. A SINGLE BUILDING OR IMPROVEMENT IS DEFINED AS ANY STRUCTURE (OR PART OF A STRUCTURE) WHOSE F.F.E. IS ALL AT THE SAME GRADE. FILL MAY EXCEED 2 FEET.

4. CONTOUR INTERVAL SHOWN IS 1 FOOT.

MOUNTAIN SHADOWS

ORIGINAL NATURAL GRADE (O.N.G.) PLAN

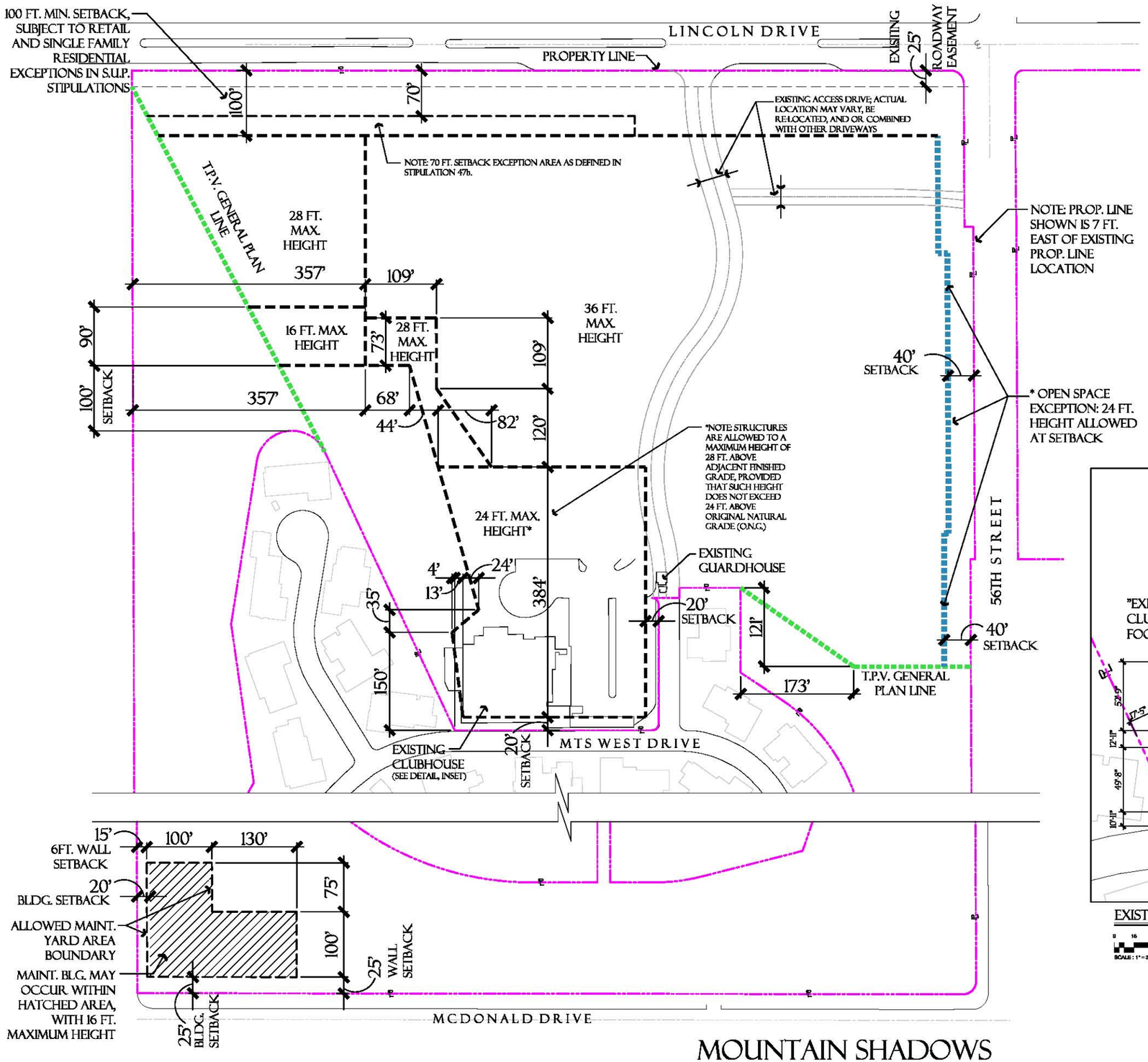
ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

N

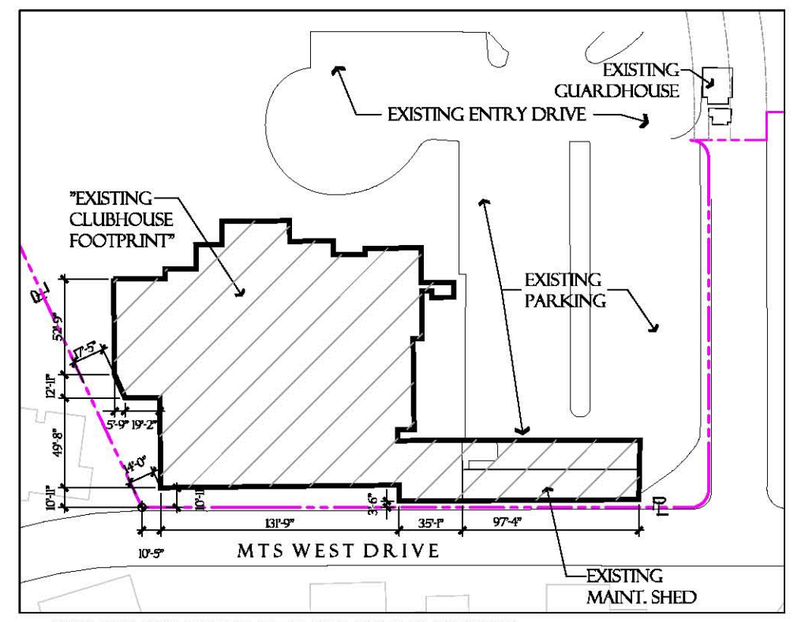
0 30 60 120

SCALE : 1" = 60'

Date: FEBRUARY 22, 2013	Project #:	Sheet:
Revision:	Issued For: SPECIAL USE PERMIT	4



NOTE: OPEN SPACE CRITERIA SHALL BE MET FOR ALL STRUCTURES EXCEPT AS NOTED ON THIS SHEET AND/OR IN THE STIPULATIONS.



EXISTING CLUBHOUSE SETBACKS AND DIMENSIONS

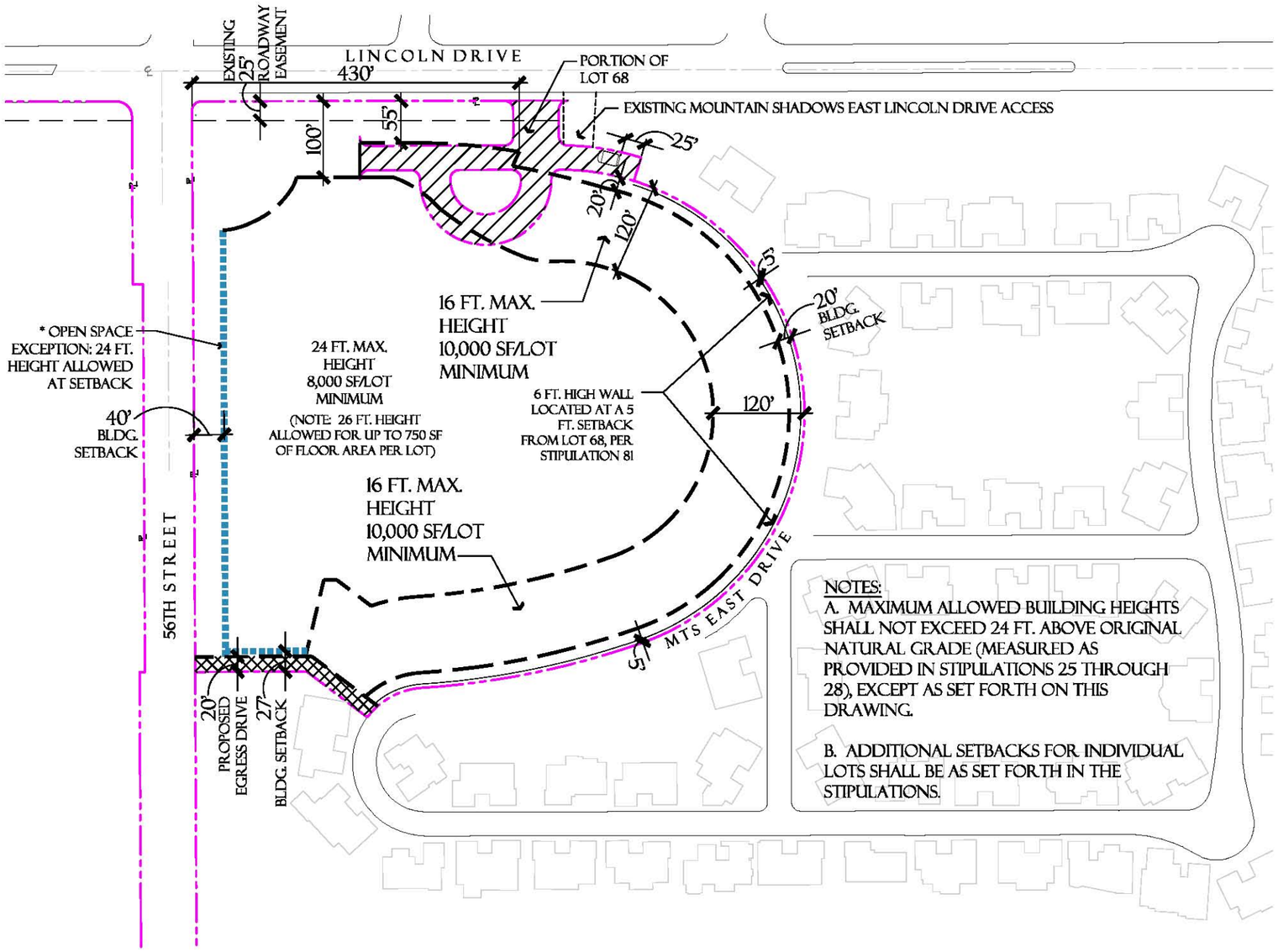
(SEE STIPULATION 46)

MOUNTAIN SHADOWS

ALLOWED SETBACKS & HEIGHTS - WEST

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

Date: FEBRUARY 22, 2013	Project #:	Sheet:
Revisions:	Issued For: SPECIAL USE PERMIT	5



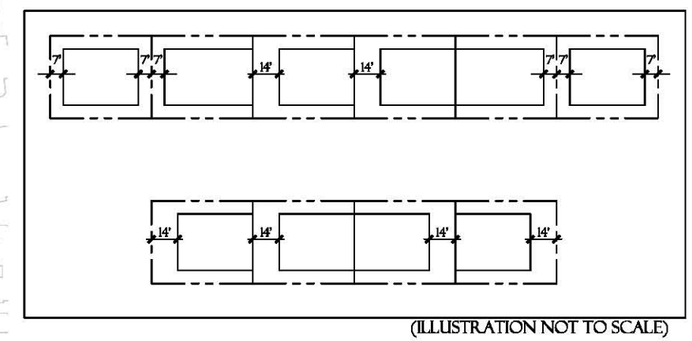
NOTES:

A. MAXIMUM ALLOWED BUILDING HEIGHTS SHALL NOT EXCEED 24 FT. ABOVE ORIGINAL NATURAL GRADE (MEASURED AS PROVIDED IN STIPULATIONS 25 THROUGH 28), EXCEPT AS SET FORTH ON THIS DRAWING.

B. ADDITIONAL SETBACKS FOR INDIVIDUAL LOTS SHALL BE AS SET FORTH IN THE STIPULATIONS.

ALLOWED SIDE YARDS:

THE FOLLOWING DRAWING ILLUSTRATES VARIOUS POSSIBLE CONFIGURATIONS OF SIDE YARD SETBACK FOR EACH RESIDENCE OR PRIMARY STRUCTURES ON A RESORT ESTATE LOT. ANY OR ALL OF THESE CONFIGURATIONS MAY BE USED, EITHER FOR ALL LOTS OR IN COMBINATION OR GROUPS OF LOTS.



(ILLUSTRATION NOT TO SCALE)

MOUNTAIN SHADOWS

ALLOWED SETBACKS & HEIGHTS - EAST

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

N

0 30 60 120

SCALE: 1" = 60'

Date: FEBRUARY 22, 2013	Project #:	Sheet: 5.1
Revisions:	Issued For: SPECIAL USE PERMIT	

PROPOSED AREAS KEY:

1 "NEW GOLF AREA" AND/OR NEW HOLE AND MODIFICATIONS TO EXISTING HOLE #3 AS NEEDED

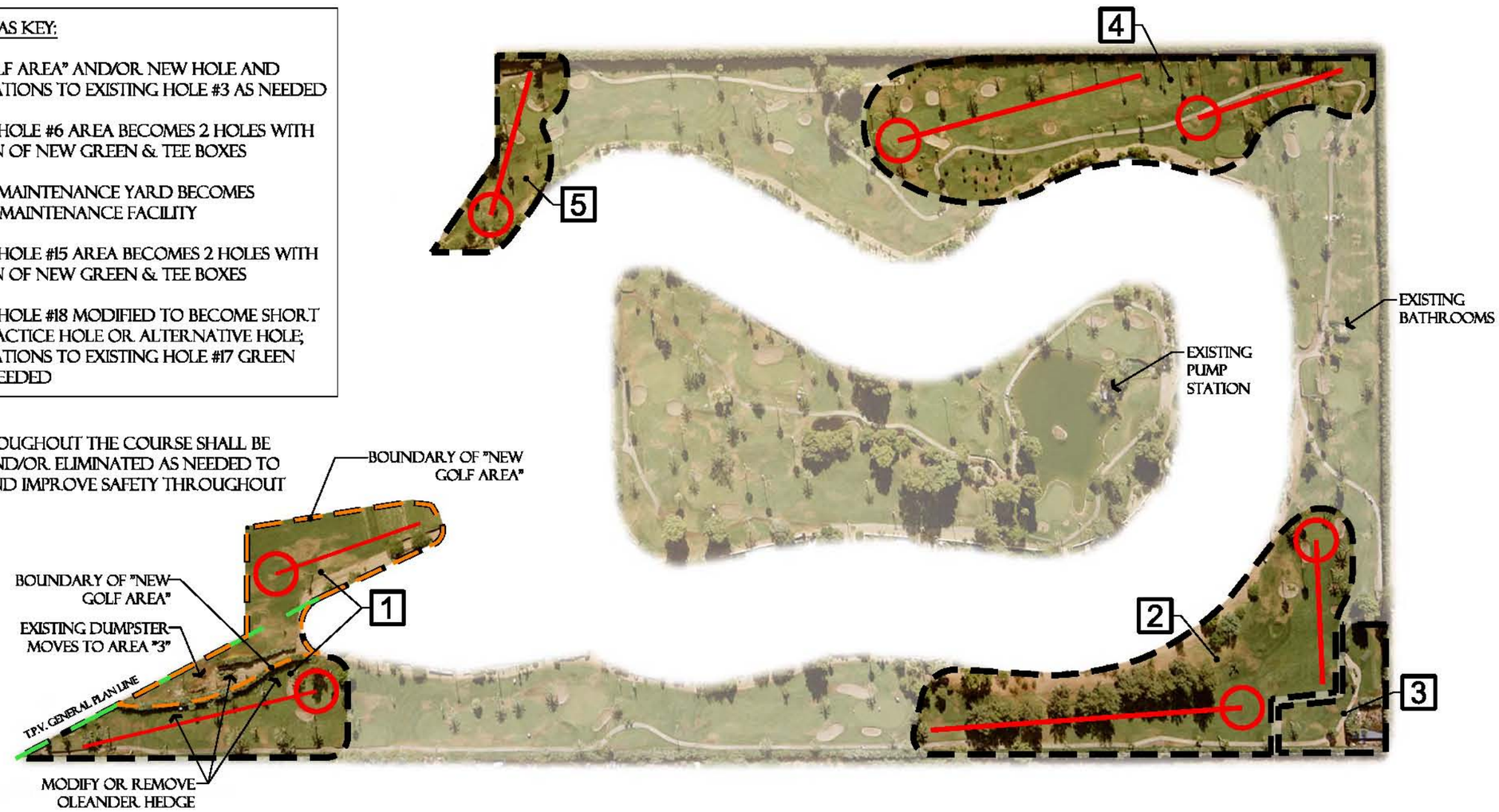
2 EXISTING HOLE #6 AREA BECOMES 2 HOLES WITH ADDITION OF NEW GREEN & TEE BOXES

3 EXISTING MAINTENANCE YARD BECOMES PRIMARY MAINTENANCE FACILITY

4 EXISTING HOLE #15 AREA BECOMES 2 HOLES WITH ADDITION OF NEW GREEN & TEE BOXES

5 EXISTING HOLE #18 MODIFIED TO BECOME SHORT GAME PRACTICE HOLE OR ALTERNATIVE HOLE; MODIFICATIONS TO EXISTING HOLE #17 GREEN MAY BE NEEDED

NOTE:
TEE BOXES THROUGHOUT THE COURSE SHALL BE RENOVATED AND/OR ELIMINATED AS NEEDED TO MODERNIZE AND IMPROVE SAFETY THROUGHOUT THE COURSE.



MOUNTAIN SHADOWS

GOLF COURSE IMPROVEMENTS PLAN

ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.

SCALE: 1" = 80'

Date: FEBRUARY 22, 2013	Project #	Sheet
Revisions: MARCH 28, 2013	Issued for: SPECIAL USE PERMIT	6

SCHEDULE "2"
TO
MOUNTAIN SHADOWS STIPULATIONS

Town of Paradise Valley Zoning Ordinance in effect as of Approval Date

This document is on file at the Town of Paradise Valley Clerk's Office and may be viewed during normal business hours.

Town Hall
6401 E Lincoln Drive
Paradise Valley, AZ 85253

ZONING ORDINANCE

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Article I. PURPOSE, TITLE, INTERPRETATION, AND CONFLICT [564]

Section 101. Purpose:

This Ordinance is for the purpose of securing adequate light, pure air, and safety from fire and other dangers; conserving the values of land and buildings through the Town of Paradise Valley; lessening or avoiding congestion in the public streets; and promoting the public health, safety, comfort, morals and welfare of the citizens of the Town of Paradise Valley, Arizona.

Section 102. Title:

This Ordinance may be cited as the "Zoning Ordinance of the Town of Paradise Valley."

Section 103: Interpretation and Conflict: [564]

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this ordinance imposes a greater restriction, this ordinance shall control.

FOOTNOTE:

564 Ordinance 564 – 11/03/2005

Article II. DEFINITIONS [84 112 164 170 179 196 200 207 376 432 477 534 548 564 566 567 617 633]

Section 201. [84 112 164 170 179 196 200 207 376 432 477 534 548 564 566 567 617]

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, the singular; the word "building" shall include the word "structure;" the word "lot" shall include the word "plot;" and the word "shall" is mandatory.

Accessory Building / Structure[564]: A subordinate building, the use of which is incidental to that of the dominant use of the main building, or premises, including residential staff quarters; provided, however, that neither a building nor an enclosure for horses is an accessory building.

Alley: A public thoroughfare which affords only a secondary means of access to abutting property.

Anomaly: [548] A natural occurring, localized surface deviation from the natural land contour. Anomalies may include outcroppings, ridges, craters, or washes. When an anomaly affects the Open Space Criteria measurement for a building or structure, the Town Manager or designee shall eliminate the anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure.

Apartment House: See "Dwelling, Multiple."

Area of Jurisdiction: [207] The boundaries of Paradise Valley.

Assisted Living Home: [567] A dwelling shared as a primary residence by persons who are disabled, as defined in Arizona Revised Statutes §41-1491, who do not meet the definition of "family" as set forth in this section, who live together as a single housekeeping unit in an environment in which staff persons provide supervisory care, personal care and/or custodial care for the residents. This definition shall not apply to a home for the developmentally disabled as regulated by Arizona Revised Statutes §36-582.

Basement: [164] A story having more than one-half (1/2) its height below natural grade.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Camper: [564] A camper is a unit designed for travel, recreational, and vacation uses, which may be placed upon or attached to a vehicle.

Cluster Plan (CP) District: [564] A development approach that may be used in the R-43 or R-35 Cluster Plan zoning district that retains the same house per acre ratio as the R-43 or R-35, zoning

districts permiting reduced lot sizes in order to allow undeveloped land to be preserved as open space. This approach may be utilized to preserve natural features or provide greater than normal setbacks from heavily traveled thoroughfares.

Country Club: [564] A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.

DHS: [633] The Arizona Department of Health Services.

DHS Rules and Regulations: [633] The adopted regulations of DHS relating to the provisions of Title 36, A.R.S. § 36-2801 et seq.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Single-Family: A building designed for occupancy by one (1) family.

Dwelling, Two-Family: A building designed for occupancy by two (2) families.

Dwelling, Multiple: A building or portion thereof designed for occupancy by three (3) or more families.

Dwelling Unit: 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.

Elevation: [164] Height above mean sea level (MSL) as established by the United States Coast and Geologic Survey.

Encroachment Line: Boundaries shown on Plates 7 & 8 of Volume I, Indian Bend Wash Report prepared by the U. S. Army Corps of Engineers which show lateral limits or lines along streams within which in the direction of the stream no structure of fill may be added without reducing the natural flood carrying capacity of the stream and its flood plain. Their location should be such that the natural floodway between them will handle a designated floodflow. The encroachment lines will be based upon the volumetric flow rate of a 100-year flood.

Family: An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons, excluding residential staff, who need not be related by blood or marriage living together as a housekeeping unit.

Fifty-year Flood: A flood that has a two percent (2%) chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Finished Grade: [164] The prepared elevation of the ground surface under a structure and within the lot setback lines.

Flood or Flood Waters: A temporary overflow of water on lands not normally covered by water.

Flood Plain: The relatively flat areas or low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater, but shall compose an area not less than that area contained between the fifty-year flood line and the one hundred year flood line.

Floodplain Board: [207] The Town Council of the Town of Paradise Valley.

Floodplain Regulations: The codes, ordinances, and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

Floodway: The channel of the stream or body of water and that portion of the flood plain that is inundated by a flood and therefore used to carry the flow of the flood.

Floor Area, Total: [617] The area under roof added to the floor area of any second story. The total floor area also includes any courtyard areas, the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building.

Floor Area Ratio: [432] The total floor area divided by the total lot area.

Frontage: 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.

Garage, Private: [84] Any accessory building designed or used for the storage of motor-driven vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

Garage, Storage: A building or portion thereof designed or used exclusively for housing of four (4) or more motor-driven vehicles.

Golf Course: [564] A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

Grade Slope: [164] [548] The degree of rise or descent of the ground surface. Please refer to illustration 201.

Guardgate: [162] A manually, mechanically, or electrically controlled gate device built as a free-standing structure or in conjunction with a guardhouse in compliance with all the terms granted in a special use permit, and located on a private road as shown on the site plan approved with the special use permit, for the purpose of regulating and monitoring pedestrian and/or

vehicular traffic into a subdivision or neighborhood and promoting security within the subdivision or neighborhood.

Guardhouse: [162] A building built in compliance with all building codes of the Town of Paradise Valley and all the terms granted in a special use permit and located on a private road or on private property adjacent to a private road as shown on the site plan approved with the special use permit, for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security with the subdivision or neighborhood; provided, however, a guardhouse shall not be designed or used for sleeping or living purposes.

Guest Ranch: A building or group of buildings containing two (2) or more guest units, other than a hotel, motel or resort hotel, and having outdoor recreational facilities such as horseback riding, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities.

Guest House: [84] An accessory building of one or more rooms designed for occupancy by not more than one family. A guest house shall have its own sanitary facilities.

Height Measurement: [164 207 376 repealed and replaced 548] The height of a building or structure is measured based on the following criteria: 1) The vertical distance from the lowest point of the natural grade below the structure to the highest point of the structure. Maximum building height varies with lot size. See Article X for detail; and 2) The Open Space Criteria which limits allowable building height near the perimeter of the lot. See definition of Open Space Criteria.

Hillside Development Area: [112 207] Any parcel of land in which any portion of the parcel lies within the areas marked in Figure II and any other parcel with a building site slope of ten percent (10%) or greater, measured as a vertical rise of ten (10) feet in a horizontal distance of 100 feet.

Home Occupation: [566] An occupation, profession, or other business activity conducted at a residence.

Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Institution: A building or buildings occupied by a non-profit corporation or a non-profit establishment for public use.

Loading Space: A permanently-maintained space on the same lot as the main building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

Lot: [477] A parcel of land occupied or intended for occupancy by one main building, together with any accessory buildings including the open spaces required by this Ordinance and having either:

a. adequate frontage upon a public street, or

b. adequate and recorded access to a public street by a private road as defined by this ordinance.

Lot Area: [196 432] The area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted.

Lot, Corner: A lot adjoining two (2) or more streets at their intersection.

Lot, Depth of: The main horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersection streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner.

Lot, Key: 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 a side boundary of the corner lot.

Lot Lines: The lines bounding a lot.

Lot of Record: 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: [52 432 564] The diameter of the circle described in Section 6-3-5.G of the Town Code. Minimum lot widths are shown on Table 1001-A1.

Medical Marijuana: [633] Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant, approved under state law for treatment of persons suffering from debilitating medical conditions, as designated in A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Cultivation: [633] The process by which a person grows a medical marijuana plant as allowed by A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Designated Caregiver Cultivation: [633] The cultivation of medical marijuana by a designated caregiver, as defined in A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Medical Marijuana Dispensary: [633] A non-profit entity, as defined in A.R.S. § 36-2801(11), that acquires, possesses, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to qualifying patients, caregivers or dispensary agents, as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Offsite Cultivation Site: [633] A building, dwelling, or structure used for the cultivation or storage of medical marijuana for use by a medical marijuana dispensary, as designated in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq. or DHS rules and regulations.

Medical Marijuana Infusion Facility: [633] A facility that incorporates medical marijuana into consumable/edible goods by means of cooking, blending or incorporation.

Medical Marijuana Qualifying Patient Cultivation: [633] Cultivation of medical marijuana by a qualifying patient, as defined in A.R.S. § 36-2801(13), who is authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Microwave Antenna: [96] A device for the reception and amplification of microwave frequency electromagnetic energy, typically in the shape of a shallow dish, and which may be mounted on a permanent, temporary, or portable structure.

Mobile Home: [564] A mobile home is a unit which : a) is not self-propelled, b) may be placed upon or attached to a vehicle, c) is constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons, and d) is or may be used as a conveyance upon streets or highways.

Motel: 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 trailer court, guest ranch or resort hotel.

Motor Home: [564] A self-propelled vehicle capable of being used for the living, sleeping, eating, or accommodation of persons.

Natural Grade: [164] The elevation of the ground surface in its natural state before man-made alterations.

One-hundred-year Flood: A flood that has one per cent chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Open Space: [564] Land and water areas retained for active or passive recreation purposes or for essentially undeveloped areas retained for the purpose of resource protection or preservation.

Open Space Criteria: [548] This criterion maintains view corridors around the perimeter of the lot by further limiting building height near property lines. Maximum allowable structure height shall not exceed a plane beginning at 16 feet above the natural grade, at 20 feet setback from all property lines and sloping upward at a 20% angle, perpendicular to the nearest property line. See Article X for detail and refer to Figure 1001-2 for example.

Open Space Preserve District (OSP): [564] This Zoning District is intended to preserve and protect in perpetuity undeveloped real property and developed real property that can be returned to its natural state, , including scenic and conservation easements, on and around the Mountain Preserve in the Town of Paradise Valley, with the goal of preserving the natural landscape, desert plants, wildlife, and the scenic beauty of mountain areas of the Town.

Parking Lot: A parcel of land devoted to unenclosed parking spaces.

Parking Space: [84] A permanently surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Person: Any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state or any agency or political subdivision thereof.

Private Road: [477] Where this Ordinance refers to the term "Private Road" any such Private Road shall meet and be in compliance with the following criteria:

(1) The minimum right-of-way width shall be fifty (50) feet.

(2) Where the said private road is to provide access to one or two residences, driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4-inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4-inch depth of decomposed granite.

(3) Where access to a public road for three (3) or more residences is to be provided by way of a private road, all standards and requirements for subdivisions as contained in the Code and Ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of the issuance of a use permit in accordance with the Code and Ordinances of the Town of Paradise Valley.

(4) All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health and welfare of the people of the Town of Paradise Valley, the said Town may assess the cost thereof against the party, his heirs, executors, administrators, legatees and assigns, having applied for a residential building permit utilizing the provisions of this sub-paragraph (b); agreement thereto by such applicant shall be a condition of issuance of any residential building permit.

Public/Quasi Public: [564] Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Resort: [54] [564] A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

R-175 District: [564] This district is intended to promote and preserve a very low-density residential character and maintain open space and natural features. The principal land use is single-family

dwellings and uses incidental or accessory thereto. Lot size of at least 175,000 sq. ft. is required in this District.

R-43 District: [564] This district is intended to promote and preserve a low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 43,560 sq. ft is required in this district.

R-35 District: [564] This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35,000 sq. ft. is required in this district.

R35A District: [564] This district only applies to portions of previously annexed subdivisions known as Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35, 000 sq. ft. is required in this District.

R-18 District: [564] This district is intended to promote and preserve residential development associated with the desert landscape. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft is required in this district.

R-18 A District: [564] This district applies to previously annexed subdivisions known as Arcadia Square, Orange Valley Estates No. 3, Grosse Point Two, Quail Vista and to certain portions of Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft. is required in this district.

R-10 District: [564] This district applies to previously annexed subdivisions known as Mountain Shadows East, Mountain Shadows West, and Colonia Miramonte. This district is intended for single-family dwellings and uses incidental or accessory thereto, with a lot size of at least 10,000 square feet.

Residential Staff: An accessory building occupied only by a person employed for a substantial portion of his time in the performance of domestic or agricultural tasks on the premises, and by the immediate family of such person. Residential staff quarters may have cooking facilities, and may not be rented for profit.

School: Unless otherwise specified, the term "school and college" shall be limited to private or public places of general instruction and shall not include nursery schools, dancing schools, riding academies, or trade or specialized vocational schools.

Service Station: Any building or premises used principally for the storing, dispensing or offering for sale at retail of automobile fuels or oils.

Shopping Center: A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign: [170 200]

Any device for visual communication including political handbills and posters but not including any flag, badge or insignia of a government or governmental agency, nor of any civic, charitable, religious, patriotic, fraternal or similar organization.

a. Area of Sign:

(1) Free-standing Letters Sign: The area of such sign is ninety percent (90%) of the area enclosed within the smallest regular geometric figure needed to encompass all letters, insignias or symbols.

(2) Other Signs: The area of other signs is the total area within the outer edge of the sign.

(3) Computations: In every event, computation of all allowable sign area includes all existing signs on the premises, whether such signs be conforming or valid nonconforming under the terms of this Ordinance. Identifying street numbers shall not be computed as part of the total sign area.

b. Banner sign: [200] Means a canvas, flexible plastic device or other cloth material which can be supported and mounted by the use of ropes and intended for visual communication, and directly related to activities on site.

c. Double-faced sign means a sign with two faces; in computing the number of signs, a double-faced sign shall be considered as two (2) signs.

d. Free-standing Letters Sign: A sign composed of letters superimposed on a wall.

e. Indirect lighting means a source of external illumination located a distance away from the sign which lights the sign, but which is itself not visible to persons viewing the sign from any ordinary position of view.

f. Internal lighting means a source of illumination which is entirely within the sign and is not visible.

g. Non-commercial sign means a sign for the expression of a personal communication such as religious, philosophical, or political views.

h. Permanent Sign: Any sign which is intended to be of a lasting and enduring nature, remaining unchanged in character and position and affixed in a permanent manner to the ground, wall or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.

i. Temporary Sign: Any sign not permanently attached to the ground, wall, or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.

Stable: [94] Any building or structure used to house or provide shelter for horses, provided that when a stable building is used for additional purposes, including by way of example, but not limited to, housing of horse attendants, etc., only the portions of the building used for the housing of horses and/or the keeping of feed or tack shall be deemed stable area; remaining portions of the building shall be deemed accessory building area. The term, "stable", shall not include within the scope of its definition what is commonly referred to as a corral.

Story: [164] That portion of a building, other than a basement included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor is finished off for use. The half story containing independent apartment or living quarters shall be counted as a full story.

Street, Public: A passageway for general use of pedestrian or vehicular traffic, established as such by governmental authority.

Street, Private: Any other passageway for pedestrian or vehicular traffic.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

Structural Alterations: 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: Anything constructed or erected, the use of which requires a fixed location on the ground.

SUP District R-18 CP Single-Family Residential District: [564] A residential subdivision approved by prior Special Use Permit only and applicable only to those subdivisions known as Cheney Estates (and only a portion thereof) and Via Vista.

Time-Share Project: [99] 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.

Trailer, Transport: [564] Any vehicle so constructed that is suitable for being attached to a motor vehicle and capable of being used for transporting goods, materials, equipment, boats, vehicles, or livestock.

Use: The purpose for which land or a building is occupied, maintained, arranged, designed or intended.

Use, Accessory: A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide residential staff quarters.

Watercourse: Any lake, river, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Yard: An open space at grade level between the setback line and the nearest parallel lot line, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

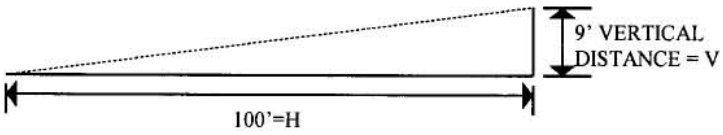
Yard, Front: [55] [196] [432] [534] A yard extending across the front width of a lot and being the minimum horizontal distance between the right-of-way line and the front setback line.

Yard, Rear: [196] A yard extending across the rear width of a lot and being the minimum horizontal distance between the rear lot line and the rear setback line. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: [196] A yard between the side setback line and the side lot line of a lot and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side setback line. An interior side yard is defined as the side yard adjacent to a common lot line.

ZONING ORDINANCE

Figure 201
Grade Slope



HORIZONTAL DISTANCE = H
GRADE OR SLOPE CALCULATION = V/H
V/H = 9/100 = 9% GRADE

FOOTNOTE:

51 Ordinance #97 – 2/13/75
52 Ordinance # 96 – 2/13/75
53 Ordinance # 105 – 8/14/75
54 Ordinance # 119 – 6/10/76
55 Ordinance # 110 – 1/8/76
84 Ordinance # 180 – 4/23/81
94 Ordinance # 196 – 5/27/82
96 Ordinance # 201 – 3/24/83
99 Ordinance # 204 – 4/28/83
112 Ordinance # 221 – 9/27/84
164 Ordinance # 288 – 9/29/88
170 Ordinance # 295 – 2/9/89
179 Ordinance # 303 – 10/26/89
196 Ordinance # 323 – 6/13/91
200 Ordinance # 12/19/91
207 Ordinance # 345 – 5/14/92
376 Ordinance # 376 – 8/25/94
432 Ordinance # 432 – 12/19/96
477 Ordinance # 477 – 2/25/99
534 Ordinance #534 – 01/22/2004
548 Ordinance #548 – 03/10/2005
564 Ordinance # 564 – 11/03/2005
566 Ordinance #566 – 01/12/2006
567 Ordinance #567 – 11/17/2005
617 Ordinance #617 – 12/03/2009
633 Ordinance #633 – 04/28/2011

Article III. DISTRICTS, BOUNDARIES, AND AMENDMENTS

Section 301.Zoning Districts [109 166 175 564 658]

The Town of Paradise Valley, Arizona, is hereby divided into fourteen (14) classes of "Districts" to: a) Classify and regulate the location of residential and non-residential land uses, b) Establish the limitations and restrictions applicable to such land uses, c) Regulate and limit the height and bulk of buildings hereafter erected, reconstructed, or structurally altered, d) Regulate and limit the intensity of the use of lot areas, and e) Regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings. The use, heights, and area regulations are uniform in each district, and said districts shall be known as:

R-175 Single-Family Residential District [175]
R-43 Single-Family Residential District
R-43 CP Single-Family Residential District
R-35 Single-Family Residential District
R-35 CP Single-Family Residential District
R-35A Single-Family Residential District
R-18 Single-Family Residential District
R-18A Single-Family Residential District
R-10 Single-Family Residential District [109]
SUP District R-18 CP Single-Family Residential District*
OSP Open Space Preserve District
SUP District (Religious Facility, Private School, Non-Profit Organization, Public/Quasi Public)
SUP District (Resort, Country Club, Golf Course)
SUP District (Medical Office, Kennel, Veterinary Clinic) [658]

* Provisions allowing and governing this District were repealed by Ordinance 431 in 1996.

Section 302 Zoning Map. [410 564]

The Boundaries of these districts are shown upon the Zoning Map and made a part of this ordinance. The Zoning Map and all notations, references and other information shown thereon are a part of this ordinance and have the same force and effect as if the maps and all the notations, references and other information shown thereon were fully set forth and described herein, which Zoning Map is attached hereto and made a part of this ordinance by reference and any amendment to Zoning Map adopted by ordinance shall become a part of this ordinance by reference as though fully set forth herein. Properties rezoned by Special Use Permit shall reflect the predominant land use category as either Resort, Country Club, Golf Club; Religious Facility, Private School, Non-Profit Organization, Public/Quasi-Public; or Medical Office, and shall be designated as such on the Zoning Map.

Section 303 Rules Where Uncertainty May Arise [564]

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this ordinance, the following rules apply:

1. The district boundaries are either street or alleys unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

2. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

3. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale appearing on the map.

Section 304 Annexations[564]

An area under consideration for annexation may be zoned at the time of annexation or within six (6) months after the annexation to a Town zoning district comparable to, but not greater in intensity than that permitted in the County. Council approval of the annexation constitutes authorization for the Town to initiate action to establish the applicable Town Zoning District for the newly annexed area within six (6) months after the annexation.

Section 305 Vacated Streets[564]

Whenever any street, alley or other public way is vacated by official action of the Town Council, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

Section 306 Amendments [564]

The Town Council may from time to time, upon the recommendation of the Planning Commission, amend, supplement, or change zoning district boundaries, the uses and/or restrictions in Special Use Permit Districts, for those uses and pursuant to those procedures set forth in Article XI, or the regulations herein or subsequently established. Recommendations for such amendment may be initiated by the Council or the Commission on their own motion, or by property owner application for district related changes as set forth in Section 306. Such amendments shall be consistent with and conform to the Land Use Map of the Town's adopted General Plan. Minor amendments within a SUP District may be approved by the Planning Commission pursuant to the limitations and procedures set forth in Article XI.

Section 307 Application for Amendment [564]

Applications for amendments shall be made on a form provided therefore and shall be signed by the real property owner or the owners of 80 percent or more of the area for which the amendment is applied for. Said application shall be submitted to the Town and checked for authenticity of ownership before an application may be accepted.

Section 308 Public Hearing [564]

Every application for amendment of the ordinance shall be considered by the Planning Commission as follows:

1. A citizen review session shall be held at a work-study session of the planning commission scheduled at least 10 days prior to the public hearing for the consideration of the proposed text amendment. Notice of the citizen review session shall be given, in conformance with Ordinance Number 523, to landowners and other citizens potentially affected by the proposed text amendments at least 10 days prior to the Planning Commission work-study session scheduled for the citizen review of the proposed text amendments. This notice shall state the date, time, and place of the citizen review session and shall include a general explanation of the substance of the proposed text amendment to the Zoning Ordinance.

2. A public hearing shall be held only after appropriate publication of a public notice of the time, place and date of such hearing is given in an official newspaper or a newspaper of general circulation in the Town of Paradise Valley at least fifteen (15) days prior to such hearing. The Commission may, upon its own motion, after such public hearing, submit to the Council a report of its hearing and a recommendation of amendment of this ordinance.

3. The Town Council shall arrange to hold its public hearing, at which time legislative action in regard to the amendment shall be determined. Such legislative action can include: approval as submitted by the applicant; approval with stipulations or modifications required; denial; continuance; or referral back to the Planning Commission for further consideration; or such other action as the Town Council may decide in its legislative discretion. Notice of the time, place and date of such Council hearing shall be appropriately published in an official newspaper, or a newspaper of general circulation in the Town of Paradise Valley at least fifteen (15) days prior to such hearing.

4. If the Council hearing is for the purpose of changing the Residential District Classification or consideration of a Special Use Permit District Application or any amendment to an existing Special Use Permit District for any property, the time, place and date of the Council hearing shall be posted on the affected property at least seven (7) days prior to said hearing. For all other proposed amendments to this ordinance, the time, place and date of the Council hearing shall be posted in three (3) public places at least seven (7) days prior to said hearing.

Section 309 Reconsideration of Denied Amendments [564]

In the event that an application for a minor amendment to the uses and/or restrictions in a Special Use Permit District is denied by the Planning Commission, the same or a substantially similar application for a minor amendment, as determined by the Town staff, shall not be considered for a period of at least one (1) year from the date of said denial unless specifically authorized by the Planning Commission, provided, however, such denial shall not limit an applicant from filing for a major amendment to the uses and/or restrictions in a Special Use Permit District even if the application is the same or similar to those contained in the minor amendment application. In the

event that an application for a Special Use Permit, a major amendment to the uses and/or restrictions in a Special Use Permit District, or an application for a change in zoning district boundaries or any other application subject to a public hearing by the Town Council is denied, neither the application, nor a substantially similar application, as determined by the Town Staff , shall be considered for a period of at least one (1) year from the date of said denial action unless specifically authorized by the Town Council.

Section 310 Protests Against Amendment [564]

If the owners of 20 percent or more either of the area of the lots included in the proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty (150) feet therefrom, or of those directly opposite thereto extending one hundred fifty (150) feet from the street frontage of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective except by the favorable vote of three-fourths of all members of the Town Council. If any members of the Town Council are unable to vote on such a question because of conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining members of the Town Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body. (Pursuant to §9-462.04(H) of the Arizona Revised Statutes). All written protests shall be filed with the Town Clerk's Office no later than 48 hours before the scheduled meeting at which the Council votes upon the proposed request and shall be signed by the protesting real property owner and checked for authenticity of ownership before the written protest may be accepted.

FOOTNOTE:

109 Ordinance # 217 – 6/14/84
164 Ordinance # 288 – 9/29/88
166 Ordinance # 290 – 12/01/88
175 Ordinance # 298 – 4/13/89
207 Ordinance # 345 – 4/23/92
403 Ordinance #403 - 3/23/95
410 Ordinance # 410 – 5/09.96 (Re-zone)
432 Ordinance # 432 –12/19/96
564 Ordinance # 564 – 11/03/2005
658 Ordinance #658 – 12/12/2012

Article IV. (R-175) SINGLE-FAMILY RESIDENTIAL DISTRICT [175 432 564 567 566]

Section 401. Purpose

This district is intended to promote and preserve a very low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 175,000 sq. ft. is required in this District

This Ordinance shall provide that all existing structures on any parcel designated as R-175 shall not have the status of a nonconforming use. However, any additions to such structures shall conform to all regulations applicable to new construction in said district.

Section 402. Use Regulations [192 196 564 567 566]

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.

2. The keeping of horses for use of the family residing on the premises; provided that:

    a. The number of horses shall be limited to two head for each contiguous full acre under single ownership;

    b. A stable shall be limited to 900 square feet in area under roof for the first full acre plus 500 square feet for each additional contiguous full acre under single ownership, up to a maximum of 5,000 square feet. Stables shall not be allowed in the front yard and shall maintain a setback of at least 40 feet from any lot line. No stable shall exceed 20 feet in height from natural grade;

    c. The provisions of the Maricopa County Health Code, adopted on January 1, 1967, and all amendments thereto shall apply to the keeping of horses within the Town, even when those provisions are more restrictive than the other parts of this subsection;

    d. Fences or walls establishing the perimeter of a corral used in the keeping of horses shall maintain a rear or side setback of at least 20 feet and a front yard setback of at least 40 feet from any lot line.

3. Accessory buildings and uses customarily incident to the above uses, including a private garage, guesthouse, and residential staff quarters, and home occupations. Any accessory building not attached to the main structure shall be located not less than 60 feet from the front lot line.

4. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work, or, upon

the expiration of a period of one (1) year from the time of erection of such temporary buildings, whichever is sooner.

5. Walls or fences, or both, subject to the provisions of Article XXIV.

6. Private swimming pool, provided that:[196]

   a. No pool shall be located in any yard.

   b. Full compliance with all terms of Article 5-2-2(F) of the Town Code is made.[192 587a]

7. Home occupation in compliance with Article XVI. Home Occupation

8. Tennis courts, provided that:[196]

   a. No tennis court or tennis court fences (walls) higher than six (6') feet shall be constructed or established in any yard;

      1. For the purpose of determining compliance with this setback requirement only, "Tennis court" is defined as a smooth surface or grass covered area that is used or intended to be used for playing the game of tennis, which shall consist of the area in which the tennis ball must fall in order to be in-play and a valid play by the player so hitting the ball.

      2. Where a tennis court has two sets of in-play side-lines for singles games and for doubles games, tennis court shall be construed as the area in which the tennis ball must fall in order to be in-play and a valid play by the player so hitting the ball for doubles games.

      3. End of the tennis court means the baselines of the tennis court, which are parallel to the tennis court net.

      4. Side of the tennis court means the sidelines of the tennis court, which are perpendicular to the tennis court net.

   b. Fences or walls located within thirty feet of a tennis court which is located on the same lot as the fence or wall and which are substantially parallel to a perimeter of the tennis court shall not exceed six (6) feet in height. However, such a tennis court fence or wall may reach ten (10) feet in height if all portions of the wall or fence that are above six (6) feet in height are comprised of a material or substance that is (1) open weave, open mesh, chain link, or grille, and (2) is not a complete barrier to either the flow of air or to visibility.

      1. Measuring height: For the purpose of this subsection, height shall be measured from the playing surface of the tennis court. However, if a tennis court is depressed (reduced in altitude below the natural grade of the land it is situated upon) so that its playing surface lies below the

natural grade (elevation) of all of the land that surrounds the tennis court on the lot it is situated upon, then the six foot fence and wall maximum height limitation, supra, shall be measured from the natural grade of the land at the point of the fence or wall, except that the ten foot fence and wall absolute maximum height limitations, supra, shall be measured from the playing surface of the tennis court as provided in the preceding sentence.

2. Exceptions:

(a) Plants and vegetation shall not be deemed to be a fence or wall nor part of any fence or wall.

(b) Not more than one of the four sides and ends of a tennis court may be enclosed in part by a backboard for tennis practice that is not more than thirty (30) feet in length, nor more than ten (10) feet in height, nor more than one (1) foot in width.

c. All types or forms of lighting or illumination of tennis courts are prohibited and unlawful to install or maintain except where:

1. the height of such lights or illumination does not exceed twenty (20) feet measured from the tennis court playing surface, and

2. the light emitting element and reflecting device of all lighting or illumination units is hooded or shielded so that it is not visible from any adjacent lot or real property, and

3. such tennis court lights or illuminating units do not direct light, either directly or through a reflecting device, upon any adjacent real property, and

4. such tennis court lights or illumination units are not in use between 10:00 p.m. and sunrise.

9. Assisted Living Home in compliance with Article XVII, Assisted Living Home. [567]

Section 403 Parking Regulations [564]

For all residential dwellings hereafter erected, or for any buildings converted to such use or occupancy, provision shall be made on the premises to provide two (2) parking spaces for each dwelling unit.

Section 404 Minimum Area, Maximum Stories, Maximum Height, Lot Width, Set Backs, and Minimum Floor Area Regulations [432] [564]

The height, area, and other regulations that apply to the R-175 District are shown in Table 1001–A1, Table 1001 - A2, and Table 1001B of this Code.

FOOTNOTE:

175 Ordinance # 298- 4/13/89
192 Ordinance #319 - 2/28/91
196 Ordinance #323 - 6/13/91
432 Ordinance #432 - 12/19/96
564 Ordinance # 564 – 11/03/2005
567 Ordinance # 567 – 11/17/2005
566 Ordinance #566 – 01/12/2006
587a Corrected for Scrivener's Error in Ordinance 587 (Reorganization of Chapter 5)

Article V. (R-43) SINGLE-FAMILY RESIDENTIAL DISTRICT [170 432 534 564 567 566]

Section 501. Purpose [564]

This district is intended to promote and preserve a low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 43,560 sq. ft is required in this district.

Section 502. Use Regulations [164 170 192 567 566]

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.

2. [94] The keeping of horses for use of the family residing on the premises; provided that:

   a. The number of horses shall be limited to two head for each lot, or for each contiguous full acre under single ownership;

   b. [164] A stable shall be limited to 900 square feet in area under roof for the first full acre plus 500 square feet for each additional contiguous full acre under single ownership, up to a maximum of 5,000 square feet. Stables shall not be allowed in the front yard and shall maintain a setback of at least 40 feet from any lot line. No stable shall exceed 20 feet in height from the natural grade;

   c. The provisions of the Maricopa County Health Code, adopted on January 1, 1967, and all amendments thereto shall apply to the keeping of horses within the Town, even when those provisions are more restrictive than the other parts of this sub-section;

   d. Fences or walls establishing the perimeter of a corral used in the keeping of horses shall maintain a rear or side yard setback of at least 20 feet and a front yard setback of at least 40 feet from any lot line.

3. Accessory buildings and uses customarily incident to the above uses, including a private garage, guesthouse, and residential staff quarters, and home occupations. Any accessory building not attached to the main structure shall be located not less than 60 feet from the front lot line.

4. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work, or, upon the expiration of a period of one (1) year from the time of erection of such temporary buildings, whichever is sooner.

5. [170] All signs shall comply with the terms of Article XXV of this ordinance.

6. [56 84 121] Walls or fences, or both, subject to the provisions of Article XXIV

7. Private swimming pool, provided that:

   a. No pool shall be located closer than twenty (20) feet to any property line;

   b. No pool nor accessory structure thereto in a front yard shall be closer than forty (40) feet to any property line;

   c. Full compliance with all terms of Article 5-2-2(F) of the Town Code is made. [192 587a]

8. Home occupation in compliance with Article XVI Home Occupation.

9. [57] Tennis courts, provided that:

   a. No tennis court shall be constructed or established where the side of the tennis court is within thirty-two (32) feet of any lot line or where the end of the tennis court is within forty-one (41) feet of any lot line;

      1. For the purpose of determining compliance with this setback requirement only, "Tennis Court" is defined as a smooth surface or grass covered area that is used or intended to be used for playing the game of tennis, which shall consist of the area in which the tennis ball must fall in order to be in-play and a valid play be the player so hitting the ball.

      2. Where a tennis court has two sets of in-play sidelines for singles games and for doubles games, tennis court shall be construed as the area in which the tennis ball must fall in order to be in-play and a valid play by the player so hitting the ball for doubles games.

      3. End of the tennis court means the baselines of the tennis court, which are parallel to the tennis court net.

      4. Side of the tennis court means the side lines of the tennis court, which are perpendicular to the tennis court net.

   b. Fences or walls located within thirty feet of a tennis court which is located on the same lot as the fence or wall and which are substantially parallel to a perimeter of the tennis court shall not exceed six (6) feet in height. However, such a tennis court fence or wall may reach ten (10) feet in height if all portions of the wall or fence that are above six (6) feet in height are comprised of a material or substance that is (1) open weave, open mesh, chain link, or grille, and (2) is not a complete barrier to either the flow of air or to visibility.

      1. Measuring height: For the purpose of this subsection, height shall be measured from the playing surface of the tennis court. However, if a tennis court is depressed (reduced in elevation below the natural grade of the land it is situated upon) so that its playing surface lies below the natural grade

(elevation) of all of the land that surrounds the tennis court on the lot it is situated upon, then the six foot fence and wall maximum height limitation, supra, shall be measured from the natural grade of the land at the point of the fence or wall, except that the ten foot fence and wall absolute maximum height limitations, supra, shall be measured from the playing surface of the tennis court as provided in the preceding sentence.

2. Exceptions:

(a) Plants and vegetation shall not be deemed to be a fence or wall nor part of any fence or wall.

(b) Not more than one of the four sides and ends of a tennis court may be enclosed in part by a backboard for tennis practice that is not more than thirty (30) feet in length, nor more than ten (10) feet in height, nor more than one (1) foot in width.

c. All types or forms of lighting or illumination of tennis courts are prohibited and unlawful to install or maintain except where

1. The height of such lights or illumination does not exceed twenty (20) feet measured from tennis court playing surface, and

2. The light emitting element and reflecting device of all lighting or illumination units is hooded or shielded so that it is not visible from any adjacent lot or real property, and

3. Such tennis court lights or illuminating units do not direct light, either directly or through a reflecting device, upon any adjacent real property, and

4. Such tennis court lights or illumination units are not in use between 10:00 p.m. and sunrise.

10. Assisted Living Home in compliance with Article XVII, Assisted Living Home. [567]

Section 503. Parking Regulations [564]

For all residential dwellings hereafter erected, or for any buildings converted to such use or occupancy, provision shall be made on the premises to provide two (2) parking spaces for each dwelling unit.

Section 504 Minimum Area, Maximum Stories, Maxim Height, Lot Width, Set Backs, and Minimum Floor Area Regulations [564]

The height, area, and other regulations that apply to the R-43 District are shown in Table 1001 – A1, Table 1001 - A2, and Table 1001B of this Code.

FOOTNOTE:

56 Ordinance #120 - 6/24/76
57 Ordinance #102 - 7/10/75
84 Ordinance #180 - 4/23/81
94 Ordinance #196 - 5/27/82
121 Ordinance #231 - 7/25/85
164 Ordinance #288 - 9/29/88
170 Ordinance #295 - 2/9/89
192 Ordinance #319 - 2/28/91
196 Ordinance #323 - 6/13/91
432 Ordinance #432 - 12/19/96
534 Ordinance #534 – 01/22/2004
564 Ordinance #564 – 11/03/2005
567 Ordinance #567 – 11/17/2005
566 Ordinance #566 – 01/12/2006
587a Corrected for Scrivener's Error in Ordinance #587 (Reorganization of Chapter 5)

Article V-A **REPEALED**

Note: This Article, R-35A, Single-Family Residential District, was repealed by Ordinance Number 564, and combined into Article VI, (R-35 and R-35A) Single-Family Residential Districts.

Article VI. [567 566] (R-35 and R-35A) SINGLE-FAMILY RESIDENTIAL DISTRICTS [170 432 564]

Section 601. Purpose:

These districts are intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is a single-family dwelling and uses incidental or accessory thereto. The only distinction between R-35 and R-35A is that R-35A shall only be applied to previously annexed subdivisions known as Firebrand Ranch and Mountain View Estates Replat. Height, area, and other regulations, and setback standards are noted in Section 604 of this Article.

Section 602. Use Regulations: [170 192 567 566]

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.

2. Accessory buildings and uses customarily incident to the above use, including a private garage, guesthouse, residential staff quarters, and home occupations. Any accessory building not attached to the main structure shall be located not less than 60 feet from the front lot line.

3. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work, or upon the expiration of a period of one (1) year from the time of erection of such temporary buildings, whichever is sooner.

4. [170] All signs shall comply with the terms of Article XXV of this ordinance.

5. [58 84 121] Walls or fences, or both, subject to the provisions of Article XXIV.

6. [192] Private swimming pool, provided that:

   a. No pool shall be located closer than twenty (20) feet to any property line.

   b. No pool nor accessory structure in a front yard shall be closer than forty (40) feet to any property line;

   c. Full compliance with all terms of Article 5-2-2(F) of the Town Code is made. [192 587a]

7. Home occupations in compliance with Article XVI Home Occupation.

8. Assisted Living Home in compliance with Article XVII, Assisted Living Home. [567]

Section 603. Parking Regulations:

For all residential dwellings hereafter erected, or for any buildings converted to such use or occupancy, provision shall be made on the premises to provide two (2) parking spaces for each dwelling unit.

Section 604. Minimum Area, Maximum Stories, Maximum Height, Lot Width, Set Backs, and Minimum Floor Area: [432 564]

The height, area, and other regulations that apply to both the R-35 and R-35A Districts are shown in Table 1001–A1, Table 1001 - A2, and Table 1001B of this Code.

FOOTNOTE:

58 Ordinance #120 - 6/24/76
84 Ordinance #180 - 4/23/81
121 Ordinance #231 - 7/25/85
170 Ordinance #295 - 2/9/89
192 Ordinance #319 - 2/28/91
196 Ordinance #323 - 6/13/91
432 Ordinance #432 - 12/19/96
564 Ordinance #564 – 11/03/2005
567 Ordinance # 567 – 11/17/2005
566 Ordinance #566 – 01/12/2006
587a Corrected for Scrivener's Error in Ordinance #587 (Reorganization of Chapter 5)

Article VI-A **REPEALED**

Note: This Article, R-18-A, Single-Family Residential District, was repealed by Ordinance Number 564, and combined into Article VII, (R-18 and R-18A) Single-Family Residential Districts.

Article VII. (R-18 and R-18A) SINGLE-FAMILY RESIDENTIAL DISTRICTS [170 432 564] [567 566]

Section 701. Purpose:[564]

These districts are intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is a single family dwelling and uses incidental or accessory thereto. The only distinction between R-18 and R-18A is that R-18A shall only be applied to previously annexed subdivisions known as Firebrand Ranch, Mountain View Estates Replat, Arcadia Square, Orange Valley Estates No 3, Grosse Point Two and Quail Vista. Height, area, and other regulations are noted in Section 704 of this Article.

Section 702. Use Regulations: [170 192 567 566]

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.

2. [170] All signs shall comply with the terms of Article XXV of this ordinance.

3. [84 121] Walls or fences, or both, subject to the provisions of Article XXIV.

4. Private swimming pool, provided that:

   a. No pool shall be located closer than twenty (20) feet to any property line;

   b. No pool nor accessory structure in a front yard shall be closer than forty (40) feet to any property line;

   c. Full compliance with all terms of Article 5-2-2(F) of the Town Code is made. [192 587a]

5. Home occupations in compliance with Article XVI Home Occupation.

6. Accessory buildings and uses customarily incident to the above uses, including a private garage, guesthouse, residential staff quarters, and home occupations. Any accessory building not attached to the main structure shall be located not less than sixty (60) feet from the front lot line.

7. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work, or upon the expiration of a period of one (1) year from the time of erection of such temporary buildings, whichever is sooner.

8. Assisted Living Home in compliance with Article XVII, Assisted Living Home. [567]

Section 703. Parking Regulations: [564]

For all residential dwellings hereafter erected, or for any buildings converted to such use or occupancy, provision shall be made on the premises to provide two (2) parking spaces for each dwelling unit.

Section 704 Minimum Area, Maximum Stories, Maximum Height, Lot Width, Set Backs, and Minimum Floor Area Regulations: [196 432 564]

The height, area, and other regulations that apply to both the R-18 and R-18A Districts are shown in Table 1001 –A1, Table 1001 - A2, and Table 1001B of this Code.

FOOTNOTE:

84 Ordinance #180 - 4/23/81
121 Ordinance #231 - 7/25/85
170 Ordinance #295 - 2/9/89
192 Ordinance #319 - 2/28/91
196 Ordinance #323 - 6/13/91
432 Ordinance #432 - 12/19/96
564 Ordinance #564 – 11/03/2005
567 Ordinance #567 – 11/17/2005
566 Ordinance #566 – 01/12/2006
587a Corrected for Scrivener's Error in Ordinance #587 (Reorganization of Chapter 5)

Article VIII. (R-10) SINGLE-FAMILY RESIDENTIAL DISTRICT [109 116 121 170 471 564 567 566]

Section 801. Purpose: [116 564]

This district applies to previously annexed subdivisions known as Mountain Shadows East, Mountain Shadows West, and Colonia Miramonte. This district is intended for single-family dwellings and uses incidental or accessory thereto, with a lot size of at least 10,000 square feet.

Section 802. Use Regulations: [116 121 170 192 567 566]

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.
2. [170] All signs shall comply with the terms of Article XXV of this ordinance.
3 [121] Walls or fences, or both, subject to the provisions of Article XXIV, or as existing at the time of annexation.

4 Private swimming pools are hereby permitted provided that:

   a. No pool shall be located closer than seven (7) feet to any property line, or as existing at the time of annexation.
   b. Full compliance with all terms of Article 5-2-2(F) of the Town Code is made. [192 587a]

5. Home occupations in compliance with Article XVI Home Occupation.

6. Horses, livestock and poultry are prohibited.

7. Temporary buildings for use incidental to construction work shall be removed upon completion or abandonment of construction work or upon the expiration of a term of one year from erection of such temporary building, whichever is sooner.

8. Assisted Living Home in compliance with Article XVII, Assisted Living Home. [567]

Section 803. Parking Regulations:

For all residential dwellings hereafter erected, or for any buildings converted to such use or occupancy, provision shall be made on the premises to provide two (2) parking spaces for each dwelling unit.

Section 804 Minimum Area, Maximum Stories, Maximum Height, Lot Width, Set Backs, and Minimum Floor Area Regulations: [196 432 564]

The height, area, and other regulations that apply to the R-10 District is shown in Table 1001 – A1, Table 1001 - A2, and Table 1001B of this Code.

Section 805. Limitation

This district shall only be applicable to recorded lots annexed after adoption of this Article.

FOOTNOTE:

109 Ordinance # 217 – 6/24/84
116 Ordinance #225 – 12/20/84
121 Ordinance # 231 – 7/25/85
170 Ordinance # 295 – 2/9/89
192 Ordinance #319 - 2/28/91
471 Ordinance # 471 – 1/14/99
564 Ordinance # 564 – 11/03/2005
567 Ordinance # 567 – 11/17/2005
566 Ordinance # 566 – 01/12/2006
587a Corrected for Scrivener's Error in Ordinance #587 (Reorganization of Chapter 5)

Article IX CLUSTER PLAN DISTRICT [564]

Section 901. Purpose: [168 564]

The purpose of this section is to provide a zoning district as an alternate zoning to R-43 and R-35 single family residential districts, and thereby making provisions for variations in lot sizes within tracts of eight (8) acres or more while maintaining the necessary requirements for open space within each tract as a whole, in order to preserve the natural beauty of the Town of Paradise Valley:

1. A cluster plan may be approved only for the following reasons:

   (a) To preserve areas which have natural features of scenic beauty of significance to the general public.

   (b) To provide greater than normal residential setbacks from heavily traveled thoroughfares without reducing the number of residential lots that might otherwise be created within the provisions of this Ordinance.

Nothing in this article shall confer upon any applicant a right or claim to have a cluster plan approved as a matter of course. Such approval shall vest in the sound discretion of the Town Planning Commission (hereinafter called Commission), and of the Town Council at a public hearing with due regard to the public safety, health, morals, and welfare of the Town.

Section 902. Variation in Lot Sizes: [564]

The owner of a tract of land in a R-43 or R-35 Residential Zoning District may, upon obtaining the approval of a cluster plan in accordance with the provisions of this Article, vary the lot sizes within the tract of land from those required by the applicable zoning district. Applications for the approval of such cluster plans shall be made in accordance with the provisions of Section 908.

Section 903. Maximum Number of Lots:

The maximum number of lots within a tract of land that may be authorized under this Article shall be computed by dividing the "gross acreage" as that term is hereinafter defined, by the maximum lot area requirement of the single family dwelling district in which the lot is located. The term "gross acreage" as used herein, shall include the land within the exterior boundaries of a tract, less the following:

1. The area comprising easements of record for public utilities facilities such as electric transmission lines, sewer lines, and water mains, except in those cases where the owner shall satisfy the Commission that the existence of the easement does not prevent the use of the area comprising the easement for development;

2. An area representing probable street rights of way if the tract were to be developed as a subdivision without regard to the provisions of this Article.

   Gross acreage shall not include any portion of the tract, which the owner does not propose to alienate, either as a lot sold to a purchaser, or as common lands conveyed to trustees. The Commission may by rule adopt regulations calculated to insure compliance by the owner with the provisions of the proposed cluster plan pertaining to conveyance of lots and common lands.

Section 904. Inclusion of Common Lands. [656]

Lands shall be set aside from the remainder of the tract for common use by all of the owners of the residential lots, in accordance with the provisions of this section, and such common lands shall be included in the gross acreage for purposes of computing the maximum number of lots authorized under this Article. Except in the case of bridle paths designated as such in the cluster plan, no animals other than domestic pets shall be permitted on common lands. Common lands shall be set aside only for the following uses:

1. Private recreational facilities, such as swimming pools, which are limited to the use of the owners or occupants of the lots located within the tract, or their guests;

2. Parks and parkway areas, and areas which have natural features of scenic beauty worthy of preservation;

3. Bridle paths, golf courses, or hiking trails for the use of the owners of the said lots, or for the use of the general public.

Section 905. Conveyance of Common Lands:

All common land designated in the plan as such, or whose acreage shall be utilized in the determination of the maximum number of lots that are authorized, shall be conveyed in fee simple by warranty deed from the owner to trustees. A proposed form of trust indenture shall be included in each application for approval of a cluster plan. Such trust indenture shall provide, among other things, that the trustee shall hold title for the sole benefit, use, and enjoyment of the lot owners, present and future, of said subdivision for a term of years certain, which term shall not be less than twenty (20) years. The trust indenture shall further provide that upon the expiration of the said term of years, or upon the cessation of the subdivision, fee simple title to the said land shall be vested in said lot owners as tenants in common. In addition, there shall be included in the plan a proposed form of covenant for inclusion in the deeds to the lots, which covenant shall provide a suitable means for the maintenance and upkeep of the common lands, and shall obligate the lot owner and his successors for a proportionate share of the cost of such upkeep and maintenance. By including the form of such a covenant in the plan, the owner represents and warrants that such a covenant will be included in the original deed to each lot in such a manner as to run with the land and bind succeeding lot owners. The warranty deeds and trust indentures shall be attached as exhibits to the cluster plan together with the opinion of an attorney admitted to practice in Arizona, addressed to the Commission, to the effect that the said deeds and trust indentures comply in form and in substance with the provisions of this Ordinance. The indentures shall be recorded in the office of the Maricopa County Recorder simultaneously with the recording of the final plat of the subdivision, as provided in the subdivision regulations of the

Town. Each deed from the owner to a purchaser of a lot, which is subject to the cluster plan, shall include the covenant.

Section 906. Minimum Reduced Size of lots:

No lot developed under the provisions of this section shall be reduced in area or frontage below the minimum standards set forth in the following table:

Density	Minimum Reduced Area	Minimum Reduced Frontage
R-43 (one acre)	20,000 sq. ft.	120 feet
R-35 (35,000 sq. ft.)	20,000 sq. ft.	100 feet

Section 907. Maintenance of Average Lot Size:

Lots developed under this Article may be reduced in area below the minimum lot size required by the residential district zone in which the subdivision is located (but not below the minimum standards set forth in the preceding paragraph) provided that the gross acreage, when divided by the number of lots created, shall equal the minimum lot size required by the applicable district.

Section 908. Cluster Plan Procedure:

The owner of any tract of land comprising an area of not less than eight (8) acres may submit to the Commission a re-zoning request for a cluster plan for the use and development of all of the said tract of land for residential purposes; the plan shall include all information which the Commission may by rule require, and shall include a request that the entire tract in question be zoned "CP." No cluster plan shall be submitted to the Commission for its approval until a preliminary plat of the tract, which is the subject of the cluster plan, has likewise been submitted, as required by the subdivision regulations of the Town. The preliminary plat shall show in detail each variation from lot size otherwise required which is sought under the proposed cluster plan.

Every cluster plan submitted under this section shall be considered by the Commission at a public hearing. Such public hearing shall be held only after one publication of a public notice of the time, place and date of such hearing is given in a newspaper of general circulation in the Town of Paradise Valley at least fifteen (15) days prior to such hearing, and after there has been posted on the affected property at least fifteen (15) days prior to the said hearing a notice of the hearing.

The Commission shall, after such public hearing, submit to the Town Council its recommendation of approval or disapproval of the cluster plan. Approval of a cluster plan shall not be recommended by the Commission until it shall have also approved the preliminary plat for subdivision of the land, which is the subject of the cluster plan in accordance with the subdivision regulations of the Town.
Upon submission of the Commission's recommendation, the Town Council shall arrange to hold its public hearing to consider whether the cluster plan shall be approved. Like notice for the hearing of the plan before the Town Council shall be given as is the case of the hearing of the plan before the Commission.

Section 909. Other Provisions Applicable.

If the Town Council shall approve the cluster plan, development in conformity with the plan may be undertaken, even though the location of the buildings to be erected in the area, and the yards and open spaces contemplated by the plan, depart in respect herein above authorized from the district regulations of the district in which the tract is located. Such development of the tract shall be subject to the applicable provisions of the Town subdivision regulations pertaining to the installation of required improvements and submission of the final plat. In the event that the approval of the preliminary plat becomes void by reason of the lapse of time under the provisions of the Town subdivision regulations, the approval of the cluster plan by the Town Council shall likewise become void.

Land use within any tract zoned "CP" shall be subject to all other applicable provisions of this Ordinance, and of other ordinances of the Town, except as herein expressly otherwise provided. Notwithstanding the fact that a cluster plan may have been approved for lots located in either ~~and~~ R-43 or an R-35 district, which plan permits one or more of said lots to be varied below the minimum area regulation applicable to the district in which they are located; (a) no guest house shall be permitted on any such lot which does not meet the minimum area regulations applicable to the district in which it is located, without regard to the provisions of this article; (b) no horses shall be kept on a lot located in an R-43 district unless such lot meets the minimum area regulations applicable to the district without regard to the provisions of this article.

Section 910. Variance and Re-Zoning.

No variance from a plan approved under the provisions of this article shall be granted by the Board of Adjustment of the Town. No application for re-zoning of all or any portion of a tract zoned "CP" shall be entertained. All land designated as common land in the cluster plan finally approved by the Town Council shall be used for no other purpose than a common land.

Section 911. Rescission of Cluster Plan Approval:

The owner of a tract of land for which a cluster plan has been approved may apply to the Commission and to the Town Council, in accordance with the procedure set forth in Section 908 of this article, to rescind the approval of the cluster plan. If the Commission and the Town Council shall be satisfied that the land use of the tract is consistent with, or will be substantially restored to, the use required by the zoning in effect on the tract at the time the cluster plan was approved, they may approve the application for rescission. In the event of such approval, the use of the land within the tract shall be governed by the provisions applicable to the district in which the tract is located as of the date the cluster plan was approved.

FOOTNOTES

168 Ordinance #292 1/26/89
564 Ordinance #564 11/03/2005
656 Ordinance #656 11/15/2012

Article X. HEIGHT AND AREA REGULATIONS [432 444 485 534 548 564 565 633]

Section 1001. District Regulations [432 485 534 548 564 565]

District height, area and other regulations are shown on Table 1001-A1, 1001-A2, and 1001B which follows. The district regulations hereinafter set forth in this article qualify or supplement, as the case may be, the district regulations appearing herein elsewhere in this ordinance.

Table 1001-A1 Primary Building Area, Width, Story, and Setback Limitations

District	Minimum Lot Size, sq ft	Minimum Lot Width, ft	Minimum Front Setback, ft	Minimum Side Setback, ft	Minimum Rear Setback, ft	Minimum Side/Rear with Frontage	Maximum Floor Area Ratio	Minimum Floor Area, sq ft[1]	Number of Stories
R-175 with a Primary Building built prior to June 13, 1991	175,000	165	40	20[2]	40	40	25%	2,000	2
R-175 with no Primary Building built prior to June 13, 1991	175,000	165	100	20[2]	100	100	25%	2,000	2
R-43	43,560	165	40	20	40	40	25%	2,000	2
R-35	35,000	150	40	20[3]	40	40	25%	1,800	2
R-35A	35,000	150	40	15[3]	40	40	25%	1,800	1
R-18	18,000	120	40	20	40	40	25%	1,500	1
R-18A	18,000	120	35	10	35	35	25%	1,500	1
R-10	10,000	100	20[4]	7[4]	25[4]	20[4]	None	1,500	1

- [1]The Minimum Floor Area includes the walls proper of the structure but excludes open porches, pergolas, attached garages or carports or other similar extension thereof.

- [2]Side Yards are a minimum of 40 feet for lots with buildings two (2) stories or a height greater than 24 feet. On lots with buildings of one story and a height not greater than 24 feet, the minimum side yard is 20 feet.

- [3]In the R-35 and R-35A Districts Side Yard requirements are as follows: If there is a building with a second story, regardless of the total height of the building, then the

second story shall be set back forty (40) feet. If the structure is a single story, then all portions higher than twenty-four (24) feet shall be set back forty (40) feet.

- [4]In the R-10 District, front, side and rear yards shall meet the requirements indicated above or as shown on a previously recorded plat, or as existing at the time of annexation. Lots having double frontage and lots located at the intersection of two or more streets shall meet the requirements of this Table or as shown on a previously recorded plat, or as existing at the time of annexation.

Table 1001-A2 Primary Building Height Limitations

Lot Size, acre	Maximum Building Height, feet
Less than 3	24 not including chimneys
3 or greater but less than 4	26 not including chimneys
4 or greater	30 including chimneys

Height measurement shall include the vertical distance from the lowest point of the natural grade below a structure to the highest point of the structure. Please refer to illustrations A,B,D, and E of Figure 1001-1, for examples. Where lowest natural grade occurs in a wash or an anomaly, the Town Manager or designee shall eliminate the wash or anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure. Where natural grade has been excavated to a point that is lower than the lowest natural grade below the structure and not restored back against the walls of the structure, the total height of the structure shall be measured from the lowest excavated grade elevation adjacent to the walls of the structure. Please refer to illustration E of Figure 1001-1 for example. Basement exits including window wells, stairways, and patio areas shall not be included in the height measurement if the earth has been restored so as to fully screen the portion of the basement from view at natural grade level. Please refer to illustrations F and G of Figure 1001-1 for example. Basement exits, with the exception of standard window wells, shall be included in the Floor Area Ratio for the structure and shall meet all setbacks for the structure; however, the floor area of any fully subterranean portions of the actual basement shall be excluded from the Floor Area Ratio**.** Please refer to illustration C of Figure 1001-1 for detailed window well limitations. Height measurement as defined herein shall not be applicable in Hillside Development Areas.

<u>Additional Height Measurement for R-43 and R-175, non-hillside, lots:</u>
No building shall penetrate an imaginary plane beginning sixteen (16) feet above the twenty (20) foot setback line, and which plane rises toward the center of the lot at a slope of twenty (20) percent (see Figure 1001-2). All height measurements shall be taken from the elevation at the twenty-foot setback line. Measurements shall be taken from the high points of the structure to the closest point at the twenty-foot setback perpendicular to that portion of the structure.

Notwithstanding the above no building or structure shall be placed closer to a property line than specified in Table 1001-A1, 1001-B, or elsewhere in this ordinance. No building may at any point exceed the maximum building height allowed on the lot. In the event of a conflict between this section and section 201, this section shall prevail.

Table 1001B -Setbacks and Height Limits for Accessory Buildings and Structures

DISTRICT	MAXIMUM STORIES	FRONT SETBACK (feet)	MAXIMUM HEIGHT (feet)	SIDE SETBACK (feet)	REAR SETBACK (feet)	SIDE WITH FRONTAGE	REAR WITH FRONTAGE
R-175 with a Primary Building built prior to June 13, 1991	1	60	16	20	20	40	40
R-175 with no Primary Building built prior to June 13, 1991	1	100	16	20	20	40	40
R-43	1	60	16	20	20	40	40
R-35	1	60	15	10	10	40	40
R-35A	1	60	15	10	10	40	40
R-18	1	60	15	10	10	40	40
R-18A	1	60	15	10	10	35	35
R-10	1	20[1]	15	7[1]	7	20[1]	20[1]

- [1]In the R-10 District, front, side and rear yards shall meet the requirements indicated above or as shown on a previously recorded plat, or as existing at the time of annexation. Lots having double frontage and lots located at the intersection of two or more streets shall meet the requirements of this Table or as shown on a previously recorded plat, or as existing at the time of annexation.

Section 1002. Front Yard Designation

A. For a lot where structures currently exist on a lot with double or multiple frontages, the primary frontage shall be determined based upon the following four (4) criteria:

1. A door positioned for use by the general public when calling upon the occupants leading into the dwelling.

2. The primary frontage as depicted on the recorded subdivision plat; or where the primary frontage is not shown on the subdivision plat, as is consistent with and in harmony with the original subdivision design.

3. The arrangement and location of the primary frontage is consistent with and in harmony with the arrangement and location of the primary frontage of the adjacent properties.

4. The primary frontage should be on the street that is a lower level in the Town's Street Classification System; e.g., the frontage should be on a local street versus on an arterial or collector street, or the frontage should be on a collector street versus on an arterial street.

B. For a vacant lot with double or multiple frontages, the primary frontage, if not already designated, shall be determined based upon the following three (3) criteria:

1. The primary frontage as depicted on the recorded subdivision plat; or where the primary frontage is not shown on the subdivision plat, as is consistent with and in harmony with the original subdivision design.

2. The arrangement and location of the primary frontage is consistent with and in harmony with the established character of the adjacent properties.

3. The primary frontage should be on the street that is a lower level in the Town's Street Classification System; e.g., the frontage should be on a local street versus on an arterial or collector street, or the frontage should be on a collector street versus on an arterial street.

C. On curvilinear streets, the arc between the side lot lines shall be considered the front yard.

D. If a front yard is not already designated, or is being changed, the applicant requesting to designate or change the location of the front yard shall notify all property owners within 600 feet of the property line. Within fifteen (15) days after such notification, the Community Development Director shall render a decision regarding the proposed change in the front yard designation. Following the Community Development Director's decision, the property owner or owner of any property within 600 feet of the subject property may appeal the decision of the Community Development Director to the Board of Adjustment. Application for appeal to the Board of Adjustment shall be submitted to the Town, together with the fee prescribed in the Town of Paradise Valley Fee Schedule within ten (10) days after the ruling.

Section 1003. Tall Structures, Flagpoles and Antennas [404 432 444 564]

A. Flagpoles, Spires, radio antennas, television receiving antennas, antenna towers, fire towers, and other similar structures which project skyward, where otherwise authorized under the provisions of the Paradise Valley Zoning Ordinance, shall not exceed thirty (30) feet in height or the height of the main residence, whichever is lower, unless authorized by conditional use permit.

B. All antennas shall be subject to the limitations set forth in Table 1003-1. An amateur radio antenna may exceed thirty (30) feet in height or the height of the main residence, whichever is lower, only if specifically authorized by Special Use Permit and may not exceed a maximum height of sixty (60) feet.

C. These limitations are imposed for the safety of the community and the preservation of the Town's natural aesthetics, in particular the preservation of openness and unobstructed views of Mummy Mountain, the Phoenix Mountains, and Camelback Mountain. The preservation of the views and open space within the Town have been the primary goal of the citizens of the Town since its incorporation. The Town Council determines as a legislative finding that this Section does not operate to impose unreasonable limitations on, or prevent, reception of satellite delivered signals by receive only antennas or to impose costs on the users of such antennas that are excessive in light of the purchase and installation cost of the equipment.

D. All antennas, except for receive only antennas, must be currently licensed by the Federal Communications Commission.

E. It is unlawful to use any antenna for commercial purpose, except for cellular communication systems. Cellular antennas must be located and erected as specified in a conditional use permit.

Type of antenna:	Amateur radio	Standard, non-microwave television	Microwave satellite reception. (dish)
Minimum setback from property line:	60 feet from front property line; 40 feet from the rear property line, 20 feet from the side property lines	60 feet from front property line; 40 feet from the rear property line, 20 feet from the side property lines	60 feet from front property line; 40 feet from the rear property line, 20 feet from the side property lines
Maximum size of mounting shaft:	Five inches	As necessary	Minimum required to support dish.
Accessibility:	Restricted		
Maximum height from natural grade, or lowest excavated grade:	30 feet, or the height of the main building, whichever is lower. More than 30 feet or the height of the main building whichever is lower to a maximum of 60 feet in height only if authorized by Special Use Permit	30 feet, or the height of the main residence, whichever is lower	6 feet, and not visible from adjacent property
Maximum number:	One	Unlimited	One
Fencing required, or other means of restricting access:	Yes	No	No
Permitted in Hillside Development Area:	Yes, subject to the restrictions of the hillside section of the Zoning ordinance	Yes, subject to the restrictions of the hillside section of the Zoning ordinance	Yes, subject to the restrictions of the hillside section of the Zoning ordinance

Section 1004 Building Restrictions (Except as hereinafter provided) [564]

A. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except in conformity with use, height, area and parking regulations in the district in which the building or land is located.

B. The minimum yards and other open spaces, including lot area per family, required by this ordinance for each and every building existing at the time of passage of this ordinance, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building; nor shall any lot area be reduced beyond the district regulations of this ordinance.

C. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot, except as other-wise provided in Article X hereof.

D. No accessory building or a residentially-zoned property shall be leased, subleased or rented, separate and apart from the main building and no main building shall be leased, subleased or rented, separate and apart from an accessory building, and such rental shall be for less than a contiguous 30 day period.

Section 1005 Accessory Building / Structure Regulations [196 485 564]

A. Accessory buildings / structures shall not occupy more than one-half of the total ground area of the main building. No accessory building or structure shall exceed the height specified in Table 1001B or elsewhere in this ordinance.

B. No accessory building or structure**,** including walls and fences, except as provided for in C below**,** shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by residential staff employed on the premises or as otherwise permitted herein.

C. A 3-foot high rail type fence may be temporarily installed along the perimeter of a vacant property to prohibit trespassing and illegal dumping. The fence shall be setback at least 10 feet from any right-of-way and shall meet all other requirements of Article XXIV, WALLS AND FENCES. The fence shall be removed prior to the issuance of a certificate of occupancy for the main house.

D. Accessory buildings / structures, that are to be used for a long-term storage purposes only, may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the maximum building height permitted in such district, and that the exterior of such buildings shall be compatible with the architectural design of the main building, as determined by the Town.

Section 1006. Repealed [485 534 564]

Section 1007. Parking of Vehicles and Trailers [64 564]

On residential lots, motor homes, campers, trailers, boats and associated trailers, or buses shall be parked only in the side or rear yard and in such a manner that they are fully screened from adjacent properties**,** rights-of-way, and open space areas by a wall, protective fence, or other screening compatible with the exterior of the main house. Motor homes**,** mobile homes**,** or campers shall not be lived in within the boundaries of the Town. Commercial vehicles and mobile homes shall not be parked or stored on any residential lot within the Town unless the commercial vehicle is making deliveries or providing temporary services.

Section 1008. Yard Requirements[196 564]

Every part of a required yard shall be open to the sky unobstructed, except for–accessory buildings in side and rear yards, plant material, and except for the ordinary projections of sills, belt courses, cornices and ornamental features projecting not to exceed twenty-four (24) inches.

Section 1009. Mechanical Equipment [485 564]

Mechanical-equipment shall be fully screened from view in conformance with Section 2410 of Article XXIV.

Section 1010. Projections into the Required Yards[564]

A. Open lattice-enclosed fire-proof outside stairway, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the required side or rear yard not more than five (5) feet are permitted.

B. Terrace, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project a maximum of two (2) feet into the setback. [485]

Section 1011. Repealed [207 345]

Section 1012. Repealed [564]

Section 1013. Repealed [485]

Section 1014. Repealed [564]

Section 1015. Repealed [564]

Section 1016. Repealed [564]

Section 1017. Repealed [564]

Section 1020. Repealed [564]

Section 1021. Repealed [485]

Section 1022. Repealed [84 369]

Section 1023 Outdoor Lighting and Illumination. [65 repealed 201 374]

All types of outdoor electrical lighting and electrical illumination are subject to the following limitations:

1. No lamp or lighting or illumination device shall provide light in excess of 0.75 foot candles of projected brightness measured at the nearest property line. When a light source is indicated as twenty-five (25) watt incandescent, it shall not exceed two hundred fifty (250) lumens and when a light source is indicated as seventy-five (75) watt incandescent, it shall not exceed seven hundred fifty (750) lumens.

2. Each lighting or illuminating device shall be set back from the nearest property line a minimum of ten (10) feet or a distance equal to or greater than the height of the device above natural or excavated grade, whichever is greater.

   EXCEPTION: A lighted entry marker may be placed on each side of a driveway entrance. The entry markers shall not be placed within the Town right-of-way or private road areas and the total height of the marker and light shall not exceed four (4) feet above finished grade adjacent to the driveway. The light source shall not exceed the equivalent projected brightness of a twenty-five (25) watt incandescent bulb.

3. The following light sources shall not exceed a height of thirty-six (36) inches above natural or excavated grade, whichever is lower, and shall not exceed the equivalent projected brightness of a twenty-five (25) watt incandescent bulb:

   a. All lighting or illumination of landscape;

   b. Accent or aesthetic lighting of buildings or structures;

   c. Any illumination device that directs light above a horizontal plane.

4. Lighting used for security and safety shall be an integral part of and attached to the building. The light source and reflecting device shall be shielded or hooded with an opaque cover so that it is not visible from off the property and shall not be higher than twenty (20) feet above natural or excavated grade, which ever is lower. Each security/safety light is limited to the equivalent projected brightness of a seventy-five (75) watt incandescent bulb. Limited use of security/safety lighting is encouraged to prevent excessive ambient light.

5. Tennis court lighting shall be hooded or shielded so that the light source and reflecting device is not visible from off the property. No lighting or illumination device shall project light in excess of 0.75 foot candles of brightness measured at the nearest property line. The maximum height of tennis court lighting shall not exceed twenty (20) feet above the court surface or natural grade whichever is lower.

6. On Hillside lots there shall be no lighting permitted in the undisturbed areas of the property. Exterior lighting shall be kept to the minimum amount needed for the safe use of the property and all permitted lighting shall comply with all terms of this section.

Section 1024. Repealed [564]

Section 1025. Repealed [564]

Section 1026. Prohibition of Time-Share Projects: [99] [564]

Time-Share Projects, as defined in Article II, Section 201 are hereby prohibited within any use district within the Town of Paradise Valley.

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities [633]

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation with the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley.

FOOTNOTE:

60 Ordinance #105 - 8/14/75
61 Ordinance #121 - 6/24/76
62 Ordinance #126 - 9/9/76
63 Ordinance #126 - 9/9/76
64 Ordinance #154 - 5/24/79
65 Ordinance #101 - 6/26/75 repealed
66 Ordinance #114 - 3/11/76
67 Ordinance #165 - 4/24/80
82 Ordinance #178 - 4/23/81
84 Ordinance #180 - 4/23/81
96 Ordinance #201 - 3/24/83
99 Ordinance #204 - 4/28/83
122 Ordinance #233 - 11/14/85
127 Ordinance #240 - 3/27/86
159 Ordinance #278 - 2/25/88
162 Ordinance #284 - 5/26/88
180 Ordinance #304 - 11/9/89
186 Ordinance #311 - 4/26/90
196 Ordinance #323 - 6/13/91
201 Ordinance #329 - 1/9/92
207 Ordinance #345 - 5/14/92
369 Ordinance #369 - 2/24/94

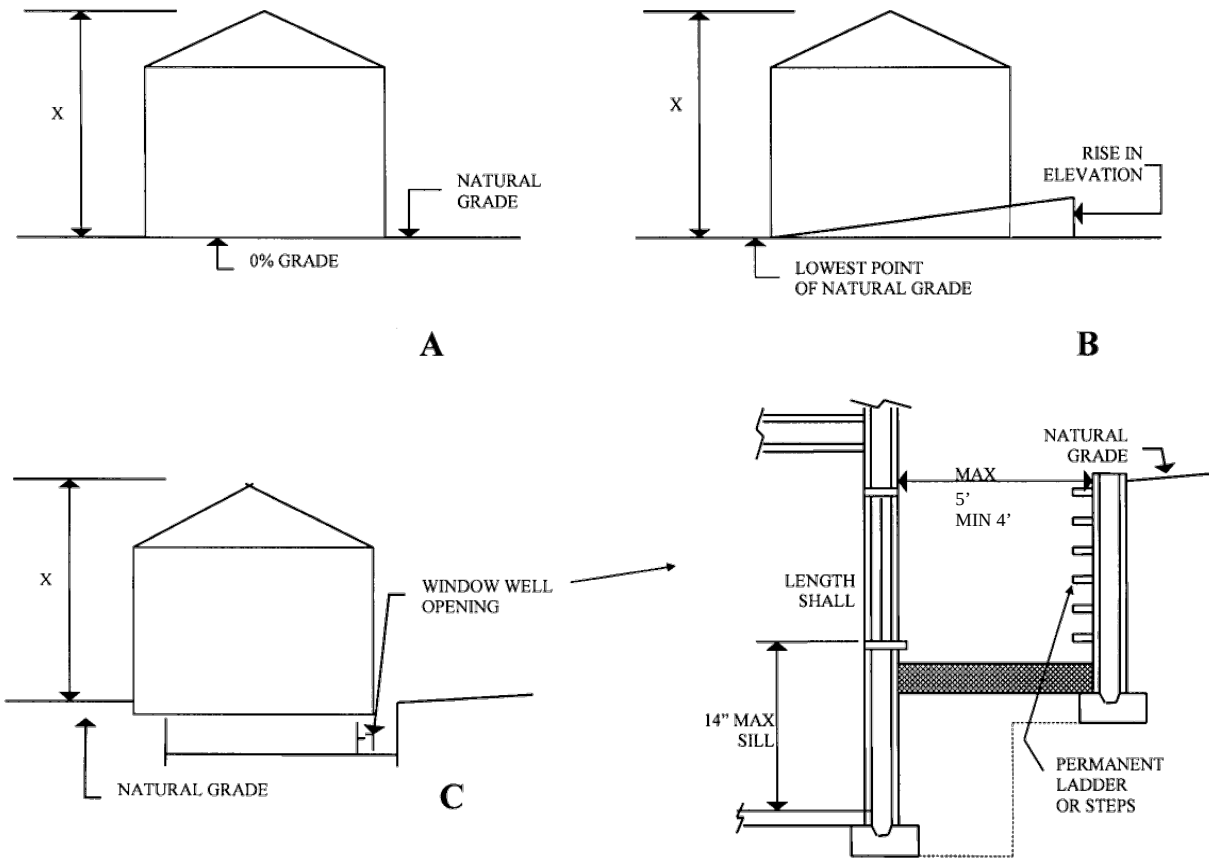
374 Ordinance #374 - 8/25/94
404 Ordinance #404 - 05/25/95
432 Ordinance #432 - 12/19/96
444 Ordinance #444 - 12/17/98
485 Ordinance #485 - 12/16/99
548 Ordinance #548 – 03/10/2005
564 Ordinance #564 – 11/03/2005
565 Ordinance #565 – 10/27/2005
633 Ordinance #633 – 04/28/2011

ZONING ORDINANCE

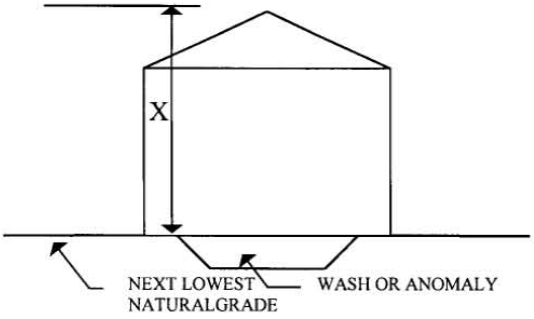
Figure 1001-1
Height Measurements

Maximum Height Regulations apply to all districts	
# Acres	Maximum Height (Feet)
Less than three (3) acres	24' plus 3' chimney
Three (3) but less than four (4) acres	26' plus 3' chimney
Four (4) or more acres	30' including chimney

X = varies by number of acres.
Consult above table.



ZONING ORDINANCE



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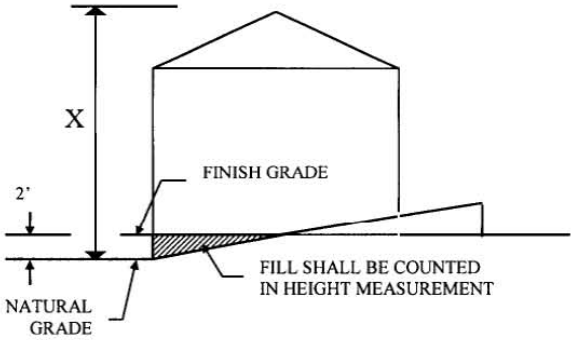

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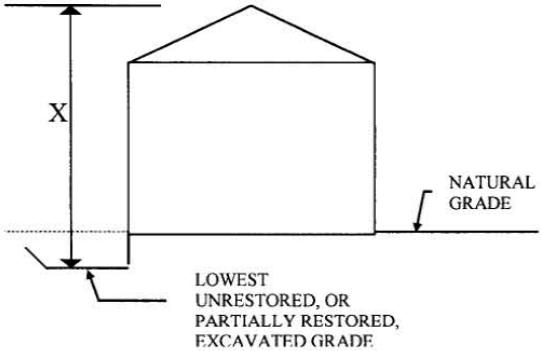

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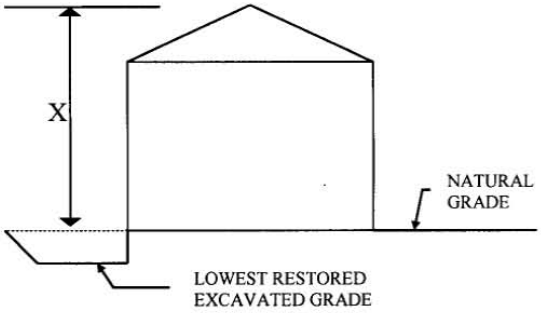

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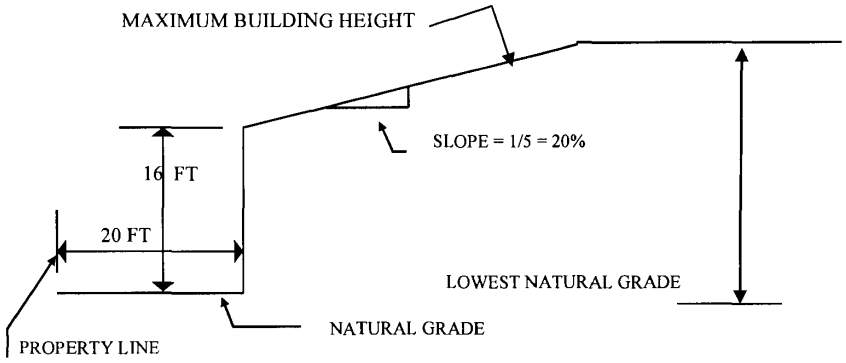
Figure 1001-2



OPEN SPACE CRITERIA

Article XI. SPECIAL USES AND ADDITIONAL USE REGULATIONS [564 605 609 633 657 658 659]

Section 1101. General Purpose; Applicability.

The purpose of this Article is to implement the Town of Paradise Valley General Plan. The General Plan recognizes and values the Town's unique role as a low-density residential community and requires the Town to preserve and maintain the community's primarily one-acre, single-family residential character. The provisions of this Article are intended to further the goals and policies of the General Plan by ensuring that primarily non-residential uses and structures do not adversely affect the integrity and enjoyment of adjacent residential neighborhoods. These regulations also are intended to ensure that proposals for the revitalization and improvement of existing, primarily non-residential, sites as well as the development of new, primarily non-residential, sites include community impact assessments that address project effects on traffic, natural features, and light, noise, dust and odor pollution. In addition, these provisions are intended to promote the General Plan's goal of maximizing the security and aesthetic benefits of visual openness throughout the town by establishing a process to set specific limits on site development parameters.

This Article contains standards for development, review, and approval of land uses which because of their unique nature and because of concern for compatibility with adjacent development or the community as a whole, or because of anticipated impacts on traffic and other public facilities, require review and approval on a case by case basis. These standards are administered through Special Use Permits, Conditional Use Permits, and Temporary Use Permits:

A. Special Use Permits are issued for resorts, medical offices, religious facilities, private schools, non-profit organizations, country clubs and golf courses, utility poles and wires, guardhouses and gatehouses, access control gates, and amateur radio antennas (see Section 1102).

B. Conditional Use Permits are issued for certain dish antennas, private roadways, Personal Wireless Service Facilities (pursuant to Article XII), and municipally owned water booster facilities (see Section 1103).

C. Temporary Use Permits are issued for structures for storing materials, structures for temporary offices, outdoor storage of materials, minor assembly of structural or building components, employee parking, and for sales offices located within new residential developments (see Section 1104).

Section 1102. Special Use Permits (SUPs).

A special use is a primarily non-residential land use listed in this Article that is deemed to be generally compatible with the residential character of the Town of Paradise Valley. However, because of its potential adverse impacts on the community, a special use should be permitted only on a site that can be individually planned and developed in a manner that

promotes the goals and policies of the General Plan and that protects the surrounding neighborhoods.

The intent of these provisions is to clearly define all of the uses permitted upon the approval of a Special Use Permit and to facilitate creative, high quality development that incorporates the following:

A. The implementation of the goals and policies of the General Plan.

B. The development of substantial open space and/or recreational facilities held in common ownership, control, or management.

C. The development of adequate public and/or private streets, storm drainage, and sewer and water utilities to minimize impacts on adjacent properties.

D. The preservation of significant natural land characteristics, open space, and view corridors.

E. Building design, site design, and construction of amenities that create a unique alternative to conventional development.

F. Assurances of proper property maintenance, including common control or management of the property, and the use of stringent development standards, or as appropriate, property owners' associations and recorded covenants, conditions and restrictions.

G. The preservation and enhancement of the neighborhood's appearance.

H. The construction or development of improvements that create substantial public benefits.

I. The incorporation of standards to ensure that the development will have minimal impact on adjacent properties.

Section 1102.1. Nature of Special Use Permit.

The issuance, or conditional issuance, of a Special Use Permit (or "SUP") is an act of the Town Council that permits certain primarily non-residential land uses. The decision whether to grant, or to condition the grant of, a Special Use Permit or an intermediate or major amendment thereto is entirely within the legislative discretion of the Town Council and the denial of a Special Use Permit or an intermediate or major amendment thereto is not the denial of a right, conditional or otherwise. The ability of an applicant to comply with the development standards set forth in this Article or elsewhere does not mean that a Special Use Permit will be approved. The decision to grant, or to condition the grant of, a managerial or minor amendment to a Special Use Permit is an administrative act and is not subject to review by referendum, as it merely implements or clarifies a policy of the town that has been previously announced or established in the Zoning Code and General Plan, or a previous legislative **act**, and does not prescribe a new public purpose, policy, or plan.

The decision to grant, or to condition the grant of, a Special Use Permit or an intermediate or major amendment is, on contrast, a legislative act subject to review by referendum.

In the exercise of its legislative discretion, the Town Council may modify the development standards, or permit additional related uses, for the special uses listed in this article or elsewhere in order to promote the goals and policies of the General Plan, in exchange for site enhancements that improve overall site design, or to promote the best interests of the Town or its residents.

Section 1102.2. Uses Permitted. [658]

The following buildings, structures, or uses may be authorized by a Special Use Permit issued in accordance with the procedures set forth in this Article:

A. Resorts
B. Medical Offices, Kennels and Veterinary Clinics
C. Religious Facilities, Private Schools, Non-Profit Organizations, and Public/Quasi Public Structures
D. Country Clubs and Golf Courses
E. Utility poles and Wires
F. Guardhouses, Gatehouses, and Access Control Gates
G. Amateur Radio Antennas

A. Resorts

1. Definition

A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

2. Allowed uses

a. The primary use in a resort is guest units, including facilities necessary for administering and servicing the facility and on site parking.

b. Accessory uses may include:

i. Indoor or outdoor recreation facilities, including but not limited to swimming pools and spa or fitness facilities, tennis and other ball courts, golf courses and equestrian facilities.

ii. Retail sales, so long as they are primarily for the support and service of guests or visitors to functions at the site.

iii. Office and business services so long as they are primarily for the support and service of guests or visitors to functions at the site.

iv. Restaurants, banquet rooms and food service facilities which may include live music, entertainment and dancing.

v. Meeting and public assembly facilities.

vi. Dwelling units.

vii. Any other resort-related use specifically approved in a Special Use Permit

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

B. Medical Office, Kennels and Veterinary Clinics [633 658]

1. Definition

A medical office, including a medical clinic, consists of a building or part of a building used solely for the purpose of consultation, diagnosis, and treatment of patients by one or more legally qualified physicians, dentists, optometrists, chiropodists, chiropractors, osteopaths, and occupational therapists, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include reception areas, administrative offices, waiting rooms, consultation and treatment rooms, minor operating rooms, pharmacies and dispensaries directly associated with the medical office/clinic. A kennel, including a veterinary clinic, consists of a building or a part of a building used for reception areas, administrative offices, waiting rooms, play areas and animal retaining/caging units, consultation and treatment rooms, minor operating rooms, and rooms for the diagnosis and treatment of animals by one or more legal qualified veterinarians, together with their qualified assistants.

2. Allowed uses

a. Offices for medical practitioners and veterinarians; and kennel uses.

b. Outpatient surgical facilities where patient stays do not exceed 48 hours.

c. Medical laboratories.

d. Physical therapy facilities.

e. Pharmacies, subject to specific approval of such use by the terms of an approved Special Use Permit, and pursuant to the following restrictions:

i. There shall be no external signage for a pharmacy other than a tenant identification sign for the surrounding medical office SUP complex.

ii. Addition of a pharmacy use within a Medical Office Special Use Permit Zone shall be permitted only upon the approval of an Intermediate Amendment to the Special Use Permit as provided for in Section 1102.7(C).

iii. Hours of operation shall be not earlier than 8:00 a.m. and not later than 6:00 p.m. – Monday through Saturday.

f. Medical Marijuana Dispensaries, subject to the following restrictions:

i. The number of medical marijuana dispensaries within the Town of Paradise Valley shall be limited to no more than one within the boundaries of the Town. Said dispensary shall be allowed only in the Medical Office SUP District and only upon the approval of an Intermediate Amendment to a Special Use Permit.

ii. The minimum requirements of this section shall apply to all applications for a medical marijuana dispensary use in a SUP Medical Office District as well as proof of compliance with all DHS regulations related to medical marijuana dispensaries.

iii. In addition to the foregoing requirements, applicants for a medical marijuana dispensary shall provide the following:

(1) Copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B)(1)(c).

(2) Proof of a valid registration certificate and identification number from DHS for the dispensary and its board members and agents.

(3) A security plan showing a floor plan, type and description of and specifications for security measures that the medical marijuana dispensary will use to secure, enclose and lock the dispensary as required by State law and DHS regulations.

(4) Exterior site and parking plan.

iv. <u>Additional Regulations and Standards for Medical Marijuana Dispensaries</u>

(1) Prior to Town approval of the occupancy of any tenant or operator of a medical marijuana dispensary, the owner of the medical office complex shall submit for Town Manager review and approval criminal background information and releases regarding the prospective tenant and all employees to be hired by the tenant; audited financial statements evidencing that the entities or persons who will

own or operate the medical marijuana dispensary have adequate assets, financing, and net worth to appropriately fund a safe and secure medical marijuana; and detailed operations evidencing appropriate policies, protocols and operations procedures to ensure that the medical marijuana dispensary will run and operate in a safe and secure manner.

(2) Medical marijuana dispensaries shall be limited to the use of dispensing medical marijuana products, and shall be prohibited from any other or related use such as a bookstore, spa, restaurant, or coffee shop.

(3) No drive-through service shall be allowed at any medical marijuana dispensary.

(4) No on-site consumption of any product containing medical marijuana shall be allowed at any medical marijuana dispensary.

(5) Medical marijuana dispensaries located within the Town of Paradise Valley shall be prohibited from making any home deliveries of marijuana.

(6) Medical marijuana dispensaries shall be prohibited from offering free or discounted samples of their merchandise.

(7) Means of preventing smoke, odors, debris, dust fluids and other substances from exiting a medical marijuana dispensary shall be provided.

(8) No minors, under 21 years of age, are permitted within a medical marijuana dispensary unless accompanied by a parent or guardian.

(9) No youth activities, including, but not limited to, outdoor basketball hoop structures, playgrounds, and skate parks, shall be permitted on the same medical office complex site that has an approved medical marijuana dispensary use.

(10) If the State prohibits any medical marijuana dispensary within the Town, any Amendment to a Special Use Permit adding a medical marijuana dispensary use shall be deemed immediately revoked by operation of law. The underlying Special Use Permit shall remain.

(11) A medical marijuana dispensary shall be at least 1,500 feet from the following existing uses, as measured within the Paradise Valley municipal limits only: (a) educational institutions (b) places of worship (c) parks and recreational facilities (d) youth centers; and at least 5,280 feet from any other medical marijuana dispensary, as measured within the Paradise Valley municipal limits only.

Measurements are taken from nearest property lines of the medical office use and each of the uses noted above. The location of the dispensary shall optimize distance from residentially zoned property. Residential spacing shall be the primary consideration for all reviews of intermediate SUP amendment applications for medical marijuana dispensaries.

(12) A medical marijuana dispensary shall have operating hours not earlier than 8:30 a.m. and not later than 2:30 p.m. – Monday through Friday or as prescribed in an intermediate Special Use Permit amendment.

(13) There shall be no external signage including, but not limited to, any special event signage, for a medical marijuana dispensary other than a tenant identification sign for the surrounding medical office SUP complex, and no symbols, representations, or slang for the word "marijuana" or its components shall be used on any external signage.

(14) All activity related to medical marijuana dispensaries shall be conducted in compliance with Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq., DHS rules and regulations and other implementing state statutes and administrative regulations.

(15) An SUP amendment for a medical marijuana dispensary shall not become effective until the owner of a Medical Office SUP District property has completed all DHS requirements and obtained a license.

C. Religious Facility, Private School, Non-Profit Organization, Public/Quasi Public

1. Definitions. Any of the following that can demonstrate an exclusively non-profit or non-commercial or purely public purpose.

   a. Religious Facility - an institution primarily used for the gathering of people for the practice of religious faiths.

   b. Private School - an institution, including private charter schools, for instruction and education of children or adults and that is not operated by a public school district.

   c. Non-Profit Organization - an organization that provides social, religious, educational, family support or similar services to individuals and which is certified as a not for profit organization by appropriate state or federal agencies.

   d. Public/Quasi Public: Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire

stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

2. Allowed uses

   a. Halls for assembly

   b. Offices for staff or consultation

   c. Classrooms, laboratories, gymnasia and similar recreational facilities

3. Signs

   All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

D. Country Club and Golf Course

1. Definition

   a. Country Club - A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.
   b. Golf Course - A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

2. Allowed uses

   a. Golf course

   b. Driving range

   c. Tennis

   d. Racquetball, handball and other game courts

   e. Swimming pool

   f. Accessory uses may include event halls, restaurants, dining facilities, bars, dance floors, weight or exercise rooms, and limited retail sales so long as they are primarily for the support and service of guests or visitors to functions at the site.

g. Any other country club and golf course related use specifically approved in a Special Use Permit

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

E. Utility Poles and Wires

1. Definitions

a. Utility poles and wires - shall mean poles, structures, wires, cable, conduit, transformers and related facilities used in or as a part of the transportation or distribution of electricity or power or in the transmission of telephone, telegraph, radio or television communications;

b. Existing utility poles and wires - shall mean such utility poles and wires as are in place and in operation as of the effective date of this ordinance; and

c. New utility poles and wires - shall mean such utility poles and wires as are not existing utility poles and wires and shall include such utility poles and wires as in the future may constitute replacements for, or repairs to, existing utility poles and wires, but shall not include replacements involving less than one-quarter (1/4) mile of contiguous poles and wires on any transmission or distribution line in any twelve (12) month period where the remainder of such transmission or distribution line is not also being replaced within said period; such replacements excluded from being new utility poles under the latter clause must be poles of the same or lesser size, diameter, and height, and in the same location as the pole or poles being replaced, and in addition, must be of the same class or classification as to strength and purpose within the utility industry as the pole or poles being replaced.

2. The erection of new utility poles and wires within the Town is discouraged, and may only be permitted by the issuance of a Special Use Permit, further provided that a Special Use Permit for erection of new utility poles and wires shall be granted only in the event the applicant makes an affirmative showing that the public's general health, safety and welfare will not be impaired or endangered or jeopardized by the erection of same as proposed. In deciding such matter, the following factors shall be considered:

a. the location and heights of such poles and wires and their relation to present or potential future roads;

b. the crossing of such lines over much traveled highways or streets;

c. the proximity of such lines to schools, churches or other places where people congregate;

d. the probability of extensive flying in the area where such poles and wires are proposed to be located and the proximity to existing or proposed airfields;

e. fire or other accident hazards from the presence of such poles and wires and the effect, if any, of same upon the effectiveness of fire fighting equipment;

f. the aesthetics involved;

g. the availability of suitable right-of-way for the installation;

h. the future conditions that may be reasonably anticipated in the area in view of a normal course of development;

i. the type of terrain;

j. the practicality and feasibility of underground installation of such poles and wires with due regard for the comparative costs between underground and overground installations (provided, however, that a mere showing that an underground installation shall cost more than an overground installation shall not in itself necessarily require issuance of a permit); and

k. in the event such poles and wires are for the sole purpose of carrying electricity or power or transmitting telephone, telegraph, radio or television communication through or beyond the Town's boundaries, or from one major facility to another, the practicality and feasibility of alternative or other routes.

F. Guardhouse, gatehouse, and access control gates

1. Definition

Guardhouses, gatehouses, and access control gates are structures or fencing and gates located within a private roadway the purpose of which is to control access to a residential development.

G. Amateur Radio Antenna

1. Definition

An amateur radio antenna, as regulated by this article, is an antenna used for amateur radio communications that exceeds 30 feet in height or the height of the main building, whichever is lower, but does not exceed 60 feet in height.

2. Bulk and density standards

The amateur radio antenna shall be subject to the standards for amateur radio antennas set forth in Table 1003.1.

Section 1102.3. Creating a Special Use Permit [657]

A. Non residential properties that currently do not have a Special Use Permit and residential properties that wish to obtain authorization for a non-residential use are eligible to apply for a Special Use Permit. A general plan amendment may first be required as well as a rezoning of the property prior to or in conjunction with a request for a Special Use Permit.

B. The following definitions shall be used for all Special Use Permits or amendments thereto:

1. Floor Area – As defined in Article II, Section 201, of the Zoning Ordinance.

2. Lot Coverage – The square footage of the ground floor of a structure measured to its drip line, including trellises, divided by the size of the lot and expressed as a percentage.

3. Special Use Permit - The original document approved by an ordinance adopted by the Paradise Valley Town Council (that may also include an amendment to the Zoning Map as required by Article III), together with all pertinent exhibits thereto, authorizing a primarily non-residential use of the property within those categories identified in Section 1102.2.

4. Statement of Direction - A Statement of Direction is a document administered by the Town Council at the beginning of Phase II of the application process. A Statement of Direction is not a final decision of the Town Council and shall create no vested right to the approval of a Special Use Permit, nor shall any applicant for a Special Use Permit be entitled to rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit. It may address, but is not limited to the following items:
    a. Uses
    b. Lot coverage/density
    c. Massing/Scale
    d. Perimeter setbacks
    e. Maximum heights
    f. View Corridors
    g. Circulation
    h. Known issues, if any (for intermediate amendments this may includes issues outside of the geographic area)

C. Application and Approval Procedures for Special Use Permits

1. Applications for a Special Use Permit may be filed by any person, the Town of Paradise Valley, or by any federal, state, county, school district or municipal or governmental agency owning property subject to the provisions of this ordinance.

2. The applicant for a Special Use Permit must be the real property owner or must provide a letter of authorization filed on the behalf of the property owner.

3. Special Use Permit Application Process:

   a. The Special Use Permit application process is comprised of two phases. Phase I is the application submittal process, in which the applicant and Town staff work together to create a complete application. Phase II consists of the project review by the Planning Commission and the Town Council. [Please also refer to Figure 1102.4-1 for an overview of the review process.]

   b. During Phase I the applicant shall contact Town staff to start the application process. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. The Planning Department will review and provide an initial assessment of the pre-application. Thereafter, the applicant shall submit a Special Use Permit application in accordance with Section 307 of Article III of the Zoning Ordinance.

   c. After the formal application is deemed complete, Phase II begins with the project request being reviewed by the Planning Commission and Town Council. First, staff presents the application to the Town Council. The Town Council then issues a Statement of Direction within forty-five (45) days from the date of staff presentation. The formal application is then reviewed by the Planning Commission at the work study and public hearing sessions. The applicant must also hold a Citizen Review meeting before the Planning Commission holds a public hearing and makes its recommendation to the Town Council. At any time during the review process the Planning Commission may request clarification and/or expansion of the Statement of Direction based on additional information that has evolved. The Planning Commission will vote on the request at the public hearing and will make a recommendation to the Town Council. The Town Council then reviews the project and holds a public hearing. The Town Council votes to approve or deny the request in accordance with Section 308 of Article III the Town Zoning Ordinance. Should the Town Council approve the request, the Council shall also include a statement explaining the public benefit of the project.

4. Public hearings shall be held only after:

   a. One publication of a notice of the time, place and date of such hearing in a newspaper of general circulation in the Town, at least fifteen (15) days prior to such hearings; and

   b. The posting of a notice of the time, place, and date of such hearing on the affected property for at least seven (7) days prior to the date of the hearing.

c. The applicant shall hold a Citizen Review Meeting no less than ten (10) days prior to the Planning Commission hearing in accordance with Article II, Section 2-5-2(F) of the Town Code.

5. Special Use Permit Submittal Requirements; Review Process; and Review/Approval Criteria

a. An applicant for a Special Use Permit shall submit plans or studies deemed necessary or appropriate by the Town, which may vary depending on the type and extent of any Special Use Permit or amendment to a Special Use Permit being requested. Said plans and studies may include the following; and any other plans or studies deemed necessary and appropriate by the Town:

i. A legal description of the parcel, including gross and net acreage. A recent American Land Title Association/American Congress on Surveying & Mapping (ALTA/ACSM) survey may be required if deemed necessary by the Town for a thorough review of the application.

ii. A project narrative which shall include statements on: uses proposed on the property; site development phasing; architectural design philosophy; compatibility with adjoining properties; environmental impacts; water flow and pressure impacts, site access, parking and circulation; conformity with the Town's development standards and guidelines and any deviation from such standards or guidelines; and, ownership, maintenance, and management of common facilities and areas including open space.

iii. Site plan depicting location and type of all improvements and any additional information as needed, including:

1) Perimeter setbacks
2) On-site parking
3) Points of access
4) Common areas
5) Location of walls
6) Internal circulation
7) Density and intensity of uses and structures
8) Lot coverage
9) Floor Area

iv. Building plans including, schematic floor plans, building elevations and heights, an analysis of the Open Space Criteria, architectural style and details, and exterior building materials and colors.

v. Landscaping Plan.

vi. Lighting Plan with photometric study.

vii. Signage Plan.

viii. Grading plans and drainage study. Grading plans including location and proposed treatment of sloped and retention areas; calculations and maintenance responsibilities, significant topographical features of the site, and areas of the site subject to flooding.

ix. Traffic study to address the impact of the project on adjacent properties and roadway system, internal circulation and parking analysis, and any necessary roadway dedication and improvement.

x. Noise study to evaluate the compatibility of the proposed project with surrounding areas.

xi. Timing and phasing of development.

b. Within 30 calendar days of the date an application is submitted, the Town shall notify the applicant whether the application is complete. If the Town determines the application is incomplete, the Town shall indicate what additional information or documents the applicant must submit to make the application complete. The Town Manager or his designee may waive the submittal of any information or document listed in this section that he determines is not necessary to properly evaluate an application.

c. In considering an application for a Special Use Permit, not only shall the nature of the use be considered, but also the special conditions influencing its location, design and operation, the proposed location and design of buildings, parking and other facilities within the site, the amount of traffic likely to be generated and how it will be accommodated, compatibility with the residential character and zoning of the Town, and the influence that such factors and development in accordance with the Special Use Permit application are likely to exert on adjoining properties.

d. The recommendation by the Planning Commission for approval of an application, or the ultimate approval thereof by the Town Council, may be granted upon such conditions reasonably related to the use of the subject property or impact on appurtenant properties or on the Town as are deemed proper, including but not limited to, the requirement that the applicant post a bond in such amount as may be

deemed appropriate to secure and assure the performance of any or all conditions set forth in the Special Use Permit; the requirement that the proposed buildings and structures be constructed in a prescribed sequence; and the imposition of time limits for commencement or completion of construction.

e. An applicant for a Special Use Permit who proposes to improve a project in more than one phase may identify the initial phase of development as Phase I and may identify other and subsequent phases for completing remaining improvements. On-site and off-site improvements for Phase I shall be in proportion to the scale of development as deemed appropriate by the Town. The Town may require additional improvements to be completed in conjunction with the initial or subsequent phases. Improvements shown in the final development must comply with all Town of Paradise Valley ordinances, standards and policies for the proposed development unless otherwise approved by the Town Council in conjunction with approval of the Special Use Permit. The applicant's intention to develop the project in phases shall be indicated in the application narrative and shall be depicted on the site plan for the entire project. Amendments to approved phases or the creation of additional phases shall be reviewed according to the procedures set forth in this article for intermediate or major amendments. The Commission shall hold a public hearing on the application, for the purpose of recommending whether the granting of the application would serve the public safety, health, or welfare of the Town. After such public hearings, the Commission shall submit to the Town Council its recommendation of approval or disapproval of the application.

f. An approved Special Use Permit, shall be assigned an identifying number, shall be adopted by ordinance and shall constitute an amendment to, and be shown on, the Town's Official Zoning Map. An ordinance granting a Special Use Permit shall set forth the terms and conditions of approval for a Special Use Permit. The terms and conditions set forth in the ordinance shall be complied with as a condition to the establishment of any use on the site and shall be maintained as a condition of the continuation of the use. No use shall be made of property that is subject to a Special Use Permit except as allowed by the ordinance granting the Special Use Permit or as allowed by this article.

6. Application fees for Special Use Permits shall be as set forth in the Town's Fee Schedule.

Section 1102.4 Commencement of Use or Occupancy

No use or occupancy approved under a Special Use Permit shall be commenced or maintained upon a lot or parcel except in accordance with an approved site plan which accurately reflects such use and occupancy.

Section 1102.5 No Variance From Special Use Permit.

No variance from the terms, provisions, or conditions of a Special Use Permit shall be granted by the Board of Adjustment. Applications to modify the terms, provisions, or conditions of a Special Use Permit may be filed in accordance with the amendment procedures set forth in this article.

Section 1102.6 Subsequent Approvals; Rezoning of a Special Use Permit Property to another Zoning District Classification.

A. Approval of a subsequent Special Use Permit on a site shall void all existing Special Use Permits on the site if so provided in the ordinance adopting the Special Use Permit.

B. A request to rezone property from a Special Use Permit designation to another zoning district classification may be filed in accordance with the provisions of Article III of the Zoning Ordinance. However, such a request may first require an amendment to the General Plan as it pertains to the property.

Section 1102.7 Types of Amendments to Special Use Permits.

An "Amendment to a Special Use Permit," is any change to an existing Special Use Permit. There are four categories of amendments: Managerial, Minor, Intermediate, and Major.

A. Managerial Amendment

A Managerial Amendment to a Special Use Permit shall include any proposal which does not:

1. Change or add any uses; or

2. Increase the floor area of the project by more than 1000 square feet or constitute an increase of more than 2% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty month period; or

3. Increase the number of units or structures, with the exception of playground equipment shade structures; or

4. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties with the exception of playground equipment shade structures; or

5. Change in any respect any stipulation(s) governing the original Special Use Permit; or

6. Change the vehicular or emergency circulation or the required parking or loading space or traffic; or

7. Change the architectural style of the approved SUP (renderings/plans).

B. Minor Amendment

A Minor Amendment to a Special Use Permit shall include any proposal which is not a Managerial Amendment and does not:

1. Change or add any uses; or

2. Increase the floor area of the project by more than 5000 square feet or constitute an increase of more than 15% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty month period; or

3. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated; or

4. Change the architectural style of the existing Special Use Permit.

C. Intermediate Amendment

An Intermediate Amendment to a Special Use Permit shall include any proposal which does not:

1. Change or add any uses; or

2. Increase the floor area of the project by more than 40% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, with any such increase to be measured cumulatively over a sixty month period; or

3. Have any significant material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated.

D. Major Amendment

A Major Amendment to a Special Use Permit is any proposed amendment that does not qualify as a Managerial, Minor, or Intermediate Amendment.

1102.8 Application and Approval Process for Amendments to Special Use Permits [659]

The application process for an amendment to a Special Use Permit is comprised of two phases. Phase I is the application submittal process, in which the applicant and Town staff work together to create a complete application. Phase II consists of the formal project review. [Please also refer to Figure 1102.4-1 for an overview of the review process.]

A. Managerial Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The Town Manager or his designee will then review and either approve or deny the application, or reclassify the application to a different category of Special Use Permit amendment.

2. The Town Manager (or the Town Manager's designee) will be required to report all decisions on Managerial Amendments to the Town Council (for informational purposes only).

B. Minor Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The Planning Commission shall review all applications for Minor Amendments to determine whether they meet the criteria for Minor Amendments as defined. An application submitted as a Minor Amendment but determined by the Planning Commission to be an Intermediate or Major Amendment shall have to be resubmitted by the applicant as an Intermediate or Major Amendment. The Commission shall hold a public hearing on Minor Amendments to determine whether the granting of the amendment would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, in the same manner as required in Section 1102.3 of this article, shall be given.

2. The Town Council shall have the authority to hear and decide appeals from the action of the Planning Commission in the granting or denying of a Minor Amendment, or appealing any requirement imposed by the Planning Commission as a condition of approval of a Minor Amendment.

An appeal from a decision made by the Planning Commission may be taken within 15 days by an aggrieved person on a form provided by the Community Development Department and shall specify the basis of the appeal.

An appeal shall be heard by the Town Council de novo. The concurring vote of a majority of members present and not otherwise disqualified shall be necessary to reverse or modify a requirement or decision of the Planning Commission, otherwise such requirement or decision shall be affirmed.

The Town Council shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

3. Minor Amendments shall be appended to the site plan in the form of an attachment to existing exhibits, and shall, absent an appeal, not require Town Council approval.

C. Intermediate Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code**.** A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The process for approval of an Intermediate Amendment will include a formal application, staff review, then a Town Council preview for a Statement of Direction on the application.

2. The scope of the Intermediate review will be limited to the geographic area of the property on which amendments or changes have been requested; and those areas necessarily or likely to be impacted by the proposed amendment or changes.

3. The application will then continue on to the Planning Commission for review; which shall be limited in time to 90 days. At the end of its review, the Commission will make a recommendation for approval or denial to the Town Council. Upon submission of the Commission's recommendation, the Town Council shall hold a public hearing to determine whether the granting of the application would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, as required in Section 1102.3 of this Article shall be given. If the Town Council approves the application, its decision, whether by ordinance or resolution or otherwise (as the circumstances may dictate) shall include a statement explaining the public benefit of the amendment to the Special Use Permit.

D. Major Amendments

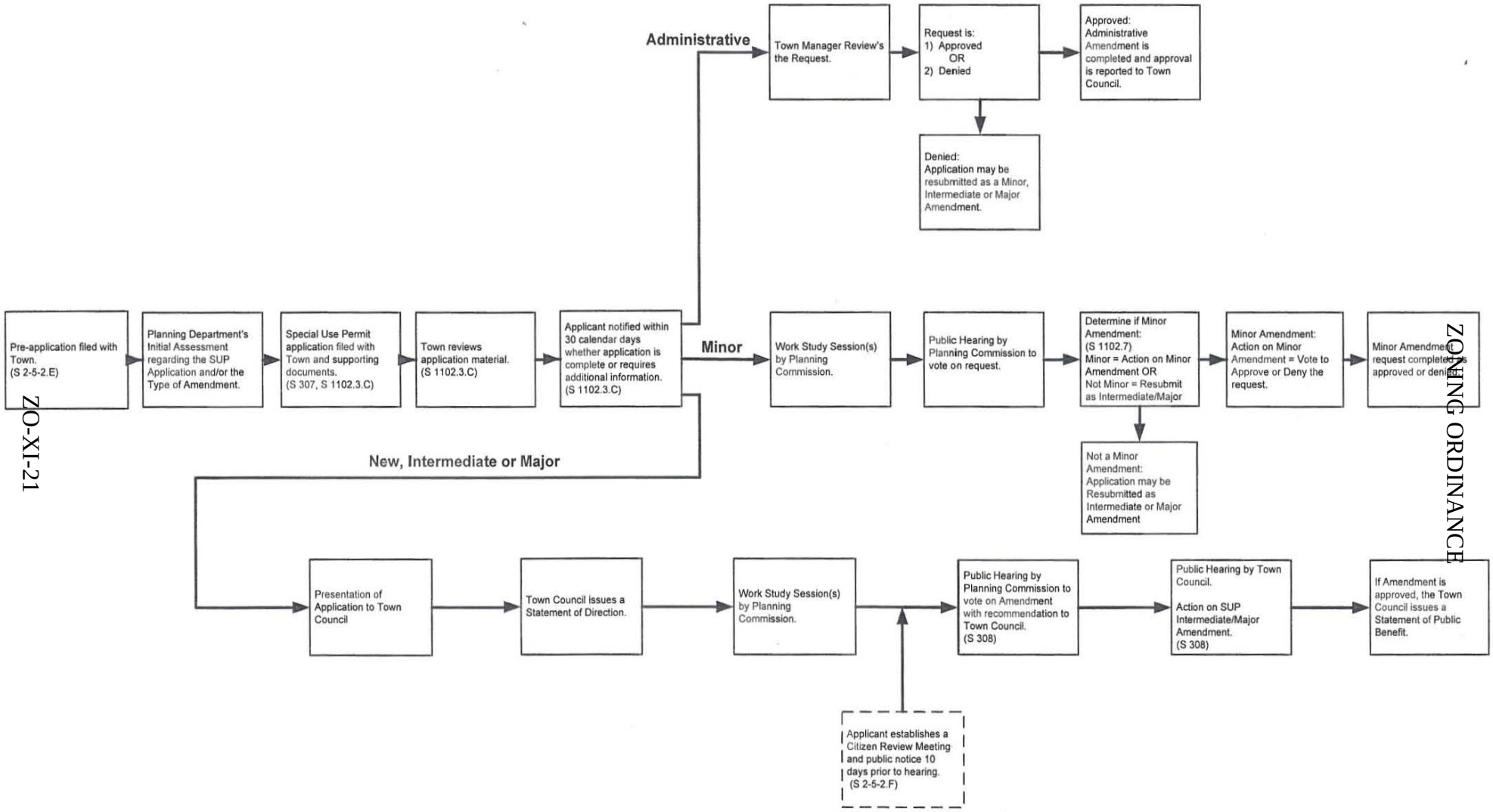
1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The process for approval of a Major Amendment will include a formal application, staff review, and then a Town Council preview for a Statement of Direction on the application.

2. The application will then continue to the standard Planning Commission review which is subject to the limits contained in Article II, Section 2-5-2(D), of the Town Code. At the end of its review, the Commission will make a recommendation for approval or denial to the Town Council. Upon submission of the Commission's recommendation, the Council shall hold a public hearing to determine whether the granting of the application would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, as required in Section 1102.3 of this article shall be given. If the Town Council approves the application, its decision, by ordinance, shall include a statement explaining the public benefit of the amendment to the Special Use Permit.

E. Detailed Application and Approval Procedures for Amendments to Special Use Permits

The detailed procedures and submittal requirements for amendments to Special Use Permits are the same as those listed in Section 1102.3 C.3. However, sections 1102.3 C.5(e) and (f) do not apply to Managerial or Minor Amendments. The application processes for all amendments to Special Use Permits are also as generally depicted in Figure 1102.4-1.

Figure 1102.4-1
Application Process for Special Use Permit



Section 1103. Conditional Uses.

A conditional use is a land use that is listed is this article as a permitted use subject to obtaining a conditional use permit. A conditional use may be appropriate in some locations and may not be appropriate in other locations due to the particular physical or operational characteristics of the conditional use. The purpose of the conditional use permit process is to determine as an administrative act by the Town, and on a case by case basis, whether through compliance with prescribed development standards or through the imposition of development conditions the requested conditional use can be made compatible with surrounding existing or approved or anticipated land uses.

Section 1103.1. Nature of Conditional Use Permit.

The grant of a conditional use permit is an administrative act and not subject to reviews by referendum. A permit for a conditional use may be granted only if findings are made by the Planning Commission or, if the Planning Commission decision has been appealed, the Town Council that the standards for approval have been met by the applicant. A conditional use permit may be approved subject to compliance with additional conditions that are necessary or appropriate to reduce the impacts of the proposed use on neighboring properties and the community as a whole.

Section 1103.2. Uses Permitted. [605]

A. Dish Antennas that are greater than three feet in diameter, Broadcast Towers, Microwave Antennas, Personal Wireless Service Facilities and similar structures that project skyward as specified in Section 1003 Tall Structures and Antennas. Dish antennas that are three feet or less in diameter are not regulated by this ordinance.

   1. Definition

   These structures and facilities are for the reception or retransmission of over-the- air electronic communications.

   2. Bulk, Density and Height Standards shall be as provided in Section 1003.

B. Private Roadways

   1. Definition

   A roadway not dedicated to or maintained by the Town of Paradise Valley that provides access to properties. A private roadway shall be established only in conjunction with the vacation of a public roadway or in conjunction with the creation of a lot or lots and shall provide access to such lots.

   2. Standards

3. The following shall be reviewed in conjunction with approval of the development of the private roads:

   a. Right of way width - the minimum right of way shall be 50 feet

   b. Paved roadway width:

      i. where the roadway is to provide access to one or two residences, the driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4 inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4 inch depth of decomposed granite.

      ii. where access to a public road for three or more residences is to be provided by a private road, all standards and requirements for subdivisions as contained in the codes and ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of issuance of a conditional use permit.

   c. All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health, safety, and welfare of the people of the Town of Paradise Valley, the Town may assess the cost thereof against the party, heirs, executors, administrators, legatees and assignees of the residential parcels that were included in the subdivision or lot split or parcels utilizing or benefitting from the private road. Agreement thereto by such applicant shall be a condition of issuance of any subdivision approval, lot split approval, or any residential building permit in a subdivision or lot split that utilizes or benefits from the private road.

C. Municipally-Owned Water Booster Facilities

1. Definition

   "Municipally-Owned Water Booster Facilities" are secured parcels of land, enclosed by fencing or a wall, containing mechanical and electrical equipment, piping, surge tanks, control valves, telemetry electronics and other appurtenances on the premises for the sole purpose of distributing potable and/or fire safety water to residential neighborhoods and commercial properties through a water supply system owned by a municipality.

2. Standards

   Municipally-Owned Water Booster Facilities shall meet the following standards:

   a. Such Facilities may be placed (i) on private property in any zoning district within the Town with property owner approval, including, but not limited to, property upon which the applicant has obtained the grant of an appropriate

easement for the installation or construction of such facilities from the private property owner; and/or (ii) in the Town's right-of-way with the authorization of the Town Manager or his designee;

b. All equipment within the Facility shall be adequately secured and enclosed by a wall or fence with a minimum height of eight (8) feet and a maximum height of eleven (11) feet, measured from the highest outside finished grade, and composed of finished materials such as stucco, brick, stone, wrought iron with redwood slats, solid metal, wood, or tile;

c. Mechanical equipment, tanks and facility buildings and appurtenances shall not exceed eleven (11) feet in height except for any telemetry and exhaust venting equipment.

Section 1103.3 Application for Conditional Use Permit.

A. Applications for conditional use permits may be filed by any person, the Town of Paradise Valley, or by any federal, state, county, school district, or municipal or governmental agency owning property subject to the provisions of this ordinance. The applicant must be the real property owner or must provide a letter of authorization to file on the behalf of the property owner.

B. Applications for conditional use permits or appeals shall be accompanied by a fee which is set forth in the Town's fee schedule.

C. An application for a conditional use permit thereto shall contain a site plan that includes the following information:

1. A legal description of the parcel, including gross and net acreage. A recent American Land Title Association/American Congress on Surveying & Mapping (ALTA/ACSM) survey may be required if deemed necessary for a thorough review of the application.

2. A project narrative that includes a purpose statement for uses proposed in the application.

3. Drawings and descriptions showing the following where relevant to the proposed use:

a. significant topographical features of the site or area.

b. all lots to be served by a proposed private roadway and access to the nearest improved public roadway.

c. the locations and elevations of all adjacent habitable structures on properties adjacent to a proposed antenna structure.

Section 1103.4 Authority of Planning Commission; required findings.

A. The Planning Commission is authorized to hear applications for and grant those special exceptions designated in this article as conditional uses upon finding that the use covered by the conditional use permit, or the manner of conducting the same:

   1. will not cause a significant increase in vehicular or pedestrian traffic in adjacent residential areas; or emit odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions; or contribute in a measurable way to the deterioration of the neighborhood or area, or contribute to the downgrading of property values.

   2. will be in compliance with all provisions of this ordinance and the laws of the Town of Paradise Valley, Maricopa County (if applicable), State of Arizona, or the United States of America.

   3. will be in full conformity to any conditions, requirements or standards prescribed in the permit.

   4. will not conflict with the goals, objectives or purposes of the zoning district or Policies of the Town of Paradise Valley as set forth in the Town's General Plan.

B. The burden of proof for satisfying the requirements set forth in subsection A of this section shall rest with the applicant.

C. Where a conditional use permit is specifically required by the terms of this article, no structure, building, or land shall be used until a conditional use permit has been granted by the Planning Commission or the Town Council.

D. Any structural alteration to the interior or exterior of a structure or building containing any of the uses referred to in section 1103.2 of this ordinance, other than maintenance, shall require the securing of a conditional use permit.

E. Structures or buildings devoted to any use which is permitted under the terms of this article subject to the securing of a conditional use permit may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new conditional use permit, unless the Planning Commission or Town Council has previously issued a conditional use permit for such alteration, addition, enlargement, or expansion; and any use of the land which is permitted under the terms of this article subject to the securing of a conditional use permit may be extended over the lot on which such use is located only after securing a new conditional use permit, unless the Planning Commission or Town Council has previously issued a conditional use permit for such extension.

Section 1103.5 Revocation of Conditional Use Permits.

A. A conditional use permit may only be revoked by the Planning Commission upon a finding that there has been material noncompliance with a condition prescribed in

conjunction with the issuance of the conditional use permit or that the use covered by the conditional use permit or the manner of conducting the same violates the standards listed in this article that govern the granting of the conditional use permit.

B. Revocation of a conditional use permit shall become final only after:

1. the fifteen-day period expired within which an appeal may be filed; or

2. a decision of the Town Council upholding the revocation.

Section 1103.6 Notice and Hearings.

The Planning Commission shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

Section 1103.7 Appeals.

A. The Town Council shall have the authority to hear and decide appeals from the action of the Planning Commission in the granting or denying of conditional use permits.

B. An appeal from a requirement or decision made by the Planning Commission may be taken within 15 days by an aggrieved person on a form provided by the Community Development Department and shall specify the basis of the appeal.

C. An appeal shall be heard by the Town Council de novo. The concurring vote of a majority of members present and not otherwise disqualified shall be necessary to reverse or modify a requirement or decision of the Planning Commission, otherwise such requirement or decision shall be affirmed.

D. The Town Council shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

E. Any person aggrieved by any decision of the Town Council may file a complaint for special action in the superior court to review the Town Council’s decision.

Section 1104 Temporary Use Permits.

A temporary use permit grants: (1) authority to establish a temporary off-site construction facility in support of construction at another location which may consist of materials and machinery storage, temporary buildings and/or trailers, and construction-related activities; or (2) a permit for the temporary establishment of an on-site sales facility that is required during the initial promotional or sales activities of a new project.

Section 1104.1 Nature of Temporary Use Permit.

The grant of a temporary use permit is an administrative act. A temporary use permit shall be granted if the application meets the requirements set forth in this article and any conditions imposed on the authorized uses and activities.

Section 1104.2 Uses Permitted.

A. Structures for storing materials

B. Structures for temporary offices

C. Outdoor storage of materials

D. Minor assembly of structural or building components

E. Employee parking

F. Sales office located within a new residential development subject to the following standards:

    1. Minimum 20-foot setback to property lines will be required of any office located in a freestanding structure.

    2. limited to one per lot or subdivision and it shall not contain cooking appliances.

    3. the office may be located on the lot or subdivision under construction only during the period that the building(s) is being constructed and must be removed from the site after the construction is completed or upon expiration of two years from the time of issuances of the temporary use permit or building permit.

    4. if the office is for a subdivision under one ownership, it may be placed on any lot in the subdivision.

G. Other temporary construction support facilities

Section 1104.3 Application and Approval Procedures for Temporary Use Permits.

A. An application shall be obtained from the Town of Paradise Valley prior to commencing an activity or use permitted with a temporary use permit. The application shall also contain written permission for such use by the owner or legal representative of the off-site property.

B. The application shall list all proposed activities, designated locations, points of access and hours of operation of proposed activities to be conducted on the site.

C. The application shall indicate any proposed screening or buffering.

D. The temporary use permit, if approved, shall be valid for two years or until the date of issuance of the Certificate of Occupancy, Certificate of Completion or approved final inspection of the construction project, whichever occurs first.

E. The application shall be acted upon within seven days of filing.

F. An application for a six month time extension of a temporary use permit shall be granted if the activities or uses authorized by the temporary use permit are in compliance with the requirements set forth in this section and any conditions attached to the permit.

Section 1104.4 Authority of Town Manager.

The Town Manager or his designee is authorized to grant applications for temporary use permits.

Section 1104.5 Revocation of temporary use permits.

A. The Town Manager or his designee may revoke a temporary use permit if the permitee violates any requirement set forth in this section or any condition attached to the permit.

B. Notice of intention to revoke a temporary use permit shall be mailed to the permit holder and shall be posted on the property subject to the permit at least 5 calendar days before a permit may be revoked. The permit holder shall be given an opportunity to be heard before a revocation decision is rendered by the Town Manager or his designee.

Section 1105 Violations of Special Use Permits, Conditional Use Permits and Temporary Use Permits.

A violation of any requirement of this article that governs uses, structures and activities permitted through issuance of a Special Use Permit, a Conditional Use Permit or a Temporary Use Permit and a violation of any condition imposed by a Special Use Permit, Conditional Use Permit or a Temporary Use Permit shall constitute a violation of the Zoning Ordinance and shall be punishable as provided in Article XIV of this ordinance.

FOOTNOTE:
564 Ordinance # 564 – 11/03/2005 (Repealed and Replaced)
605 Ordinance # 605 – 09/25/2008
609 Ordinance # 609 – 10/22/2009
633 Ordinance #633 – 04/28/2011
657 Ordinance #657 – 11/15/2012
658 Ordinance #658 – 11/15/2012
659 Ordinance #659 – 11/15/2012

Article XII. PERSONAL WIRELESS SERVICE FACILITIES [437 455 511 564]

Section 1201. Purpose

A. The purpose of this ordinance is to establish appropriate locations, site development standards, and permit requirements to allow for personal wireless services to the residents of the Town, in a manner which will facilitate the location of various types of personal wireless service facilities in locations consistent with the residential character of the Town. The nature of residences, their scale (height and mass), their proximity to each other and the street, and the extensive natural, informal landscaping all contribute to this distinctive character. Precluding the adverse visual impact of these facilities within this virtually developed residential area is one of the primary objectives of this ordinance. Limitations on the height of antennas are intended to conform the antennas to the existing limitations of height of residential buildings. The ordinance is intended to allow personal wireless service facilities which are sufficient to provide adequate service to citizens, the traveling public and others within the Town and to accommodate the need for connection of such services to wireless facilities in adjacent and surrounding communities.

B. It is also the intent that this ordinance and its purposes are implemented as allowed by applicable law, particularly in light of evolving federal and state regulations, laws and interpretations, evolving technology and land uses for personal wireless services.

Section 1202. Definitions

For the purpose of this Article, the following terms shall have the meanings prescribed herein unless the context clearly requires otherwise:

1 "Antenna" means the surface from which wireless radio signals are sent from and received by a personal wireless service facility;

2 "Applicant" means a person or other entity who submits an application with the Town for a special use permit or major amendment to a special use permit for a personal wireless service facility. A personal wireless service carrier and the owner of the subject property shall be an applicant(s) or co-applicant(s) on such application;

3 "Co-location" means the use of a single mount and/or site by more than one personal wireless service;

4 "Commercial mobile radio service" means any of several technologies using radio signals at various frequencies to send and receive voice, data or video to and from mobile transceivers;

5 "Design" means the appearance of a personal wireless service facility, including but not limited to its material, color or shape;

6 "Equipment cabinet" means an enclosed mobile home, shed or box at the base of or near a 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. Equipment cabinets are also called "base transceiver stations";

7 "Licensed carrier" means a company authorized by the FCC to build and operate a commercial mobile radio services system;

8 "Location" means property(ies) or site(s) where personal wireless service facilities are located or could be located;

9 "Modification" means any physical or operational change, alteration, or other modification of any of the following as they relate to a personal wireless service facility or the subject property upon which it is located, including but not limited to:

a. The site plan;
b. The sight line representation;
c. The design submittal as required in this Article;

The conversion of a single-use personal wireless service facility to a co-location is also considered a modification;

10 "Monopole" means a type of mount that is self-supporting with a single shaft of steel or concrete or other acceptable material;

11 "Permittee" means the owner of a subject property and a personal wireless service carrier;

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

a. Antenna
b. Mount
c. Equipment Cabinet
d. Security Barrier;

13 "Personal wireless services" means commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996, and any amendments thereto;

14 "Security barrier" means a locked, impenetrable wall or fence that completely seals an area from unauthorized entry or trespass;

15 "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 inch equals forty (40) feet unless otherwise specified by the Town. The profiles shall show all intervening trees and structures;

16 "Site" means the subject property where a personal wireless service facility is located or proposed to be located and includes any contiguous property(ies) under the same ownership as the subject property;

17 "Siting" means the method and form of placement of a personal wireless service facility on a specific area of a subject property;

18 "Subject property" means all the area within a lot, lots, or tax parcel(s) under common ownership upon which a personal wireless service facility is either proposed to be, or already is, developed, located, constructed or operated;

19 "Unlicensed wireless service" means commercial mobile services that can operate on public domain frequencies and that therefore need no FCC license.

Section 1203. General Requirements [564]

A. The determination of where a PWSF shall be located is subject to the following. Certain locations have been identified by the Town as potential PWSF sites and are subject to all of the provisions of this Article and the Town Code. Said locations are set forth in Town of Paradise Valley Resolution No. 932 as it may be amended from time to time. Any subject property that meets the requirements of this Article may be eligible for consideration for a PWSF, or modification thereof, pursuant to a conditional use permit, in accordance with the standards in this article.

B. A PWSF or modification thereof is permitted only with a conditional use permit, granted pursuant to Article 11, Sections 1103 et seq of the Zoning Ordinance and this Article. No PWSF may be developed, located, constructed or operated without a conditional use permit. A conditional use permit is required for any modification to a PWSF.

C. A PWSF may be mounted on a structure which is not a dwelling unit on the side or roof in accordance with the requirements of this Article. A PWSF is prohibited on any dwelling unit or site containing dwelling unit (s) unless otherwise authorized pursuant to Subsection A of this section.

Section 1204. Siting Standards [511 564]

The following siting criteria apply to consideration of a conditional use permit for a PWSF:

1 A PWSF shall be:

a. Completely screened from public view and rights of way by trees, mature vegetation, natural features or structures on the subject property, and

b. Completely camouflaged in a manner that is architecturally compatible with the structure on which it is mounted and integrated as an integral architectural element of the structure;

2. The screening required in this section may exist on the subject property or be installed as part of the proposed PWSF or a combination of both;

3. A PWSF shall not be approved for a location on a site containing a dwelling unit, except where the dwelling unit is located on the site of an existing Special Use Permit granted by the Town for a resort or guest ranch. A PWSF shall not be initially approved for a location closer than two hundred (200) feet from a dwelling unit in existence at the time of the initial approval of the conditional use permit for such PWSF site. For a proposed PWSF site that is adjacent to residentially zoned lots or parcels that are vacant at the time of the initial approval of the proposed conditional use permit for a PWSF, the proposed PWSF site shall be located no closer that two hundred (200) feet from the lot line of such vacant parcel or lot, less the greater of any applicable setback from such lot line or any platted or recorded easement adjacent to such lot line on the vacant parcel or lot. Once initially approved, changes to the dwelling unit locations or any changes in the setbacks or platted or recorded easements on the lots or parcels adjacent to the PWSF site shall not compel the removal or relocation of the PWSF that was initially approved for a conditional use permit in compliance with this section, nor shall the renewal of the conditional use permit for such a PWSF be withheld due to such changes in the adjacent lots or parcels.

4. A PWSF shall be set back from all property lines a distance equal to the height of the mount or the antenna, whichever is higher, and comply with all zoning setback requirements;

5. The height of a PWSF shall be limited to

   a The maximum height applicable to a building on the subject property pursuant to the Town's Zoning Ordinance Table 1001-A1. A roof-mounted PWSF may project a maximum of four and one-half (4 1/2) feet above the highest point of the roof so long as it does not exceed the maximum height provided in Table 1001-A1, whichever is lower; or

   b If mounted to an existing structure on the subject property, the height of that structure.

   Any PWSF shall be screened and camouflaged as required herein. The height requirements of this Section supersede requirements specified for antenna in Section 1003 and Table 1003-1 of the Town's Zoning Ordinance as applied to a PWSF;

6. A side-mounted PWSF shall not project more than forty-two (42) inches from the side a nondwelling unit facade, shall not extend above the highest point of the roof of the structure and shall be screened and camouflaged as required herein. The PWSF shall not project into an easement, driveway or setback unless otherwise specified in the conditional use permit;

7. An equipment cabinet shall be located within or adjacent to the structure on which a PWSF is placed, or located below natural grade underground if site conditions permit and if technically feasible. An equipment cabinet shall be completely screened from view by compatible wall, fence or landscaping consistent with Town landscaping guidelines except that an equipment cabinet larger than one hundred forty-four (144) cubic feet may not be required to be totally screened from view if the Planning Commission finds, in its discretion, that the cabinet has been designed with a structure or facade, materials, colors or detailing that effect a structure which emulates the residential character of the area;

8. A security barrier shall be screened from view through the use of appropriate landscaping materials consistent with Town landscaping guidelines.

Section 1205. Design Standards [564]

The following design criteria apply to consideration of a conditional use permit for a PWSF, in addition to others which may be identified and utilized by the Planning Commission in its consideration of the conditional use permit:

1. Appearance. The degree to which the PWSF "blends with" or "disturbs" the setting, the subject property and its character and use, or neighboring properties and their character and use;

2. Form. The degree to which the shape of the PWSF and any equipment cabinet relates to its surroundings;

3. Color. A PWSF shall be in natural tones and a non-reflective color or color scheme appropriate to the background against which the PWSF would be viewed from a

majority of points within its viewshed. "Natural" tones are those reflected in the natural features and structural background against which the PWSF is viewed from a majority of points within its viewshed. Final colors and color scheme must be approved by the Planning Commission;

4. Size. The silhouette of the PWSF shall be reduced to minimize visual impact.

To the extent allowed by law, the Town shall consider the cumulative visual effects of PWSFs and any mount, specifically their appearance or domination of the skyline, natural and structural features or terrain, in determining whether to approve a conditional use permit.

Section 1206. Radiofrequency (RF) Performance and Interference Standards and Monitoring [564]

A. To the extent allowed by law, the following radiofrequency (RF) performance standards apply to consideration of a conditional use permit for a PWSF, in addition to monitoring requirements as required in this Article:

1. All equipment proposed for a PWSF shall meet the current FCC RF Guidelines and any amendments thereto (hereafter "FCC Guidelines");

2. Any side-mounted or roof-mounted equipment shall meet FCC Guidelines, including but not limited to the following:

a. At the roof-mount or at the side-mount, the equipment shall meet the FCC Guidelines for occupational/controlled conditions;

b. At ground level at the point of the structure closest to the antenna, the equipment shall meet FCC Guidelines for general population/uncontrolled conditions.

B. Within ninety (90) days after FCC issuance of an operational permit for the PWSF, and annually thereafter, the personal wireless service carrier shall submit a written report providing existing and maximum future projected measurements of RF radiation from the PWSF for:

1. Existing PWSF: Maximum RF radiation from the PWSF RF radiation environment. These measurements shall be for the measurement conditions specified in Subsection A of this Section;

2. Existing PWSF plus cumulative: Maximum estimate of RF radiation from the existing PWSF plus the maximum estimate of RF radiation from the total addition of co-located PWSFs. These measurements shall be for the measurement conditions in Subsection A of this Section;

3. Certification, signed by an RF engineer, stating that RF radiation measurements are accurate and meet FCC Guidelines as specified in Subsection A of this Section.

If FCC Guidelines are changed during the period of any conditional use permit for a PWSF use, then the PWSF shall be brought into compliance with such revised guidelines within the time period provided by the FCC or if no time period is stated, then within sixty (60) days of the effective date of such guidelines.

C. If at any time during the term of the permit the Town has reasonable evidence that the Permittee or personal wireless service carrier is not in compliance with FCC Guidelines, and the Town provides notice of such, the Permittee or personal wireless service carrier so notified shall provide to the Town, within thirty (30) days after such notice, an analysis and determination of its compliance with FCC guidelines showing the data collected and status pursuant to FCC Guidelines. If on review, the Town finds that the PWSF does not meet FCC Guidelines, the Permittee or personal wireless service carrier shall have sixty (60) days from the date of the Town's finding of noncompliance to bring the PWSF into compliance. If compliance is not achieved in the sixty-day period, the conditional use permit may be revoked or modified by the Town.

D. The Permittee shall ensure that the PWSF does not cause localized interference with the reception of area television or radio broadcasts or to personal wireless services. If on review the Town finds that the PWSF interferes with such reception, and if such interference is not cured by the Permittee within sixty (60) days after notice from the Town, the Town may revoke or modify the conditional use permit.

Section 1207. Noise and Environmental Standards [564]

A. To the extent allowed by law, the following noise and environmental standards apply to consideration of a conditional use permit for a PWSF in addition to the monitoring requirements of this Article:

1 Roof-mounted or side-mounted equipment for a PWSF shall not generate noise in excess of fifty (50) decibels (dba) at ground level at the base of the facility closest to the antenna;

2 An environmental assessment is required by the National Environmental Policy Act (NEPA) for any PWSF prior to commencing operations where any of the following exist:

a. Wilderness area;

b. Wildlife preserve;

c. Endangered species;

d. Historical site;

e. Indian religious site;

f. Flood plain;

g. High intensity white lights in residential neighborhoods;

h. Excessive radiofrequency radiation exposure.

3 An environmental assessment which, at a minimum, conforms with FCC requirements shall be submitted to the Town for each PWSF where any of the above exists, and when the FCC requires such an environmental assessment to be submitted to the FCC. If the applicant has determined that an environmental assessment is not required pursuant to FCC rules, this Article and applicable state law and Town Code, a written certification to that effect must be submitted to the Town. If an applicant has not included an environmental assessment that the Town finds to be necessary under the National Environmental Policy Act, the Town may prepare, or cause to be prepared, such an environmental assessment at the applicant's expense. The environmental assessment shall be amended or revised by the applicant within thirty (30) days after notice to do so from

the Town when modifications are made or occur on the PWSF. Failure to amend or revise shall constitute grounds for revocation of the conditional use permit.

B. Within ninety (90) days after the approval of the conditional use permit and annually from the date of approval of the permit, the Permittee shall submit existing and maximum future projected measurements of noise from the PWSF for the following:

1. Existing PWSF: Maximum noise radiation from the PWSF. These measurements shall be for the type of mounts specified in Subsection A of this section;

2. Existing PWSF plus cumulative: Maximum estimate of noise from the existing PWSF plus the maximum estimate of noise from the total addition of co-located PWSFs. These measurements shall be for the type of mounts specified in Subsection A of this section;

3. Certification, signed by an acoustical engineer, stating that noise measurements are accurate and meet Subsection A of this section.

Section 1208. Co-Location and Limitations [564]

A. A Permittee shall cooperate with other personal wireless service carriers in co-locating antennas and mounts provided the proposed co-locators have received a conditional use permit for the use at such site from the Town. A Permittee shall exercise good faith in co-locating other personal wireless service carriers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities). Applicants shall demonstrate a good faith effort to co-locating with other personal wireless service carriers, including but not limited to:

1. Contact with all other personal wireless service carriers operating in the Town;

2. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location;

In the event a dispute arises as to whether a Permittee has exercised good faith in accommodating other users, the Town may require a third party technical study at the expense of either or both the applicant and Permittee.

B. All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal.

C. Failure to comply with the co-location requirements of this Section may result in the denial of a permit request or revocation of an existing permit.

Section 1209. Submittal Requirements [564]

A. In addition to the information requested in the Town's conditional use permit application, the following items shall be required for a PWSF application:

1. A master site plan in accordance with Planning Commission rules and regulations showing the subject property and adjacent properties; all existing and proposed buildings on the subject property and their purpose; the specific placement of the PWSF antenna, mount and equipment cabinet; security barrier (if any), including type and extent and point of controlled entry on the site; fall zone; all proposed changes to the existing site, including grading, vegetation, roads, sidewalks and driveways;

2. A landscape plan showing specific placement of existing and proposed vegetation, trees, shrubs, identified by species and size of specimen at installation in accordance with Town landscape guidelines;

3. Photographs, diagrams, photosimulations and sight line representations as listed below:
    a. A diagram or map showing the viewshed of the proposed facility;
    b. Sight line representation;
    c. Existing (before condition) photographs illustrated by four (4) by six (6) inch color photograph(s) of what can currently be seen from any adjacent residential buildings or properties, private roads and rights of way adjacent to the site;
    d. Photosimulations of the proposed facility from each adjacent residential properties or buildings, private roads and public rights-of-way adjacent to the site (after condition photographs). Such photosimulations shall include, but not be limited to, each of the existing condition photographs with the proposed PWSF superimposed on it to show what will be seen from residential buildings, properties, private roads and rights of way adjacent to the site;
    e. Aerial photograph as required by the Planning Commission rules and regulations;
4. Siting elevations, or views at natural grade, from all directions (north, south, east, west) for a fifty-foot radius around the proposed PWSF plus from all existing rights of way and private roads that serve the subject property. Elevations shall be at one-quarter inch equals one foot scale and show the following:
    a. Antenna, mount, equipment cabinet;
    b. Security barrier. If the security barrier will block views of the PWSF, the barrier drawing shall be cut away to show the view behind the barrier;
    c. Any and all structures on the subject property, existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation;
    d. Grade changes or cuts and fills to be shown at original grade and new grade line;
5. Design submittals as follows:
    a. Equipment brochures for the PWSF such as manufacturer's specifications or trade journal reprints;
    b. Materials of the PWSF and security barrier, if any, specified by generic type and specific treatment, such as anodized aluminum, stained wood, painted fiberglass, etc.;
    c. Colors represented by samples or a color board showing actual colors proposed;
    d. Dimensions of all equipment specified for all three dimensions: height, width and breadth;

e. Appearance shown by at least two (2) photographic superimpositions of the PWSF within the site. The photographic superimpositions shall include the antenna, mount, equipment cabinet and security barrier, if any, for the total height, width and breadth. The submittal may also include, if required by the Town, a scaled three-dimensional model of the PWSF on the site;

6. Market and service maps as follows:

a. A map showing the service area of the proposed PWSF and the explanation of the need for that facility.

b. A map showing the locations and service areas of other PWSF sites operated by the applicant and those that are proposed by the applicant which are close enough to impact service within the Town or are within a two-mile radius of the limits of the Town;

7. Co-location submittals, including signed statements indicating:

a. The applicant agrees to allow for the potential co-location of additional PWSF(s) by other personal wireless services and carriers on the applicant's structure or facility or within the same site;

b. That the applicant agrees to remove the PWSF as required by this Article;

c. That the applicant has made a good faith effort to achieve co-location with other carriers and facilities as required in this Article, and if co-location is not feasible for this application for a substantial technical reason, a written statement of the reasons for the infeasibility;

8. A lease agreement with the owner or landholder shall also be submitted that:

a. Allows the landholder to enter into leases with other providers;

b. Specifies that if the carrier fails to remove the PWSF when required by this Article, the responsibility for removal falls upon the landholder; and

c. Allows entry by the Town and its agent for the purpose of inspection and compliance with Town Codes;

d. Consents to the terms of Section 1211 of this Article;

9 To the extent allowed by law, radiofrequency (RF) radiation performance submittals shall include in a form or study acceptable to Town staff the applicant's written statement of the existing and maximum future projected measurements of RF radiation from the proposed PWSF:

a. Existing or ambient: measurement of existing RF radiation;

b. Existing plus proposed PWSF: maximum estimate of RF radiation from the proposed PWSF plus the existing RF radiation environment. These measurements shall be for the conditions specified in the RF performance standards in this Article;

c. Existing plus proposed PWSF plus cumulative: maximum estimate of RF radiation from the proposed PWSF plus the maximum estimate of RF radiation from the total addition of co-located PWSF plus the existing RF radiation environment. These measurements shall be for the conditions specified in the RF performance standards in this Article;

d. Certification, signed by an RF engineer, stating that RF radiation measurements are accurate and meet FCC Guidelines as specified in the RF performance standards in this Article;

10 To the extent allowed by law, noise performance submittals shall include a statement of the existing and maximum future projected measurements of noise from the proposed PWSF measured in decibels (logarithmic scale, accounting for greater sensitivity at night) for the following:

a. Existing or ambient: the measurement of existing noise;

b. Existing plus proposed PWSF: maximum estimate of noise from the proposed PWSF plus the existing noise environment;

c. Existing plus proposed PWSF plus cumulative: maximum estimate of noise from the proposed PWSF plus the maximum estimate of noise from the total addition of co-located PWSFs plus the existing noise environment;

d. Certification signed by an acoustical engineer stating that noise measurements are accurate and meet the noise performance standards section of this Article;

11. To the extent allowed by law, environmental submittals shall include an environmental assessment if required in the environmental standards section of this ordinance. If the applicant determines that the environmental assessment is not required, certification to that effect shall be provided. The applicant shall also list location, type and amount of any materials proposed for use within the PWSF that are considered hazardous by the federal, state or town government.

B. In addition to the requirements of this Article, processing and consideration of a PWSF conditional use permit shall comply with the conditional use permit requirements specified in Article 11, Sections 1103~~1~~ et seq. of the Zoning Ordinance.

Section 1210. Technological Change and Periodic Review.

A. The Town recognizes that PWSFs and communication technologies in general are currently subject to rapid change. Innovations in such things as switching hardware and software, transmission/receiving equipment, communications protocols, and development of hybrid cable/wireless systems may result in reducing the impact of individual facilities and to render specific portions of this ordinance obsolete. Therefore, the Town may review this Article periodically and assess its provisions relative to current trends in the communications industry, innovations in communications technology, permit activity during the preceding years, and effectiveness in producing PWSFs that are compatible with the Town's residential character.

B. The Town may recommend updates to this Article that may include, but not be limited to the deletion, modification, or addition of allowed locations; allowed heights; site development requirements; administrative review possibilities; or permitting procedures.

C. When changes are made pursuant to Subsection B, the Town and Permittees agree in good faith to review and modify the stipulations and terms of such permits during their terms in order to reflect current technologies and then current laws and ordinances. If such modifications adversely and materially affect, either operationally or monetarily, Permittee's use of a PWSF, such modifications may not be made without a Permittee's consent. If such

modifications adversely affect the Town's regulations or this permit, such modifications may not be made without the Town's consent.

Section 1211. Permit Limitations and General Conditions. [564]

A. A conditional use permit shall expire five (5) years after the date of the permit approval. A Permittee wishing to continue the use at the end of the five-year period must apply for a conditional use permit renewal application to continue that use at least six months prior to its expiration. In ruling on the renewal the Planning Commission shall apply all then existing regulations affecting the application.

B. The conditional use permit shall become null, void and non-renewable if the permitted facility is not constructed and placed into use within one year of the date of permit approval, provided that the conditional use permit may be extended one time for six (6) months if construction has commenced before expiration of the initial year.

C. The permit shall expire and the Permittee must remove the PWSF if the use is discontinued for a period in excess of ninety (90) days in any three-hundred-sixty-five (365) day period. A Permittee shall notify the Town in writing at least thirty (30) days prior to abandonment or discontinuance of operation of the PWSF. Failure to give such notice shall be considered abandonment of the special use permit or amendment by the Permittee.

D. If the conditional use permit expires, terminates, is abandoned or revoked for any reason pursuant to this Article or the Town Code, if removal of the PWSF is required in this Article, or if the use is discontinued pursuant to this Article, the PWSF shall be removed as required herein. If the PWSF is not so removed, the Town may cause the facility to be removed and all expenses of removal shall be paid by the owner of the land where the facility is located. If not paid by the owner within thirty (30) days of notice by the Town, the Permittee agrees that the Town's costs shall constitute a lien upon the subject property upon its execution and filing with the county recorder's office. The term "remove" shall include but not be limited to the following:

   1 Removal of antenna, mount, equipment, equipment cabinet, security barrier from the site;

   2 Transportation of the antenna, mount, equipment, equipment cabinet or security barrier to a location off-site; if the location is within the Town limits, it is subject to approval by the Town.

   3 Restoration of the site of the PWSF to its natural condition, except that any landscaping and grading shall remain in finished condition.

E. A personal wireless service carrier, upon granting of a conditional use permit for a PWSF use, shall indemnify, protect and hold harmless the Town, its officers and agents, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney fees (collectively "liabilities") incurred by the Town arising directly or indirectly from 1) the PWSF use as contemplated herein and in the use permit; and 2) the installation and operation of the PWSF permitted thereby, including without limitation, any and all liabilities arising from emission by the PWSF of electromagnetic fields or other energy waves or emissions. The personal wireless service carrier's compliance with this Section is an express condition of the conditional use permit and is binding on any and all of

personal wireless service carrier's successors and assigns. The requirements of this section shall survive the termination of any such permit.

F. The Permittee shall maintain the PWSF to standards that are imposed by the Town at the time of granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the Permittee fails to maintain the facility, the Town may undertake the maintenance at the expense of the Permittee or terminate or revoke the permit, at its sole option. If such maintenance expense is not paid by the owner within thirty (30) days of notice by the Town, the Permittee agrees that the Town's costs shall constitute a lien upon the subject property upon its execution and filing with the county recorder's office.

G. A conditional use permit granted to a Permittee is specific to the owner and personal wireless service carrier and may not be assigned, provided however that the personal wireless service carrier may assign its interest in the permit to any subsidiary or other affiliate of the personal wireless service carrier. In the event of such assignment, the assignee shall re-execute the conditional use permit within thirty (30) days of the effective date of the assignment or the permit shall automatically expire. Permittee shall notify the Town of any change in ownership or operation of the PWSF at least ninety (90) days prior to such change taking place for approval by the Town, which approval shall not be unreasonably withheld.

H. In its consideration of applications herein, and in addition to criteria provided in this article, Article 11 (Sections 1103 et seq) of the Zoning Ordinance and within the authority granted by law, the Town may also consider and prescribe limitations on the locations and numbers of special use permits which may be granted pursuant to this article.

I. Where the Planning Commission finds that strict compliance with the requirements of this Article may result in extraordinary hardship or are needed to ensure the Town's compliance with Federal or state law, the Planning Commission may modify such requirements only upon a showing of noncompliance with applicable law or extraordinary hardship so that substantial justice may be done and the public interest secured. Hardship as used herein shall include, but not be limited to, a finding that special circumstances applicable to the property, including its size, shape, topography, location or surroundings, will deprive such property of privileges enjoyed by other property in the same classification in the same zoning district through the strict application of the zoning ordinance. In granting such modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied and modified.

J. Any violation of the terms of this Article or the conditional use permit may result in revocation by the Town of the conditional use permit. Acceptance of any portion of the conditional use permit is acceptance of the entire conditional use permit and the terms of this Article.

K. Within ninety (90) days after issuance of the FCC operational permit, the personal wireless service carrier shall provide a copy of such permit to the Town and register the PWSF, providing information and data as may be requested by the town. Any change in the permit or registration data shall be filed with the Town within thirty (30) days after the change is made. The personal wireless service carrier shall submit to the Town a copy of is FCC Form

600 prior to the Town's approval of final inspection of a building permit for the PWSF or portion thereof.

L. The Town and its agents are authorized to enter on the subject property and PWSF site for the purpose of inspection and determining compliance with this Article and the provisions of the special use permit or amendment thereto.

Section 1212. Applicability

The requirements of this ordinance apply to all new PWSFs and modification of any existing PWSFs.

FOOTNOTES

437 Ordinance #437 - 02/13/97
455 Ordinance #455 - 02/26/98
511 Ordinance #511 – 07/26/2001
564 Ordinance #564 – 11/03/2005

Article XIII. ENFORCEMENT [470]

Section 1301. Duties:

It shall be the duty of the Building Inspector to enforce this Ordinance. The Building Inspector shall receive applications required by the Ordinance, issue permits and furnish the prescribed certificates. He shall examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of this Ordinance are complied with. He shall, when requested by the Mayor, or when the interests of the municipality so require, make investigations in connection with matters referred to in this Ordinance and render written reports on the same. For the purpose of enforcing compliance with law, he shall issue such notices or orders as may be necessary.

Section 1302. Inspections:

Inspections shall be made by the Building Inspector or a duly appointed assistant.

Section 1303. Rules:

For carrying into effect its provisions, the Building Inspector may adopt rules consistent with this Ordinances.

Section 1304. Records:

1. The Building Inspector shall keep careful and comprehensive records of applications, or permits issued, or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. He shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence.

2. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the Building Inspector.

Section 1305. Reports:

The Building Inspector shall make a report to the Mayor once each month, or more often if requested including statement of permits and certificates issued and orders promulgated.

FOOTNOTES

470 Ordinance #-470- 1/14/99

Article XIV. VIOLATION AND PENALTY [564]

Section 1401.[76]

Any person, firm or corporation whether as principal, owner, agent, tenant, or otherwise who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment in a designated place of confinement for a term not exceeding six (6) months or by both fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 1402.

In case any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Town or any owner or tenant of real property in the same contiguous zoning district as the building or structure in question, in addition to other remedies, may institute any appropriate action or proceedings (1) to prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use; (2) to prevent the occupancy of the building, structure or land; (3) to prevent any illegal act, conduct, business or use in or about the premises; or, (4) to restrain, correct or abate the violation. When any such action is instituted by an owner or tenant, notice of such action shall be served upon the municipality at the time suit is begun, by serving a copy of the complaint on the chief executive officer of the municipality, no such action may be maintained until such notice has been given.

In any such action or proceeding, the court with jurisdiction thereof has the power and in its discretion may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purposes of this Ordinance. If a permanent injunction is decreed in any such action or proceedings, the court in its decree may, in its discretion, allow the plaintiff a reasonable sum of money for the services of the plaintiff's attorney. This allowance shall be a part of the costs of the litigation assessed against the defendant, and may be recovered as such.

FOOTNOTE:

76 Ordinance #249 - 11/9/78
564 Ordinance #564 – 11/03/2005

Article XV. CERTIFICATES OF OCCUPANCY

Section 1501. Certificates of Occupancy for a Building:

No premises or building shall be occupied except after issuance of a Certificate of Occupancy. The application for a Building Permit shall constitute the application for a Certificate of Occupancy.

No Certificate of Occupancy shall be issued until all onsite and offsite construction and improvements have been inspected and approved by the Chief Building Inspector or Town Engineer, as the case may be, except that a temporary Certificate of Occupancy may be issued for any model home in a subdivision provided the same shall not allow occupancy as a dwelling; and except that the Town Manager may issue a temporary Certificate of Occupancy for a period not exceeding three months on such conditions as will adequately protect against the failure to complete all onsite and offsite construction improvements; and except that a Certificate of Occupancy may be issued by the Town Manager for a period not exceeding one year where the only work to be performed is that of alteration of an existing building.

Section 1502. Certificate of Occupancy for Land:

Certificate of Occupancy for the use of vacant land or the change in the character of the use of land as herein provided, shall be applied for before any such land shall be occupied or used, and a Certificate of Occupancy shall be issued within three (3) days after the application has been made, provided such use is in conformity with the provisions of these regulations.

Section 1503.

Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Chief Building Inspector and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for a Certificate of Occupancy.

Article XVI. HOME OCCUPATION [566]

Section 1601. Purpose
The purpose of the home occupation provision is to restrict business activity to home occupations which are compatible with the residential character of the neighborhood.

Section 1602. General
Home occupations shall be permitted in all residential districts subject to the regulations for home occupations set forth in this article.

Section 1603. Regulations for home occupations

1. A business license from the town shall first be obtained, as per section 4-3-1 license required, of the town code;

2. A home occupation shall be conducted only in fully enclosed structures;

3. A home occupation shall clearly be an accessory use to the existing residential use and not change the residential character of the site and/or neighborhood.

4. renting or use of residential properties as a commercial venue for weddings, luncheons, dinners, auctions, sales or similar events, is prohibited;

5. A home occupation may have a name plate affixed to the house of not more than 144 square inches. No other exterior sign or display shall be allowed;

6. No goods shall be sold and delivered to the customer on the premises except those prepared on the premises;

7. All parking associated with the home occupation shall be on site;

8. Hours of operation shall be limited to no earlier than 7am and no later than 10pm for activity which is visible or audible off the property;

9. No storage of materials shall be visible from off the property;

10. Emission of odor, dust, vibration, smoke, heat, or pollutants beyond any boundary of the lot on which the use is conducted, or at a level exceeding that of ambient conditions, is prohibited; and

11. The residential site shall not be used as a dispatch area to centrally manage a business which entails employees reporting to the site to receive work assignments, equipment, or materials.

FOOTNOTE:
564 Boundaries of Districts, was repealed by Ordinance Number 564, and moved to Article III, Section 303
566 Ordinance #566 – 01/12/2006

Article XVII. ASSISTED LIVING HOME [564] [567]

Section 1701. Assisted Living Home, subject to the following provisions:

A. Distribution of Uses. No assisted living home shall be located on a lot within one thousand three hundred and twenty (1,320) feet, measured by a straight line in any direction, from the lot line of another assisted living home located within the Town of Paradise Valley or any other adjacent jurisdiction.

B. Occupancy. The number of residents at such home shall be limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10), not including staff.

C. Licensure. Such home shall be licensed or certified by the State of Arizona, and satisfactory evidence thereof shall be on file with the Town. In the event that the State of Arizona revokes or terminates the license or certification to operate such a home, the person operating the home shall immediately cease operations and inform the Town of such revocation or termination.

D. Administrative Review. Such home shall be reviewed and approved by the Planning Department Director, or designee, for building code and land use compliance prior to the use commencing.

E. Code compliance. Such home shall comply with all applicable Town codes, including building codes, fire safety regulations, zoning and subdivision codes.

F. Compatibility. Such home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.

G. Threat to Community. Such home shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

H. All parking by staff associated with such home shall be on site.

FOOTNOTE:

564 Ordinance #564 – 11/03/2005**(**Interpretation, Purpose and Conflict, was repealed by Ordinance Number 564, and moved to Article I, Section 103)

567 Ordinance #567 – 11/17/2005

Article XVIII. REPEALED [564]

Note: This Article, Amendments, was repealed by Ordinance Number 564, and moved to Sections 306 through 310 of Article III, Districts, Boundaries, and Amendments.

Article XIX. REPEALED [564]

Note: This Article, Violation and Penalty, was repealed by Ordinance Number 564, and moved to Article XIV, Violation and Penalty.

Article XX. REPEAL, VOID PARTS, SAVING CLAUSE, EFFECTIVE DATE

Section 2001.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 2002.

The invalidity of any section of the Ordinance shall not affect the validity of the remainder of said section or the remainder of this Ordinance.

Section 2003.

This Ordinance shall be in full force and effect from and after its passage, approval and publications, as required by law.

Section 2004.

The repeal of the Ordinances or parts thereof specified in Section 2001 of this article shall not (1) affect suits pending or rights existing immediately prior to the effective date of this Ordinance; (2) impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any such repealed ordinance or amendment thereto; or, (3) affect or impair the validity of any bond or other obligation issued or sold in constituting a valid obligation of the issuing authority immediately prior to the effective date of this Ordinance.

Article XXI. REPEALED [564]

Note: This Article, Cluster Plans, was repealed by Ordinance Number 564, and moved to Article IX, Cluster Plans.

Article XXII. HILLSIDE DEVELOPMENT REGULATIONS [110 112 181 193 194 409 425 533 558 580]

Section 2200. INTRODUCTION

As valuable scenic resources, Camelback Mountain, Mummy Mountain and the Phoenix Mountains provide a permanent visual presence that exemplify what is unique about Paradise Valley. They define the location and character of the Town, shape our sense of place and contribute to the Town's identity. These land forms, their foothills, and other areas over a 10% slope, offer a desirable setting visible to the entire metropolitan area and an intrinsic aesthetic value to the Town; therefore they require unique standards resulting from the characteristics of hillside terrain.

Section 2201. PURPOSE

This article exists to establish provisions to: a) regulate the intensity of development; b) preserve and protect the hillside environment; c) provide for the safety and welfare of the Town and its residents; and d) establish rules and procedures for review by the Hillside Building Committee of hillside development, building and construction plans through the implementation of the following:

1. Require building massing to adapt to the natural hillside topography thereby reducing the scarring effects of roads, drives, building pads and cut and fill slopes.

2. Encourage all improvements to be designed and constructed in a manner that minimizes the impact of development from viewpoints on the valley floor and adjacent slopes.

3. Prevent unnecessary grading or stripping of vegetation, preserve drainage patterns, protect the public from natural hazards of storm water runoff and erosion, and require re-vegetation in order to maintain the natural landscape environment.

4. Preserve visual open space, unique natural features, wildlife habitats and retain the integrity and natural states of the identified dominant peaks and ridges.

5. Provide development and construction practices and methods to ensure greater fire protection in hillside development areas.

6. Require limited and efficient use of exterior lighting to maintain minimal night-time lighting levels and preservation of the dark sky.

This Article endeavors to enhance design quality so that the resulting development maintains the essential natural characteristic and context of the hillside consistent with the goals and policies of the Town's General Plan.

<u>Section 2202</u>. IMPLEMENTATION

The provisions of this Article shall apply to all land within a Hillside Development Area as denoted on **FIGURE 2 – HILLSIDE DEVELOPMENT AREA** and to all lands where the natural terrain under the building pad has a slope of ten percent (10%) or greater (see example below), whether shown in Figure 2 or not. However, a 10% or greater slope, in an area not denoted on Figure 2, created by a natural wash on land that would otherwise not be classified as hillside land, shall be exempt from the hillside regulations. Hillside lands are also subject to special provisions relating to lot split and subdivision development as set forth in the subdivision code. If there is a conflict between the Hillside Development provisions and another section of this Ordinance or the Town Code, these provisions shall prevail.

FIGURE 1 –10% SLOPE

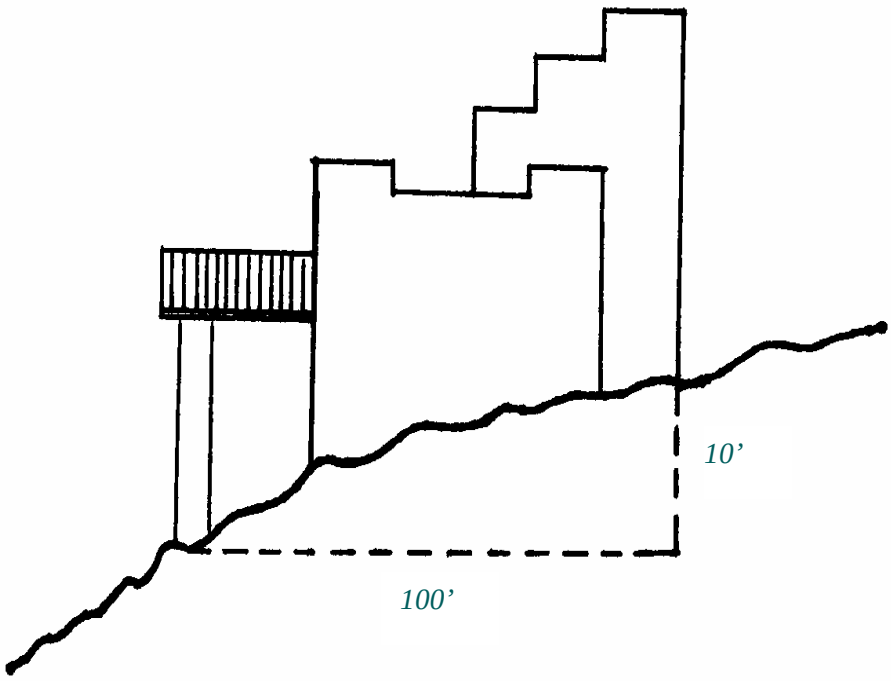


FIGURE 2 – HILLSIDE DEVELOPMENT AREA

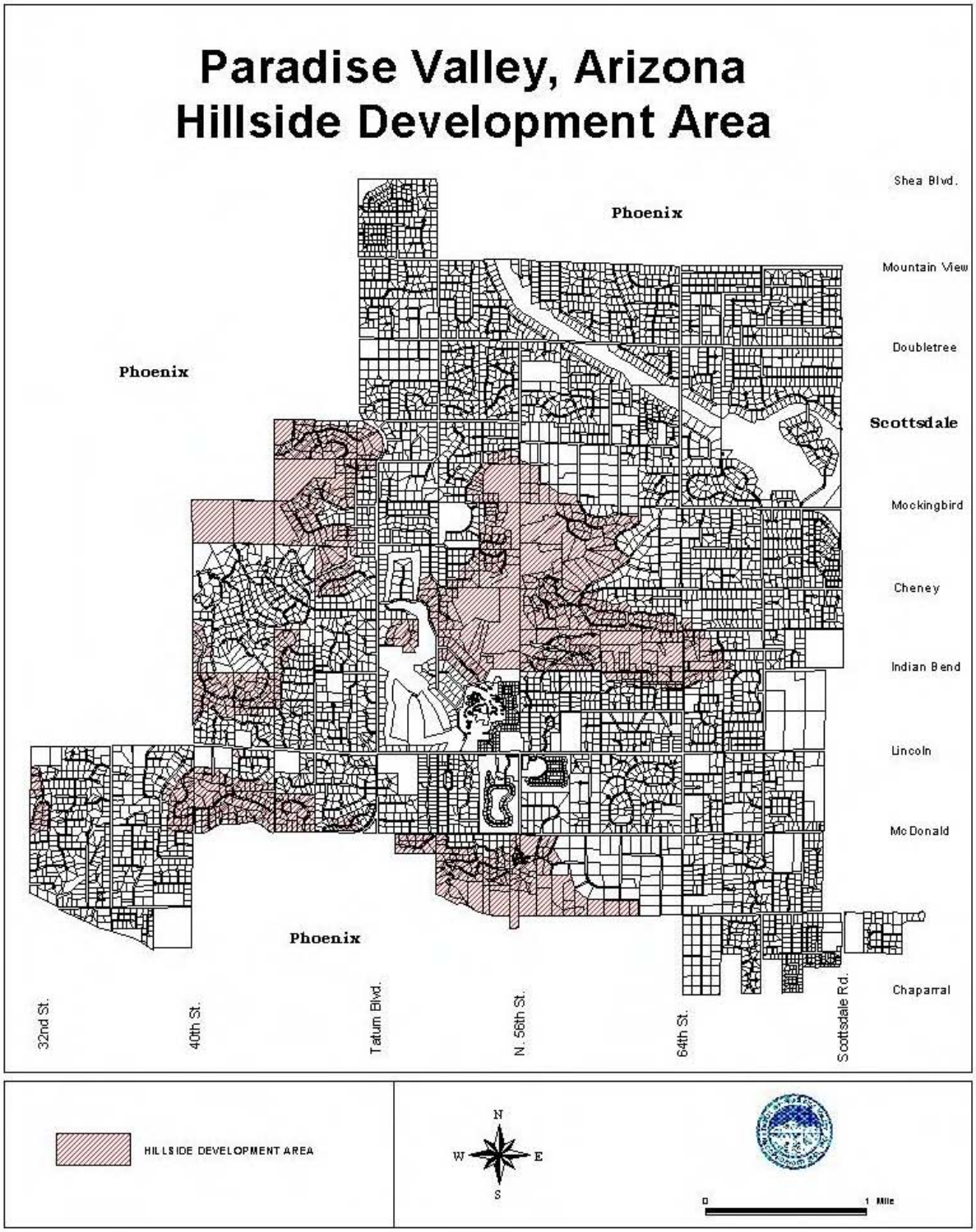
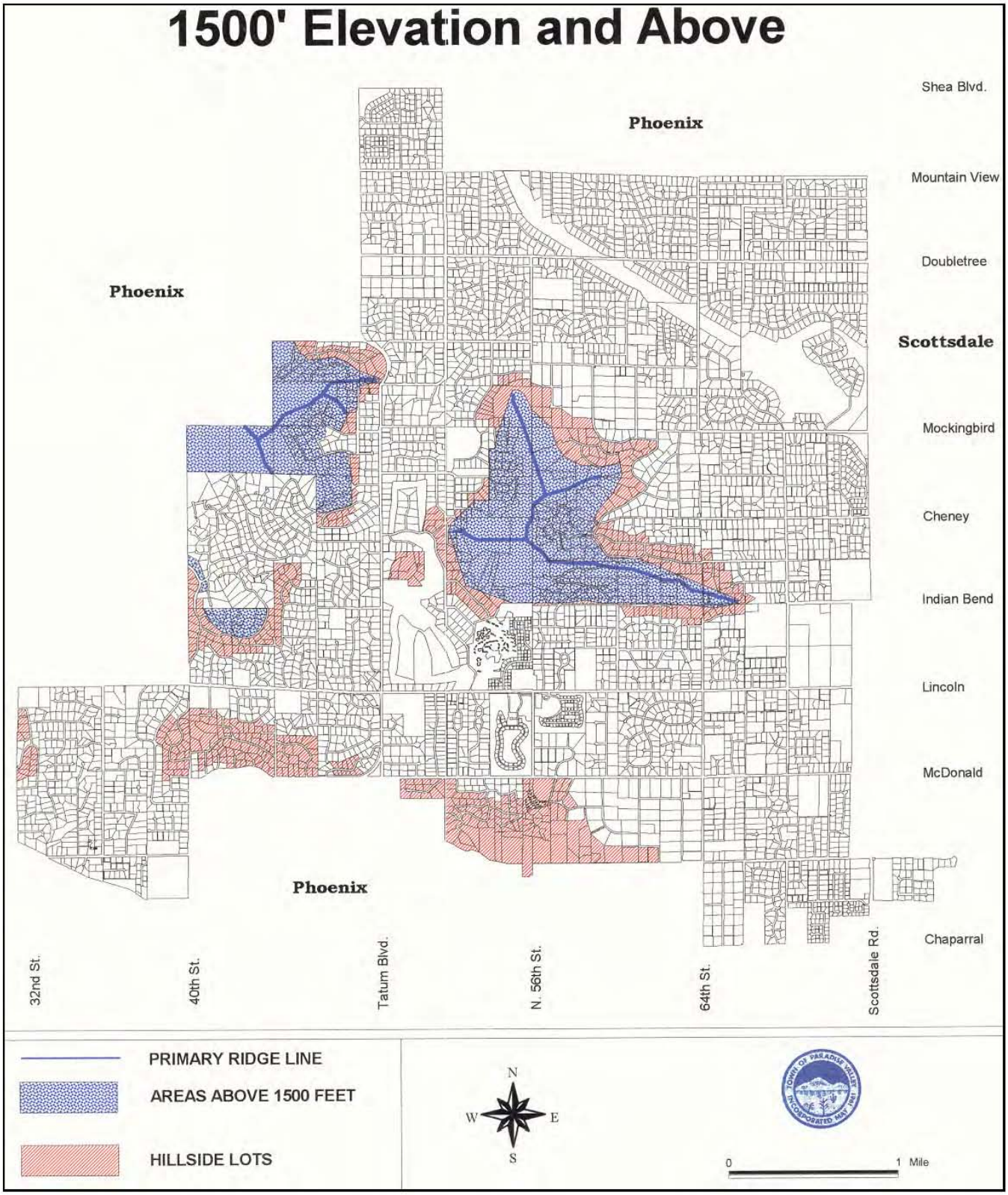


FIGURE 3 – PRIMARY RIDGE LINE DESIGNATION



Section 2203 **HILLSIDE DEFINITIONS.** Where definitions are not defined in this section, the definitions in Article II shall control. For purposes of this Article, the terms contained in the Article shall have the following meanings:

Acre - 43,560 square feet as measured on the horizontal plane.

Alter the Mountain Top Ridge Line –Any Development on the Primary Ridge Line shown on **FIGURE 3** that disturbs or alters the natural mountain top profile.

Applicant – The person or entity desiring to improve or otherwise engage in any Development of property in the Hillside Development Area, including the owner of the property and any agents acting on behalf of the owner.

Building Pad – The total area under roof of all structures proposed for the property.

Building Pad Slope - The percent of slope measured at right angles to the natural contours along a line passing through the center of the proposed building and terminating at the ends of the disturbed area limits of the building site.

Building Site - That portion of the lot or parcel, excluding driveways, upon which a building and appurtenances are to be placed or are already existing, including but not limited to; adequate areas for parking, turnaround areas not separated by driveways, sewage disposal, clearance, and proper drainage which conforms to the requirements of the provisions of this Article and the Uniform Building Code.

Code - The Code of Ordinances of the Town of Paradise Valley, Arizona in effect as of the date of these Regulations and as may be amended.

Commission - The Planning and Zoning Commission of the Town of Paradise Valley.

Committee - The Hillside Building Committee of the Town of Paradise Valley.

Conservation - Retention or acquisition of land for the purpose of preservation in a natural state.

Conservation Easement - A permanent open space easement granted to the Town or to a public land trust to prohibit development of property including roads and utilities and to retain and preserve the land for the scenic enjoyment of the general public.

Council - The Town Council of the Town of Paradise Valley.

Cut - The land surface which is shaped through the removal of soil, rock, or other materials.

Development - Any grading, excavation or construction.
Disturbed Area - That area of natural ground excluding the footprint of the residence that has been or is proposed to be altered through grading, cut and fill, removal of natural vegetation, placement of material, trenching, or by any means that causes a change in the undisturbed natural surface of the land or natural vegetation.

Fill - The deposit of soil, rock, or other materials placed by man.

Finished Grade - The final grade and elevation of the ground surface after grading is completed.

Footprint - That area of the residence measured from the outside walls (excluding any overhanging portions) which includes indoor uses such as attached garage, carports, utility room, laundry, etc., but excludes outdoor uses such as patios and breezeways.

Grading - Any excavating, or filling or combination thereof, including the conditions resulting from any excavation or fill.

Hillside Development Area - Those areas marked in **FIGURE 2** and to all lands where the natural terrain under the building pad has a slope of ten percent (10%) or greater, whether shown in FIGURE 2 or not. However, a 10% or greater slope, in an area not denoted on Figure 2, created by a natural wash on land that otherwise would not be classified as hillside land shall be exempt from the hillside regulations.

Hillside Wash – Any creek, stream, wash, arroyo, channel or other body of water having historical banks and with a flow rate equal to or greater than 2 cubic feet per second based on a 100-year storm event.

Lot - A parcel of land occupied or intended for occupancy by one main building, together with any accessory buildings including the open spaces required of the Hillside Regulations and having adequate frontage on a public or private street.

Natural Features, Significant - Include washes, Significant Vegetation, and Significant Rock Outcroppings provided these features are in their undisturbed natural state.

Natural Grade - The undisturbed natural surface of the land, including washes.

Primary Ridge Line - That line running from the highest point along the mountain top downward along a divide to the 1500 foot mean sea level contour line as shown on **FIGURE 3**.

Retaining Wall - A wall or terraced combination of walls, including negative edge pools, used solely to retain more than eighteen inches (18") of material or water but not to support or to provide a foundation or wall for a building.

Raw Spill Slope – An area created by causing or allowing earth or other material to fall, flow or run down the slope, thereby creating a change in the natural appearance and topography.

Rock Outcroppings, Significant - Any surface rock or group formation of rocks covering an area of 200 square feet or larger or any surface rock formation with a height greater than ten feet from the surrounding grade.

Sheet Flow – A shallow and wide overland flow of water.

Subterranean - That space which lies totally underground, and which cannot be seen from outside the exterior perimeter of the structure on the same horizontal plane which originates at that point where the building intersects the ground.

Town - The Town of Paradise Valley.

Vegetation, Significant - A single tree or cactus having a height greater than 15 feet or three or more trees or cacti, located within a radius of 15 feet, each having a height greater than 12 feet.

View Fencing (View Fence) – Fencing that is constructed in such a manner as to achieve 80% overall openness.

Section 2204 HILLSIDE BUILDING COMMITTEE.

A. The Hillside Building Committee as established in Chapter 2 of the Town Code shall review all new applications submitted to the Town for new home Development and related construction within a Hillside Development Area. No building permit shall be issued for such application until approved by the Committee and then such issuance shall only be in accordance with the plans and specifications approved by the Committee.

B. The Hillside Building Committee may review applications for additions to existing structures in accordance with Section 2207 (VII)(A) of this Ordinance.

C. The Hillside Building Committee may review applications for accessory construction (e.g. fences, retaining walls, pools etc.) if the Town Engineer in consultation with a member of the Hillside Committee determines that the proposed construction: (i) creates a significant visual impact; or (ii) proposes an additional disturbance area.

D. The Hillside Building Committee approval process is a two stages process:

1. A Conceptual Plan Review Meeting.
2. A Formal Hillside Building Committee Meeting.

Section 2205 REVIEW AND DEVELOPMENT PROCESS. The Hillside Building Committee shall review Development plans, as outlined in Section 2204, prior to the Community Development Department review and the issuance of a building, grading or other Development permit. The review and development process consists of up to four stages, depending upon the nature and scope of the proposed Development:

I. Concept Plan Review Meeting: The Applicant, along with their architect and engineer shall submit a completed application and the required fees, to the Town Engineer, at the time they request a concept plan review meeting (pre-hillside meeting) with the Hillside Building Committee. The purpose of this meeting is to discuss, review, and give suggestions and guidance to the Applicant regarding the proposed development including: the location of the building pad and accessory uses; how these relate to Significant Natural Features; the preservation of existing vegetation; grading concepts and their adaptation to the natural hillside topography; and how the requirements

pursuant to these hillside regulations and purpose statement will guide the proposed Development.

II. Formal Hillside Committee Review Meeting: At this stage, in addition to those materials previously submitted, the Applicant shall submit all materials outlined in Section 2206 (II) to the Town Engineer. The Hillside Building Committee shall then review the submittal for compliance with the goals, purposes, and specific criteria of this ordinance and either approve, approve with stipulations or changes, or deny the submittal.

III. Building Permit Review: The final construction plans submitted to the Town Community Development Department for review and approval shall comply with the final approval of the Hillside Building Committee. Any variation from Chapter 70 of the Uniform Building Code must be accompanied by a soils engineering report from a testing laboratory or geological engineer approved by the Town Engineer. No site preparation or construction shall commence until the Town has issued a grading or building permit.

A. The plans for any Development in the Hillside Development Area, must be approved by the Town and appropriate legal permit(s) issued before any clearing and grubbing, grading, bulldozing, blasting, or movement of earth is commenced. If Development does not commence within twelve months after securing such approval from the Hillside Building Committee, no construction shall occur until such plans have been resubmitted and re-approved or if such is appropriate based upon circumstances outside the control of the Applicant, a one-time six (6) month extension may be granted by the Town Engineer.

B. When a grading permit is required under provisions of these Regulations, the Applicant shall first provide the Town with a form of financial assurance, acceptable to the Town Attorney, which places the Town in an assured position to do or to contract to be done the necessary work to cover, restore and landscape exposed fills and cuts to blend with the surrounding natural terrain. The minimum acceptable assurance shall be in a dollar amount equal to the number of total cubic yards of cut and fill multiplied by 25, or in such greater amount as deemed appropriate by the Town. In the event that construction has not commenced within six months from the date of issuance of the grading or building permit, the plan approval and permit shall expire. Twelve months after the date of the last inspection, such assurance shall be forfeited to the Town in such amount necessary for the purpose of restoration of the construction site to its original condition and all authorized permits shall be revoked and become void.

IV. Issuance of Certificate of Occupancy: Prior to the issuance of any Certificate of Occupancy for any building constructed pursuant to these Regulations, the applicant shall obtain from the Town Engineer and the Town Building Inspector certification of compliance with this Article.

Section 2206 DOCUMENTARY REQUIREMENTS AND CERTIFICATION [558 580]

I. CONCEPT PLAN REVIEW MEETING. The applicant shall submit the following:

A. Notification Letters. At least three (3) weeks prior to the scheduled conceptual Hillside Building Committee meeting the applicant shall submit to the Town a neighbor notification letter complete with address labels, with appropriate postage, for all property owners within 500 feet of the perimeter of the subject property. This notification letter shall include the following information; a) type of proposed development (addition, remodel, new construction), b) the scheduled hearing date and time, c) that the letter is only as a courtesy notification and that their attendance at the meeting is not required. d) the purpose of the meeting, and e) the goals of the meeting.

B. Seven (7) copies of a preliminary site plan that includes, but is not limited to, the building footprint, driveway, swimming pool, and accessory use locations along with topographic information for the Lot.

C. A 3-dimensional representation of the general massing of all proposed structures (e.g. a mass model, a 3-D rendering or a computer generated model in relation to topography – not a detail model).

D. A recent aerial photo of the site (less than 3 years old), with topography, lot lines, and the building footprint superimposed on it, and identification of significant natural features as well as adjacent lots and structures within 100 feet of the perimeter of the subject property (minimum 24”X 36”).

E. Preliminary calculations on land disturbance and cut and fill methods.

II. FORMAL HILLSIDE COMMITTEE REVIEW MEETING. All plans submitted to the Town for review shall be stamped and sealed by the appropriate registered or licensed professional (e.g. civil engineer, land surveyor, geologist, architect). All plans shall be reviewed by the Hillside Building Committee. In addition, once the plans have been approved by the Committee the applicant shall submit final plans, in accordance with the Hillside Building Committee’s approved plans, to the Community Development Department for building permits. Plan review fees for each such submittal shall be paid at the time of the submittal of such plans in the amount specified in the Town of Paradise Valley fee schedule, as such may be amended from time to time. The following plans and material shall be required:

A. Notification Letters. At least three (3) weeks prior to the scheduled Formal Hillside Building Committee Meeting the applicant shall submit to the Town a neighbor notification letter complete with address labels, with appropriate postage, for all property owners within 500 feet of the perimeter of the subject property. This notification letter shall include the following information; a) type of proposed development (addition, remodel, new construction), b) the scheduled hearing date and time, c) that the letter is only as a courtesy notification and that

their attendance at the meeting is not required, d) the purpose of the meeting, and e) the goals of the meeting.

B. Seismic Refraction Survey. All proposed cuts shall require a seismic refraction survey, performed by a registered geologist. If the geological report or seismic refraction survey indicates fractured or unstable rock, then the proposed location of the building site (or appurtenances) shall be changed to a stable location unless the unstable condition(s) can be mitigated by an engineered design that creates a stable location and complies with the provisions of Article XXII and other Articles of this Zoning Ordinance. The geological report and results of the seismic refraction survey shall be submitted to the Town.

C. A detailed site plan (minimum 24" X 36"), sealed by a registered engineer or land surveyor, with topographic information for the entire lot including under the footprint of the building. This site plan shall depict: the limits of disturbance; the building envelope including the building footprint, driveway(s), swimming pools, mechanical equipment, sanitary sewer or septic systems; location, size and type of mechanical screen walls and pool barrier fencing; length and height of retaining walls; all accessory buildings; and significant natural features.

D. Photographs of the site looking out from the property in all directions and of the property from several different views.

F. A detailed grading and drainage plan (minimum 24" X 36"), sealed by a registered engineer, with topographic information for the entire lot. This plan shall show proposed finished contours at 1 foot intervals within a perimeter 20 feet from the building, a maximum 5 foot intervals elsewhere, and shall show existing and proposed contours**.** This plan shall show limits of excavation and fill; slope of cut and fill; total cubic yards of excavation and fill; method of concealment for each fill or exposed cut; and the calculations for amount of disturbance for the total development. This plan shall show original drainage pattern (natural course) and proposed changes. If any structures or culverts are involved, it will be necessary to include an estimate of peak flows for a 100 year frequency storm to establish drainage facility cross-sections. Sheet flow diverted from its original drainage pattern shall be returned to its natural course before leaving the property.

G. A detailed landscape plan that includes, but is not limited to the following: the building envelope; building footprint; all accessory structures and locations; significant natural features; plant materials list with type, quantity and size; plant location; location and species of salvaged plant materials; and methods for revegetation of all disturbed areas. Native desert vegetation shall be identified and preserved to the maximum extent reasonably possible in the landscape plan.

H. Cross sections at a scale equal to or greater than the site plan scale at three or more locations perpendicular to the contours through the building site shall be clearly shown on the topographic map.

I. A detailed outdoor lighting plan indicating the proposed luminaire locations on the building and on the site (if applicable); the type of illuminating devices including; the manufacture's catalog cut sheets and drawings; and photometrics that describe the illuminating devices; the fixtures, lamps, lumens and wattages, supports, the aiming angles, and other devices.

J. A Study Model: Including all proposed improvements, at not less than (1/16) inch = (1) foot showing the relationship of all proposed improvements to the contours of the lot. The model must accurately represent the massing of all structures and roof forms as well as the following:

1. All windows, exterior doors and skylights.

2. The model shall include enough of the property to visually relate the proposed structure and accessory uses to the natural terrain.

3. The Applicant's name, architect's name, builder's name, lot number, scale, and north arrow.

K. An accurate oblique view architectural rendering in color or a computer generated 3-dimensional picture shall be submitted showing the appearance of the building, lot, landscaping, and skyline. The rendering or computer generated picture, and the model may remain in the custody of the Town Engineer until a Certificate of Occupancy is issued or until released by the Town Engineer.

L. Exterior Material Samples: Include samples of all colors, materials, and material specifications mounted on rigid board with all materials identified with the manufacture's name, color, and LRV number where applicable. Material samples or color specifications are required for all exterior materials and finishes including but not limited to:

- Roof
- Metal
- Hardscape
- Stone
- View fencing
- Wall color and texture (8½" x 11" sample size)
- Masonry
- Glass
- Driveway and terrace paving
- Garage doors

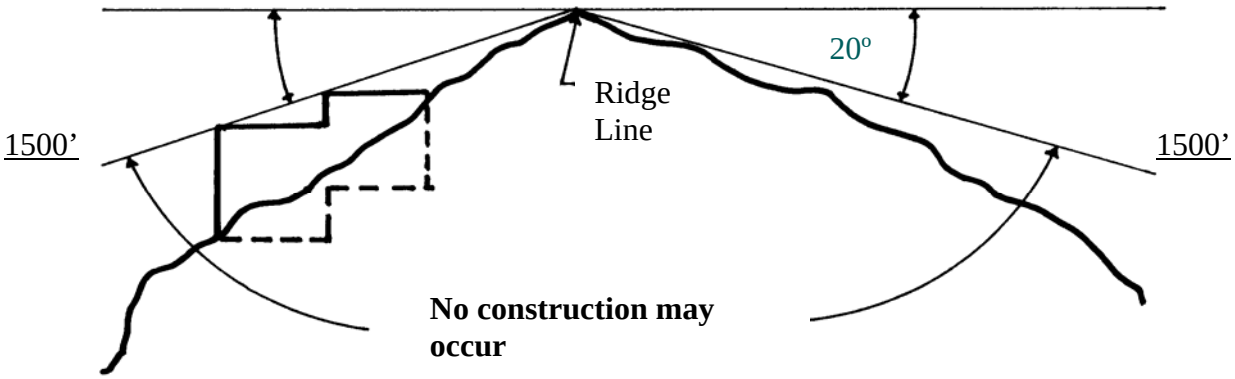
M. The Applicant shall install a marker to designate the location of the house at the major building corners. The markers should be at least 3 feet in height with a colored ribbon at the top of the marker. The applicant shall install markers at least two (2) weeks prior to the Formal Hillside Committee meeting and remove immediately following the formal committee meeting.

Section 2207 DEVELOPMENT STANDARDS [558]

I. MOUNTAIN PROFILE INVIOLATE

A. At and above an elevation of 1500 feet mean sea level, no Development shall occur which will Alter the Mountain Top Ridge Lines as shown on **FIGURE 3** . A model must be submitted pursuant to Section 2206(II)(J) showing compliance with this paragraph together with complete plans showing the appearance of the mountain top profile, as part of the submittal for the Formal Hillside Committee Review. Further, no structure may extend above a plane that originates on the primary ridge line and angles downward from the primary ridge line by twenty degrees (See **FIGURE 4).**

FIGURE 4 – RIDGE LINE TWENTY DEGREE DELINEATION



II. ARCHITECTURAL STANDARDS.

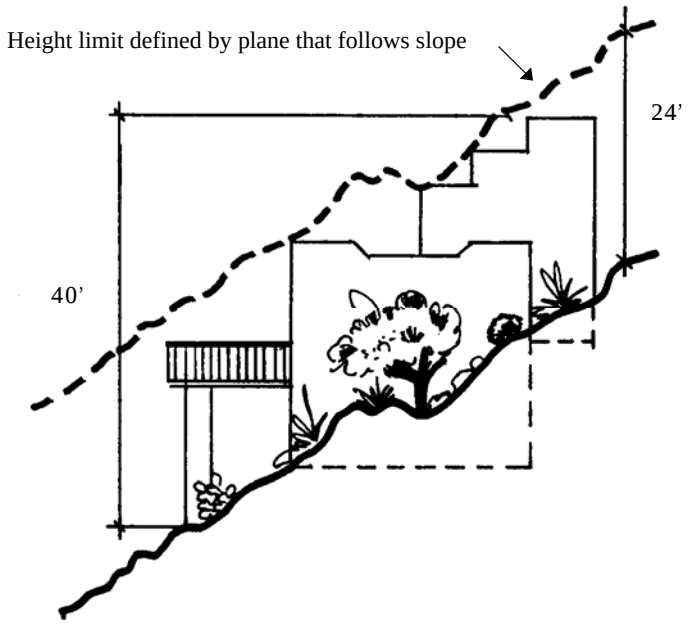
A. For development within the Hillside Development Areas, the height of structures shall be determined by the following four (4) sub-sections and not by the zoning district regulations that apply to lots or parcels outside the Hillside Development Area.

1. The height of a building or structure is limited to a twenty-four (24) foot imaginary plane that parallels the existing pre-development natural grade, as measured vertically from any point under the building (see **FIGURE 5**). The subterranean portion of the structure is not included in the total height calculation provided that at least half (½) of the volume of the subterranean portion of the structure is below natural grade.

2. In the case where the natural grade has been cut and is not restored back against the building, no exposed face in any vertical plane shall exceed a twenty-four (24') foot height measured from the lowest, finished grade.

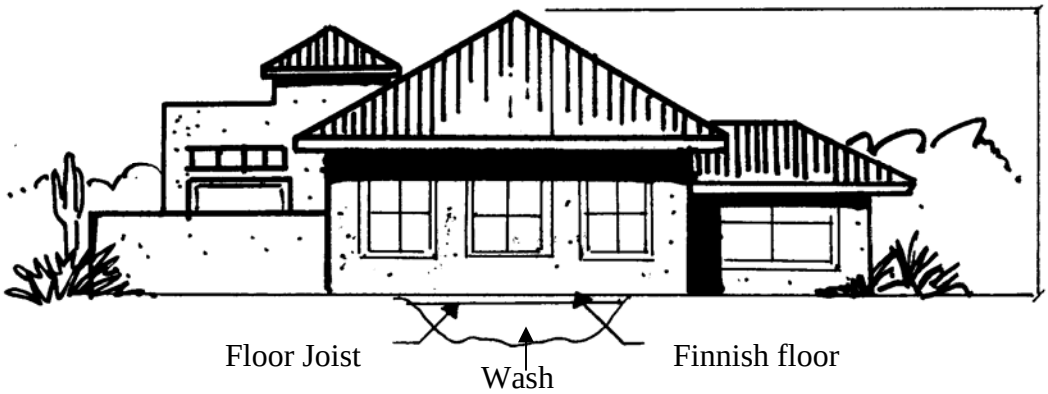
3. The maximum overall height of the building or structure, including chimneys and accessory buildings, shall not exceed forty (40) feet from the highest point of the building to natural grade at the lowest point adjacent to the building structure or column (see **FIGURE 5**).

FIGURE 5 – BUILDING HEIGHT IN HILLSIDE



4. Where a building spans a wash the maximum height of twenty-four (24') feet shall be measured vertically from that point where the visible structure and the side of the wash intersect. See-**FIGURE 6.**

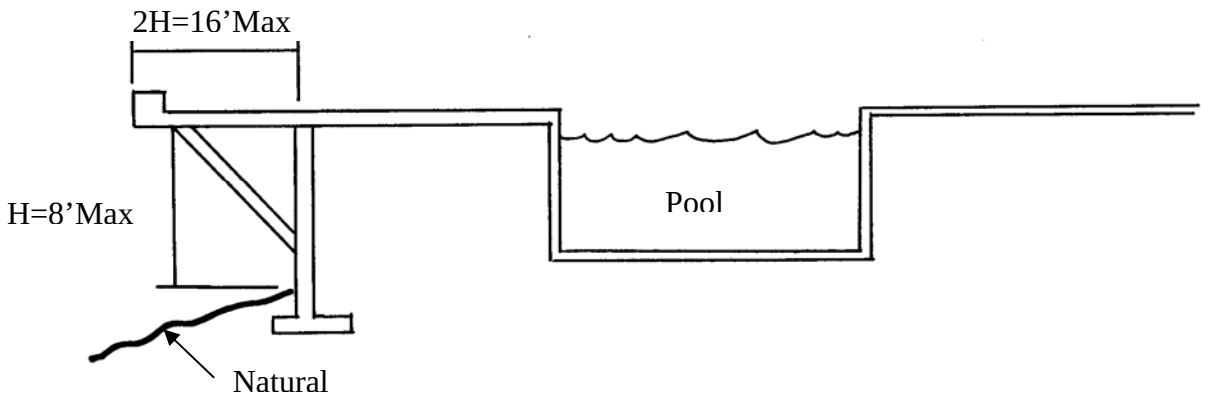
FIGURE 6 – BUILDING HEIGHT WITH A WASH CROSS SECTION



B. Structures employing the use of a cantilever may extend the cantilever a horizontal distance twice the height of the support. The maximum vertical height of the support shall be eight (8) feet. One-half the area underneath the

cantilevered element shall be calculated as disturbed area. (See **FIGURE 7** below).

FIGURE 7 - HEIGHT FOR A CANTILEVERED ELEMENT



C. All of the setback requirements of the underlying zoning district shall apply in the Hillside Development Area (see Article X, Section 1001, Table 1001).

D. Materials used for exterior surfaces such as structures, walls, roofs and fences shall blend with the surrounding natural setting and avoid high contrasts. There shall be no paint or material ~~or~~ colors used which have a LRV (Light Reflecting Value) greater than thirty-eight (38) percent. Limited use of contrasting accent colors (in excess of 38% LRV) for small elements such as doors and window mullions may be allowed upon explicit approval of the Hillside Building Committee.

E. All electrical service equipment and subpanels and all mechanical equipment including, but not limited to, air conditioning, evaporative cooling, and antennas greater than 24" in diameter shall not be allowed on the roof. Solar panels may be allowed if they are integrated into the building design and hidden from view when viewed from the same or a lower elevation and approved by the Hillside Building Committee. All mechanical, electrical, and natural gas equipment along with pool equipment and antennas shall be screened in such a manner that they are not visible from outside the property when viewed from the same or a lower elevation.

F. Mirror surfaces or reflective treatment that changes or enhances ordinary glass into a mirror surface is prohibited. Permanently reflective metallic surfaces shall be prohibited.

G. The building design should minimize the reflection of daytime glare from glass and the emission of light from within the structure during evening hours.

H. Shake shingle roofs are prohibited. Existing shake shingle roofs on residential structures may be allowed only until such time that it is determined, during the

course of normal maintenance, that a new roof (re-roof) is necessary and/or the extent of maintenance or repair work requires a building permit from the Town.

III. LAND DISTURBANCE STANDARDS.

A. The limits of construction and proposed disturbed areas shall be clearly staked in the field, with visible roping, prior to and during construction and shall conform to the approved individual site analysis plan. No disturbance shall be permitted beyond the areas designated as the limits of disturbance both during and after construction. If land disturbance in violation of this ordinance occurs, the illegally-disturbed area(s) shall be restored to its natural grade and revegetated with plant material of the same species, size, and at a similar density present prior to the illegal disturbance.

B. All disturbed land that is not otherwise used for approved development shall be restored to the natural grade and revegetated with plant material as listed in the Town of Paradise Valley landscape guidelines or pursuant to a landscape plan approved by the Town.

C. All buildings, structures, roads, and drives shall, to the fullest extent practicable, follow and utilize the natural contours of the land to minimize disturbance. The maximum height of any cut used to establish a building site shall not exceed 30 feet.

D. All surplus excavated material shall be removed from the lot prior to the issuance of the Certificate of Occupancy.

E. After final grading, not more than 5% of the lot shall be steeper than the natural grade of the lot.

F. The total disturbed area shall not exceed the allowed percentage of the lot area as shown in **TABLE 1** below.

G. Grading within street rights-of-way or tracts of land for private roads is exempt from the disturbance calculations. Any roadway grading beyond the limits of the dedicated rights-of-way or private road tracts shall be placed in slope easements and included within the calculations for land disturbance limitations.

H. A legally pre-existing disturbed area may be excluded from disturbed area calculations when the applicant has committed to comply with the following restoration conditions:

1. the restored area shall follow original natural contours.

2. the restoration shall be treated with an aging agent approved by the Town Engineer and planted with indigenous desert material.

3. the restoration process shall be sealed by a landscape architect and/or a registered engineer or architect.

I. The livable portion of the main residence including garage and livable portions of detached accessory buildings shall not be counted as disturbed area provided that all buildings are within the required setbacks and do not exceed the building height limitations as specified in Section 2207 (II) (A) of this Ordinance.

TABLE 1 – Slope Category / Lot Disturbance Limitations

Bldg. Site Slope	% Allowable Land Disturbance	Bldg. Site Slope	% Allowable Land Disturbance	Bldg. Site Slope	% Allowable Land Disturbance
10%	60.0	41%	9.90	72%	6.80
11%	53.66	42%	9.80	73%	6.70
12%	47.94	43%	9.70	74%	6.60
13%	42.81	44%	9.60	75%	6.50
14%	38.21	45%	9.50	76%	6.40
15%	34.11	46%	9.40	77%	6.30
16%	30.48	47%	9.30	78%	6.20
17%	27.27	48%	9.20	79%	6.10
18%	24.46	49%	9.10	80%	6.00
19%	22.01	50%	9.00	81%	5.90
20%	19.88	51%	8.90	82%	5.80
21%	18.04	52%	8.80	83%	5.70
22%	16.48	53%	8.70	84%	5.60
23%	15.16	54%	8.60	85%	5.50
24%	14.05	55%	8.50	86%	5.40
25%	13.13	56%	8.40	87%	5.30
26%	12.37	57%	8.30	88%	5.20
27%	11.76	58%	8.20	89%	5.10
28%	11.28	59%	8.10	90%	5.00
29%	10.90	60%	8.00	91%	4.90
30%	10.62	61%	7.90	92%	4.80
31%	10.41	62%	7.80	93%	4.70
32%	10.25	63%	7.70	94%	4.60
33%	10.15	64%	7.60	95%	4.50
34%	10.08	65%	7.50	96%	4.40
35%	10.04	66%	7.40	97%	4.30
36%	10.02	67%	7.30	98%	4.20
37%	10.01	68%	7.20	99%	4.10
38%	10.00	69%	7.10	100%	4.00
39%	10.00	70%	7.00		
40%	10.00	71%	6.90		

IV. DRIVEWAYS [558]

A. Driveways that serve a new single residence shall be: (1) a minimum of 12 feet wide; (2) surfaced with paving brick, textured integral colored concrete (i.e. stamped or exposed aggregate etc.) or other similar decorative paving materials specifically colored to blend with the existing natural color of the site; (3) designed with an overall grade that does not exceed 30%; (4) constructed in full conformance with the Fire Code; and (5) developed only as specifically approved by the Hillside Building Committee. The driveway shall be included in the calculations for land disturbance limitations at a ratio of 50% of the total disturbed area of the driveway, if the driveway is constructed at a grade plus or minus 6 inches from natural grade. Driveways with cut and fill in excess of 6 inches from natural grade shall be charged with 75% of the total disturbed area of driveway surface.

B. Driveways that serve an existing home undergoing renovation, remodel, or an addition shall be included in the calculations for land disturbance limitations subject to the following conditions:

1. Existing driveways reconstructed with paving bricks, textured integral colored concrete (e.g. stamped or exposed aggregate etc.) or other similar decorative paving materials, specifically colored to blend with the existing natural color of the site, shall be excluded from the land disturbance calculations.

2. Existing driveways surfaced with paving bricks, textured integral colored concrete (e.g. stamped or exposed aggregate) or other similar decorative paving materials, specifically colored to blend with the existing natural color of the site, shall be excluded from the land disturbance calculations.

3. Existing asphalt or uncolored concrete driveways not reconstructed with paving bricks or textured integral colored concrete (e.g. stamped or exposed aggregate etc.) shall be calculated as disturbed area at a ratio of 150% of the total disturbed area of the driveway.

C. The minimum standard turning radius for a driveway is 40 feet; except that a minimum 25 foot radius may be used provided all structures are protected with an approved fire extinguishing system.

D. Any street or driveway cut greater than 8 feet shall not have a length greater than 100 feet.

E. A twenty (20) foot by thirty (30) foot driveway apron may be required by the Fire Marshall or the Building Official at or near the garage, with no more than a 5% grade, to serve as a staging platform to fight a fire.

F. The maximum height, measured vertically, of any cut used to establish a street or driveway shall not exceed 30 feet.

V. GRADING AND DRAINAGE STANDARDS.

A. There shall be no clearing, grubbing, grading, importing or stockpiling of fill material on, or to, any site prior to approval of such Development by the Hillside Building Committee and approval of a grading plan by the Town Engineer, unless such clearing, grubbing, or grading, is required by the Town for public safety purposes.

B. The maximum depth of fill shall not exceed 8 feet except beneath the footprint of the main residence. All exposed disturbed area fill shall be contained behind retaining walls or covered with a natural rock veneer and treated with an aging agent and landscaped with indigenous plant material.

C. Rock veneered spill slopes may be allowed provided that they are approved by the Hillside Building Committee, and:

1. The vertical height of the spill slope does not exceed the vertical height of the exposed cut with the base of the spill slope engineered for stability and keyed into the mountain or supported by a retaining wall.

2. The spill slope does not exceed a one to one slope.

3. Retaining walls used to limit the height of the spill slope are color treated or veneered to blend in with the surrounding natural colors.

D. Raw spill slopes are prohibited. Any violation will be subject to a stop work order until the spill slope is removed, restored to its natural grade, revegetated and approved by the Town.

E. A hillside wash shall not be diverted, relocated or moved from its present position to another location, however, a hillside wash may be bridged by a structure so long as such structure does not impede the flow of the hillside wash.

F. Earth contiguous to the structure shall contact that structure at an angle approximating that of the natural grade.

VI. WALLS AND FENCES. [558]

A. Curbs less than18 inches above finished grade are not considered walls.

B. No more than 300 total linear feet of wall shall be visible from any point on the property line.

C. Walls that are otherwise permissible in Article XXIV are prohibited in the Hillside Development Area. Retaining walls, pool barriers, walls used to screen mechanical equipment, and tennis/sport court fencing are allowed provided that

they are of minimum lengths and heights, as further specified below, and are approved by the Hillside Building Committee.

1. Retaining Walls:

   a. The maximum length of any continuous retaining wall shall not be more than 100 linear feet. The maximum height of any retaining wall shall not be more than 8 feet. The height of a retaining wall is measured from the low side of natural grade when retaining fill slopes and from finished grade when retaining cut slopes to the top of the wall; whether the top is retaining earth or not.

   b. Retaining walls shall be used for the purpose of containing fill material or for minimizing cut or fill slopes. The retaining wall may only extend six (6) inches above the material it is retaining.

   c. A terraced combination of retaining walls shall be measured as a single retaining wall provided the combined walls are: 1) no more than eight (8) feet total vertical height; 2) terraced with a minimum distance between of four (4) feet and a maximum separation of eight (8) feet; and 3) contain appropriate vegetation between the walls so as to soften the visual impact of the combined walls (see **FIGURE 8**).

   d. When a safety fence, on top of a retaining wall, is required by code it shall be a view fence and shall be painted to blend with surrounding natural colors.

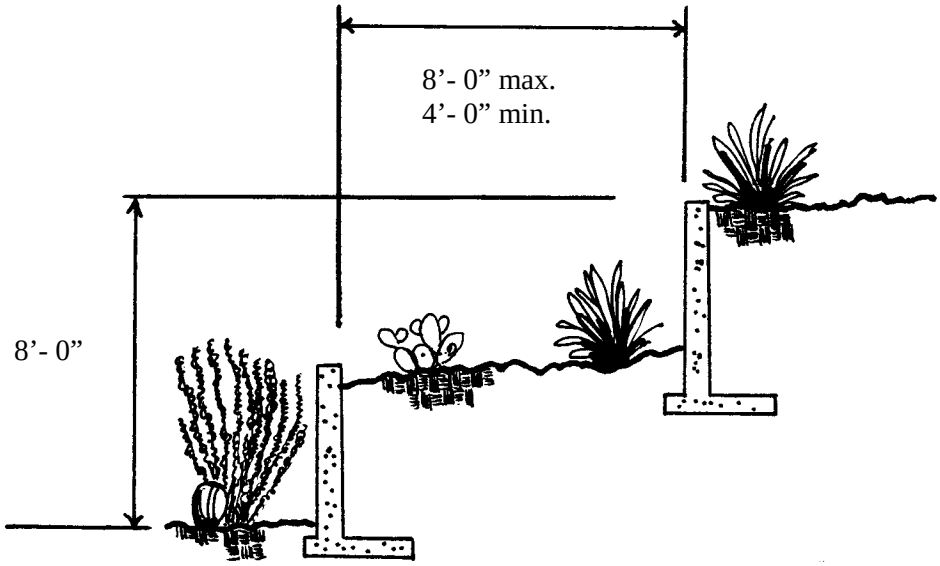
   e. Where retaining walls are provided they shall be color treated, textured, or veneered to blend in with the surrounding natural colors and textures of the native rock and soils at the site.

2. Pool Barriers: Shall be view fencing. Open view fencing is not calculated in the 300 feet maximum allowable wall.

3. Screen Walls: These walls may be solid walls provided they are of minimum height and length needed to screen the mechanical equipment or windows of interior bathroom areas, and shall not exceed six (6) feet in height. Screen walls over 6 feet in height may be allowed, at the discretion of the Hillside Building Committee, to properly screen the mechanical equipment or windows of interior bathroom areas; provided, 1) such walls meet the allowable setbacks and height of an accessory structure, and 2) screening area surrounded by screen walls is calculated as part of the allowable floor area.

4. Tennis/Sport Courts: Fences surrounding a tennis court or sport court shall be: (i) no greater than 10 feet in height as measured from the playing surface, (ii) set within the disturbable area of the Lot, and (iii) colored to blend in with the surrounding area.

FIGURE 8 –TERRACED VERTICAL RETAINING WALLS



VII. ACCESSORY STRUCTURES AND ADDITIONS TO EXISTING STRUCTURES.[558]

A. The Hillside Building Committee may review applications for the proposed accessory structures and additions to existing structures if the Town Engineer in consultation with a member of the Hillside Building Committee determines that the proposed accessory structures or addition: (i) exceeds or increases the building height of the main residence; (ii) increases the existing building footprint by more than 1,000 square feet or more than 50% of the original building square footage; (iii) creates an additional disturbance area; (iv) increases site walls; (v) proposes a significant addition of exterior lighting; or (vi) creates a significant adverse visual impact.

B. The Hillside Building Committee may combine the Concept Plan Review Meeting and the Formal Hillside Committee Review Meeting for applications conforming with the criteria set forth in Subsection VII (A).

C. If no new disturbed area is required and the proposed accessory structure or addition meets all other hillside requirements including allowable disturbed area, a permit for an accessory structure, or an addition to hillside building may be obtained without requirements for, disturbed area calculations or any other specific requirements as designated by the Town Engineer.

D. Any proposed accessory structure or improvements to existing hillside structures which require additional disturbed area shall be accompanied by calculations of prior disturbed area to determine if the entire site is within the allowed limits for hillside construction. When the disturbed area equals that allowed, no further construction involving additional disturbed area will be permitted.

E. Accessory buildings and structures shall not occupy more than one-half of the total ground area of the main building. No accessory building or structure shall exceed the height specified in Table 1001B or elsewhere in this ordinance.

VIII. SEWERS AND UTILITIES.

A. Grading for septic systems, evapotranspiration systems, and alternative systems shall be included in the calculations for land disturbance limitations unless:

1. The disturbed area is brought back to original natural grade contours, treated with an approved aging agent and planted to blend with surrounding natural growth,

2. Special landscape plans for evapotranspiration systems shall be submitted to the Town Engineer. Plans shall show the appropriate vegetation and supplemental irrigation systems approved by the Town Engineer.

B. Grading for utility lines, including water and sewer lines and lateral lines, electric, gas, telephone and cable services, shall be included within the calculations for land disturbance limitations unless:

1. Trenches are placed under a driveway, under paving or in other areas already counted as disturbed, or

2. Trenches and related disturbed areas are restored to appear as original ground, color treated and planted to blend with surrounding natural growth.

IX. FIRE PROTECTION.

A. Washes must be maintained as easements as described in Section 8-7 of the Town Code and other applicable codes to minimize the risk and spread of fire.

B. Grasses known to be highly flammable, such as fountain grass, *Pennisetum setaceum*, and buffel grass, *Pennisetum ciliare* are not allowed in a Hillside Development Area.

Section 2208 OUTDOOR LIGHTING [558]

A. Purpose: The intent of these lighting requirements is to preserve the low light level conditions that are inherently characteristic of the desert. The objective is to allow only the quantity and level of lighting necessary for safety, security and the enjoyment of outdoor living while protecting against direct glare and excessive lighting; protecting the ability to view the night sky; and preventing light trespass.

B. Definitions: For the purposes of this section, exterior lighting is defined and regulated by the following definitions and categories:

1. Footcandle (fc) - A unit of illuminance of equal to 1 lm/ft² (lumen / sq. ft.) or 10.76 lx (lux).

2. Fully Shielded (Full Cut-Off) - A fixture shielded with an opaque material so that light rays emitted by the fixture are projected only below a horizontal plane running through the lowest point on the fixture where light is emitted.

3. Lumens – The Standard International (SI) unit of luminous flux.

4. Luminaire (Light Fixture) - A complete lighting unit consisting of a lamp or lamps and ballast(s) (when applicable) together with the parts designed to distribute the light, position and protect the lamps, to connect the lamps to the power supply.

5. Opaque - Impervious to the passage of light.

6. Partially Shielded (Partial Cut-Off) - A fixture that allows light rays to be emitted up and down and shielded with an opaque material in such a manner to prevent the bulb from being seen.

7. Safety Lighting - Low-level lighting used to illuminate vehicular and pedestrian circulation.

8. Security Lighting - Lighting that is fully shielded that is intended to provide bright illumination during emergency situations only.

9. Spill Light - The amount of light that illuminates beyond the range or primary area that the fixture is intended to light.

10. Translucent – A material through which light can pass but the light source cannot be seen.

11. Trespass Lighting - Spill light that encroaches onto neighboring properties.

12. Visual Enjoyment Lighting - Lighting intended to illuminate outdoor living areas.

C. Design Standards:

1. All building mounted light fixtures shall be fully shielded. Recessed lights in exterior soffits, eaves, or ceilings shall have a 45°cutoff. At the main entry of the primary structure, a maximum of two (2) translucent fixtures may be permitted as long as the total lumens, per fixture, do not exceed a

maximum of 750 lumens. All other entrances, excluding garage doors, shall be limited to no more than one (1) fixture.

2. All fixtures, unless otherwise allowed, shall be directed downward and properly aimed on the targeted areas to maximize their effectiveness and minimize the total number of lighting fixtures.

3. Building mounted lighting must be directed downward away from adjacent lots, streets, undisturbed areas, and open spaces, and may not be used to light walls or building elements for decorative purposes.

4. There shall be no lighting permitted in areas identified as “undisturbed areas” of the property pursuant to the plans submitted under Section 2207 III.A.

5. The maximum lighting intensity shall not exceed 0.25 footcandle when measured at the property line.

6. A repetitive line up of lights along driveways or walkways accessing public streets shall not be allowed. Some random lighting of driveways or walkways accessing public streets may be allowed by the Hillside Building Committee. Driveway lights must be located on the "downhill" side and aimed toward the "uphill" side, must be fully shielded from below and only light the driveway surface. Driveway and walkway lights shall not exceed a maximum of 0.25fc at any point beyond 10 feet from the fixture.

7. Each lighting or illuminating device shall be set back from the nearest property line a minimum of ten (10) feet or a distance equal to or greater than the height of the device above natural or excavated grade, whichever is greater. As an exception a lighted entry marker may be placed on each side of the driveway entrance. The entry marker shall not be placed within the Town right-of-way or private road areas and the total height of the marker and light shall not exceed four (4) feet above finished grade adjacent to the driveway. The light source shall not exceed the equivalent projected brightness of 250 lumens.

D. Luminaire (Light Fixture) All luminaires shall be subject to the following limitations:

1. Shall not exceed 750 lumens when attached to a structure and confined to the immediate vicinity of a building entrance or outdoor living area of the residence.

2. Shall not exceed 250 lumens for all other uses.

3. Shall not exceed 150 lumens for landscape up-lighting.
4. Motion sensor/detector light fixtures are permitted for security lighting. Security lighting must be controlled separately from all other lighting.

Security lights must be on timers that regulate their operation time to a maximum of 10 minutes and limited to lamps with a maximum of 750 lumens.

5. Rope lighting shall not exceed 3.6 watts per lineal foot for an incandescent rope light.

E. Mounting Exterior fixtures shall be mounted:

1. In the ground or on a post not to exceed 36 inches above the ground. When exterior fixtures are affixed to existing trees, the height of the fixture shall not exceed 8 feet above the finished grade.

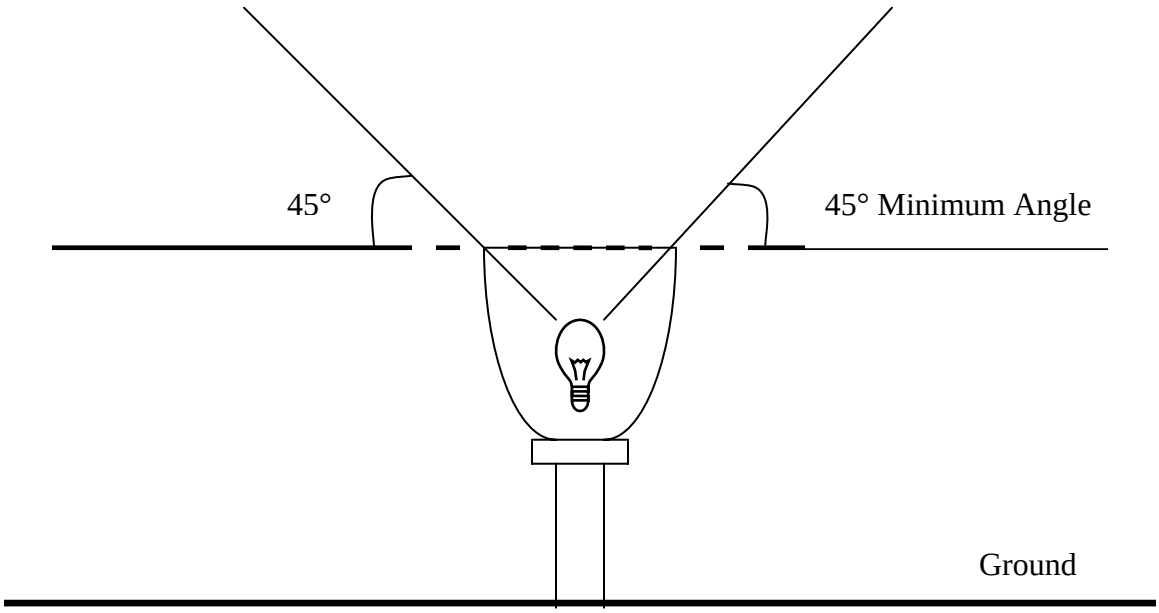
2. In or on a building wall not to exceed 8 feet above finished grade and shielded in such a manner as to avoid creating concentrated light (hot spots) on the structures to which they are mounted. Security lighting may be mounted on the structure to a height of not more than twelve (12) feet.

F. Landscape Up-lighting:

1. The number of fixtures is limited to one fixture per 1000 square feet of allowable disturbed area.

2. The lamp must be recessed to provide a minimum 45° cut-off from the vertical plane.

FIGURE 9 - TYPICAL UPLIGHT WITH 45° CUT-OFF



G. Prohibitions In addition to the limitations noted above, the following lights or lighting effects are strictly prohibited:

1. Colored lamps or bulbs and string and unshielded rope lights; except that temporary holiday lighting shall be permitted between November 15th and January 15th.

2. Tennis court and sport court lighting.

3. Any temporary lighting that violates the provisions of this lighting section.

4. Exterior lights, except security lighting, that illuminate the adjoining mountainside such that the mountainside is visible from off the property between sunset and sunrise.

H. Amendments:

1. Should the applicant desire to substitute outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the Town Engineer for approval, with adequate information to assure compliance with this ordinance.

Section 2209. DENSITY and SUBDIVISIONS / LOT SPLIT STANDARDS

A. The maximum number of lots into which Hillside Development Area land may be subdivided shall be the sum of the number of lots allowed in each slope category of land as shown by the following **TABLE 2 – Density/Slope Category**.

B. Slope shall be calculated using a minimum of 3 slope lines per acre. The slope lines shall be perpendicular to the slope and at equal distances across the lot.

C. Each of the resulting lots shall meet the minimum lot size requirements based upon the average lot slope shown on **TABLE 2.**

D. Building envelopes shall be conceptually indicated on preliminary plats and accurately shown on final plats.

E. The subdivider shall demonstrate by sketches, engineering drawings, charts or other means that roads, public or private, and driveway access and placement of residential structure will conform, for each lot, to current hillside development regulations and without the need for a variance.

F. All subdivision development and lot split applications shall comply with the Hillside Development Requirements as outlined in the Town of Paradise Valley Subdivision Ordinance and Article XXII of this Ordinance.

TABLE 2 – Density / Slope Category

Average Lot Slope %	Min. Lot Size Acres	Min. Lot Size –Sq. Ft.	Average Lot Slope %	Min. Lot Size Acres	Min. Lot Size – Sq. Ft.
10%	1	43,560	41%	6.8	296,208
11%	1.01	43,996	42%	7.6	331,056
12%	1.02	44,431	43%	8.4	365,904
13%	1.04	45,302	44%	9.2	400,752
14%	1.06	46,174	45%	10	435,600
15%	1.08	47,045	46%	11	479,160
16%	1.1	47,916	47%	12	522,720
17%	1.2	52,272	48%	13	566,280
18%	1.3	56,628	49%	14	609,840
19%	1.4	60,984	50%	15	653,400
20%	1.55	67,518	51%	16	696,960
21%	1.6	69,696	52%	17	740,520
22%	1.7	74,052	53%	18	784,080
23%	1.8	78,408	54%	19	827,640
24%	1.9	82,764	55%	20	871,200
25%	2	87,120	56%	21	914,760
26%	2.2	95,832	57%	22	958,320
27%	2.4	104,544	58%	23	1,001,880
28%	2.6	113,256	59%	24	1,045,440
29%	2.8	121,968	60%	25	1,089,000
30%	3	130,680	61%	26	1,132,560
31%	3.2	139,392	62%	27	1,176,120
32%	3.4	148,104	63%	28	1,219,680
33%	3.6	156,816	64%	29	1,263,240
34%	3.8	165,528	65%	30	1,306,800
35%	4	174,240	66%	32	1,393,920
36%	4.4	191,664	67%	34	1,481,040
37%	4.8	209,088	68%	36	1,568,160
38%	5.2	226,512	69%	38	1,655,280
39%	5.6	243,936	70%	40	1,742,400
40%	6	261,360			

FOOTNOTE:

110 Ordinance # 220 – 7/12/84
112 Ordinance #221 – 9/24/84
181 Ordinance # 305 – 11/9/89
193 Ordinance # 320 – 2/28/91
194 Ordinance # 321 – 2/28/91
206 Ordinance # 338 – 3/26/92
382 Ordinance # 382 – 12/01/94
409 Ordinance #409 - 7/13/95
425 Ordinance # 425 – 9/12/96
533 Ordinance # 533 – 10/09/03
558 Ordinance # 558 – 06/09/05
580 Ordinance # 580 – 10/26/2006

Article XXIII. NONCONFORMANCE [179 379 493 564]

Section 2301. Definitions.

For the purposes of this article, the following definitions shall apply:

A. "Legal Nonconformity" means any use, structure, sign, or lot of record which, when it was created, lawfully existed under then applicable local zoning ordinances, but which was subsequently rendered nonconforming due to as a result of modification of the applicable zoning ordinance or other circumstances that were not self-created.

B. "Nonconforming Use" means an activity involving land, structures, or signs for purposes which were legally established under the terms of the zoning ordinance existing at the time of such establishment**,** but which is not now permitted as a use in the zoning district in which it is located.

C. "Nonconforming Structure" means a structure legally erected under the terms of the zoning ordinance existing at the time such structure was erected which does not now fully comply with present dimension standards such as, but not limited to, height and setbacks (includes walls).

D. "Nonconforming Sign" means a sign legally established under the terms of the zoning ordinance existing at the time of such establishment, but which is not now in full compliance with the provisions of the Zoning Ordinance.

E. "Nonconforming Lot of Record" or "Nonconforming Lot" means any validly recorded lot which at the time it was recorded fully complied with the then applicable laws and ordinances, but which does not fully comply with the lot requirements of the Paradise Valley Town code relating to minimum lot area, lot width, or access.

Section 2302. Nonconforming Uses; Continuing Nonconformity; and Abandonment.

A Nonconforming Use may be continued only in its current form, provided that:

A. No building or lot in or on which a Nonconforming Use is abandoned for a continuous period of twelve (12) months, or is superceded by a conforming use shall again be devoted to any prohibited use.

B. No structural alterations that would expand the square footage, height, setbacks, or footprint of the original buildings or structures shall be allowed.

C. No Nonconforming Use shall be extended, added to or enlarged.

D. A Nonconforming Use shall be deemed "abandoned" when such use is suspended as evidenced by the cessation of activities or conditions which constitute the nonconforming status of the use.

Section 2303. Abatement

If the Town Building official determines that a nonconformity is a danger to the public health, safety or welfare, such nonconformity shall be abated in accordance with the terms of Article 8-5 of the Town Code.

Section 2304. Maintenance

Any Nonconforming Structure or Nonconforming Sign may be maintained. Maintenance means the normal upkeep and minor repairs, made necessary by wear and tear or deterioration provided the cost thereof in any 36 month period does not exceed 30 percent of the current full cash value of the structure, as established by the records of the Maricopa County Assessor, or in the case of a sign, as established by the Town.

Section 2305 Use of Nonconforming Lot and Merger Limitation**.**

A. Use: A Nonconforming Lot of Record may be used for any principal use permitted in the zone in which it is located, provided that any new structure proposed to be built upon each lot shall conform in all other respects to the terms of this Zoning Code.
B. Merger: A Nonconforming lot may be merged with a contiguous lot. Upon the merger of two or more nonconforming lots into one lot, the nonconforming lots shall be deemed abandoned and all subsequent use of the new lot shall conform in all respects to the provision of the Zoning Code.
C. Adjustments: Lot line adjustments to two adjoining Nonconforming Lots may be made provided the square footage of both adjusted lots remains approximately the same and no additional nonconformity is created.

Section 2306 Change in Use:

A Nonconforming Use may be changed to another Nonconforming Use only if the Board of Adjustment determines that the new use is not a more intense use. The factors to be considered by the Board of Adjustment shall include, but not be limited to:

1. increased traffic
2. increased parking
3. more on-site employees
4. change in hours of operation
5. increased noise
6. greater light
7. increased dust
8. increased building size
9. larger vehicles on the site.

Section 2307 Structural Alterations or Additions to Nonconforming Structures

Structural alternations, refurbishing, or remodeling of existing Nonconforming Structures shall not result in an increase in any existing encroachment over current setbacks or result in an increase in the height of the reconstructed, refurbished, or remodeled structure over the actual height of the nonconforming portion of the existing structure or result in an increase in any other nonconforming aspect. Permissible alterations or additions to Nonconforming Structures shall vary based upon whether the alteration or addition is for a structural demolition or a new addition, as provided for below:

A. Structural Demolitions: When permits are approved for structural remodels, alterations, or repairs (excluding such nonstructural cosmetic items as painting, flooring, cabinets, or appliances), covered by a single or multiple building permits issued within a thirty ix (36) month period that together covers work which exceeds fifty (50) percent of the original square footage of an existing Nonconforming Structure, such Nonconforming Structure shall be made to conform to the requirements for new structures. For the purposes of this section, the term “Square Footage” means the aggregate of the area of all floors in a structure, whether at or above established grade, measured between the exterior faces of the exterior walls of the structure.

B. New additions: All new additions to the existing Nonconforming Structure shall be in compliance with all current Zoning Code provisions.

Section 2308 Pools and Spas

Nothing herein shall prohibit the addition or remodeling of a pool or spa adjacent to a Nonconforming Structure.

Section 2309. Reconstruction of Nonconforming Structure Due to Damage by Natural Causes.

Any Nonconforming Structure damaged by natural occurrences, such as, but not limited to, fire, flood, wind, and lightning, may be reconstructed and used as before with the following limitations and conditions:

A. Permits to reconstruct or demolish the Nonconforming Structure must be secured from the Town within twelve (12) months of the occurrence.

B. The reconstruction of the Nonconforming Structure shall be permitted provided that the rebuilt structure shall have the same setbacks, height, footprint, and square footage as existed at the time of the natural occurrence. Should changes or additions be proposed for the portion of the Nonconforming Structure

to be rebuilt, then the entire portion to be rebuilt shall conform to the current code.

Section 2310 Removal:

Any Nonconforming Structure or Nonconforming Sign which is damaged or destroyed and which cannot meet the terms of Section 2309 shall be removed from the lot within 90 days of the occurrence.

Section 2311 Nonconforming Signs

A. A Nonconforming Sign shall not be changed, expanded, or altered in any manner which would increase the degree of its nonconformity, or be structurally or aesthetically altered, or moved in whole or in part to any other location where it would remain nonconforming. With respect to a Nonconforming Sign on a property containing a Nonconforming Use, a change in the name of the entity owning or operating the Nonconforming Use shall be permitted so long as all other restrictions within this section are met.

B. Any Nonconforming Sign, the use of which as a sign is discontinued for a period of ninety (90) consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not be reestablished except in full compliance with the Paradise Valley Zoning Ordinance. A nonconforming sign that remains for a period of ninety (90) consecutive days without copy, or that no longer advertises a current use of the property on which it is located, shall be deemed discontinued and abandoned as noted above.

C. Any period of discontinuance caused by government actions, strikes, fire, flood, wind, explosion, or other calamity or act of God, without any contributing fault by the nonconforming user shall not be considered in calculating the length of discontinuance for the purposes of this subsection.

D. No sign which is an accessory to a Nonconforming Use shall continue after such principal use shall have ceased or terminated, unless such sign shall thereafter conform to all requirements of the Zoning Code.

Section 2312. Limitation

Nothing in this article shall be construed as authorization for an approval of the continuance of a nonconformity, which was in violation of the zoning ordinance in effect at the time the property, became subject to the provisions of the Paradise Valley Zoning Ordinance.

Section 2313 Variance Requests

Nothing contained herein shall prohibit the owner of a Nonconforming Use or Structure from applying to the Board of Adjustment for a variance where the strict application of the terms of this Article would cause an undue hardship.

FOOTNOTES

179 Ordinance #303 – 9/28/89
379 Ordinance #379 – 10/13/94
493 Ordinance #493 – 9/13/2001
564 Ordinance #564 – 11/03/2005

Article XXIV. WALLS AND FENCES [121 133 135 171 306 325 Repealed and Replaced by 534 559]

Section 2401. Intent:

The Town of Paradise Valley encourages visual openness and the preservation of the natural environment. Walls and fences are inconsistent with this intent, but may be desired by residents for safety, noise abatement, and/or security. When walls and fences are necessary, the Town requires that such walls and fences meet the criteria set forth in this Article.

Section 2402. Definitions:

Wall - A wall or fence (including gates) is a freestanding, upright structure, other than plant material, constructed of barriers to enclose, divide, delineate, screen, retain water or earth, or protect an area. The term wall shall include all fences, except a view fence as defined below.

View Fence – A view fence (including gates) is a free-standing, upright structure, constructed with openings between the materials used for construction of the fence, where the openings represent at least 80 percent of the total fence surface area.

Meandering Wall – A meandering wall is a free-standing, upright structure providing significant variations in setback. Meandering walls may consist of curvilinear, square, rectangular, triangular, or freeform design patterns and shall meet the criteria set forth in Tables 2404 A and B in addition to other criteria specified in this article.

Section 2403. Wall Finishes:

Any wall visible from adjoining properties, adjacent rights-of-way, and/or open space areas shall consist of finished materials such as stucco, brick, stone, metal, rails, wood, or tile.

a. Walls Adjacent to Rights-of-Way and Open Spaces.

When such wall is adjacent to or visible from a right-of-way and/or open space area, it shall complement the architectural character of the main house, and shall have a finish texture, color, and material on both sides compatible with the primary building on-site, or as determined by the Town.

b. Walls Adjacent to Adjoining Properties.

When such wall is adjacent to an adjoining property:

1. The wall shall be finished on both sides, compatible with the architectural character of the main house on either side.

2. The side of the wall facing the adjoining property may be finished with such materials and colors as agreed upon by the builder and adjoining property owner; however, the minimum standard for a wall finish shall be stucco and paint.

If the owner of adjoining property grants no reasonable access to the builder to finish the side of the wall facing the adjoining property, the builder will be relieved of any obligation to improve that side of the property wall.

Section 2404. Height and Setback Regulations: [135 171 559]

a. Height Regulations

1. In General.

The height of walls and view fences shall be measured vertically from the finished grade on the exterior side of the wall or view fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a wall or view fence is prohibited. If a wall or view fence is placed on a berm, the height shall be measured vertically from the base of the berm.

2. Adjoining Local, Collector, and Minor Arterial Streets.

The maximum height of a wall and view fence, including the berm, adjoining a local, collector, and minor street shall not exceed six (6) feet, further provided that no portion of the wall or view fence located between the ten- (10) foot and forty- (40) foot front yard setback shall exceed three (3) feet, except for a single entry gate and columns as permitted under Section 2413. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

The maximum height of a wall and view fence, including the berm, adjoining a major arterial street shall not exceed eight (8) feet. The maximum exposed vertical wall or view fence element from the exterior side of the property shall be no more than six (6) feet, except for a single entry gate and columns as permitted under Section 2413. See Table 2404A for additional criteria.

4. Adjoining Non-Residential Properties Other Than Along A Right-Of-Way

The maximum height of a wall and view fence, including the berm, between a residential property and an adjoining non-residential property, other than a right-of-way, shall not exceed eight (8) feet. When such a wall is adjoining or visible from a right-of-way and/or open space area, it shall complement the architectural character of the main house, and shall have a finish texture, color, and material on both sides compatible with the primary building on-site, or as determined by the town. See Table 2404A for additional criteria.

b. Setbacks Regulations

1. In General.

Setbacks for a wall or view fence will vary depending on whether it is a) adjoining a right-of-way or other property; b) adjoining a major arterial or other street classification; c) located in the front yard or other sides of the lot; d) considered a wall or a view fence; or e) meandering and based on the amount of meander utilized in the wall's construction. Walls or view fences not adjoining a public or private right-of-way may be built at or on the property lines with no setback requirement. See Table 2404A and B for additional criteria.

2. Adjoining Local, Collector, and Minor Arterial Streets.

Walls or view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that exceed three feet in height shall be setback at least forty (40) feet from the right-of-way property line. Walls or view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that are three (3) feet in height or less shall be setback at least ten (10) feet from the right-of-way property line, except for the area allotted to an entry gate, as permitted under Section 2413, may be greater than the three foot height limitation. Walls located in the rear or side yard of a lot adjoining local, collector, or minor arterial streets, regardless of whether they exceed three feet in height, shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot setback, or a meandering wall may be constructed at an average fifteen (15) foot setback, provided they meet the criteria set forth in this article and Table 2404A. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

Walls adjoining major arterial streets shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot setback or a meandering wall may be constructed at an average fifteen (15) foot setback provided they meet the criteria set forth in this article and Table 2404 A.

c. Additional Criteria for Meandering Walls.

Meandering walls shall maintain an average setback of not less than fifteen (15) feet, said average to be determined by comparing the area between the ten (10) and the fifteen (15) foot setback area (noted as Area "A" on Figures 2404-A through -C) with the area encroaching between the fifteen (15) and the twenty (20) foot setback area (noted as Area "B" on Figures 2404-A through –C) such that the area located between the ten (10) and the fifteen (15) foot setback area shall be equal to or less than the area located between the fifteen (15) and twenty (20) foot setback area. Walls that have no significant meander and that are configured to meet the criteria set forth herein solely for the purpose of moving to a fifteen (15) foot setback are impermissible. See Tables 2404A and 2404B for additional criteria.

Table 2404A summarizes many of the regulations relating to height and setback regulations for walls, meandering walls, and view fences; and sets forth additional criteria related to these structures. Table 2404B sets forth additional criteria for meandering walls.

TABLE 2404A – SETBACK AND HEIGHT REGULATIONS FOR WALLS / VIEW FENCES

FRONT YARD ALONG RIGHTS-OF-WAY			
STREET TYPE	**TYPE OF WALL OR FENCE**	**SETBACK FROM PROPERTY LINE, FEET**	**MAXIMUM HEIGHT, FEET**
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
Local, Collector, Minor	Any	10, Minimum	3
	Any	*40, Minimum	6
SIDE OR REAR YARD ALONG RIGHTS-OF-WAY			
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
Local, Collector, Minor	View Fence	10, Minimum	6
	Meandering Wall	15, Average	6
	All Others	20, Minimum	6
SIDE OR REAR YARD INTERIOR (not along any right-of-way)			
Not applicable	Any	None Required	6
SIDE OR REAR YARD INTERIOR (adjoining non-residential property other than a right-of-way)			
Not applicable	Any	None Required	**8, including berm

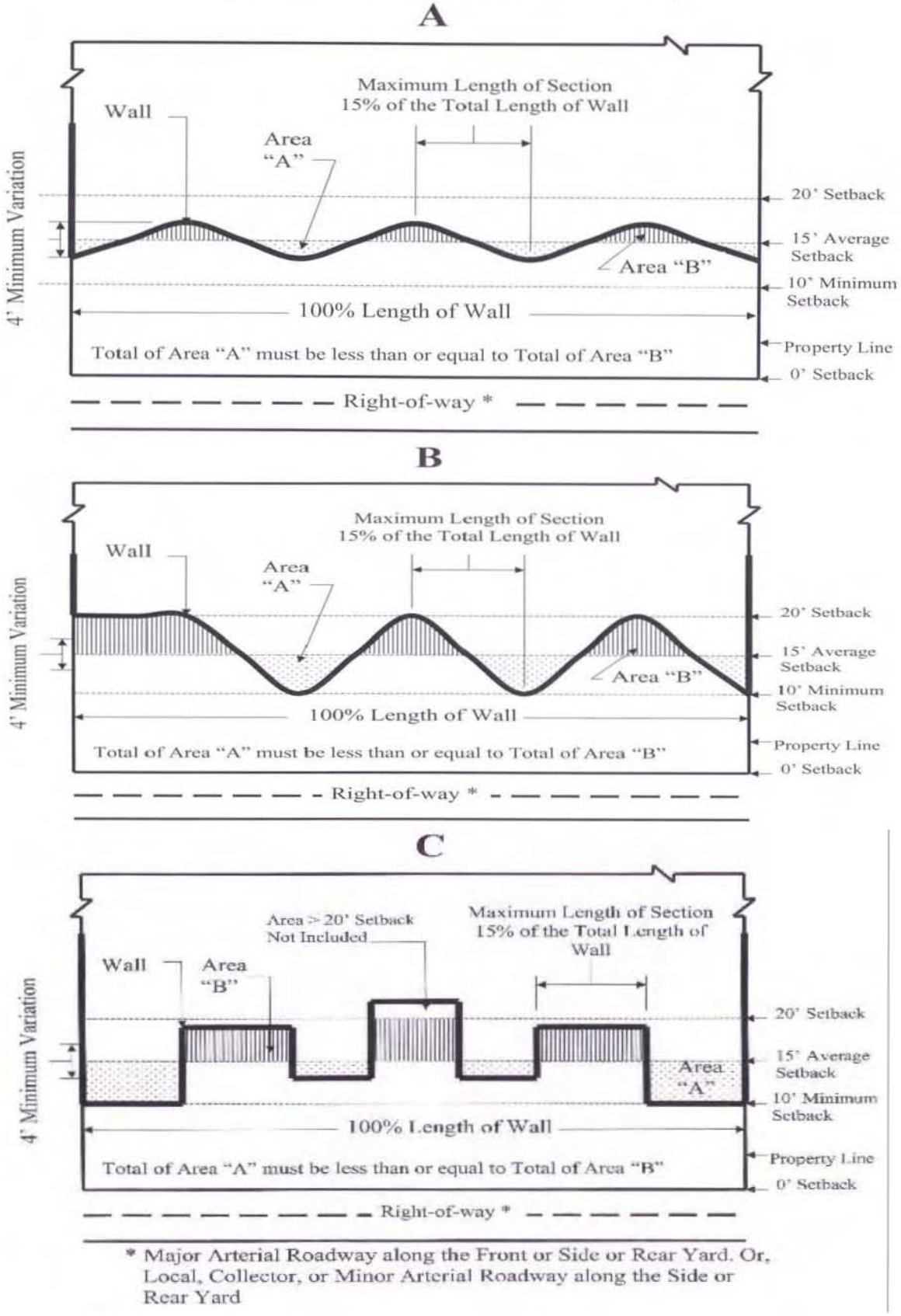
* In R-18A Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 35 feet.
In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation.

** Refer to Section 2404(a) for details

TABLE 2404B – ADDITIONAL MEANDERING WALLS CRITERIA

Minimum setback from property line	10 feet
Minimum variation offset from average setback	4 feet
Maximum length of any single section meandering between the 10’ and 20’ setback	15% of total wall length
Maximum setback area allowed in determining meandering setback	20 feet

FIGURE 2404 – MEANDERING WALLS



Section 2405 Stacking:

Stacking of no more than two (2) walls on any single lot may be permitted, provided there shall be a minimum of 10-foot separation between the walls, and the space between the walls shall include appropriate and adequate vegetation to substantially minimize the visual impact of the combined walls. The landscaped area shall be maintained at all times in conformance with the Town's Landscape Guidelines.

Section 2406. Landscaping:

Each property owner shall be responsible for landscaping the land located between the edge of road pavement, including any unpaved right-of-way, and the wall or fence. The landscaped area shall be maintained at all times in conformance with the Town's Landscape Guidelines.

Section 2407. Retaining Walls:[171]

a. Retaining walls shall only be used for the purpose of containing fill material or for minimizing cut or fill slopes. The retaining wall may only extend six (6) inches above the material it is retaining.

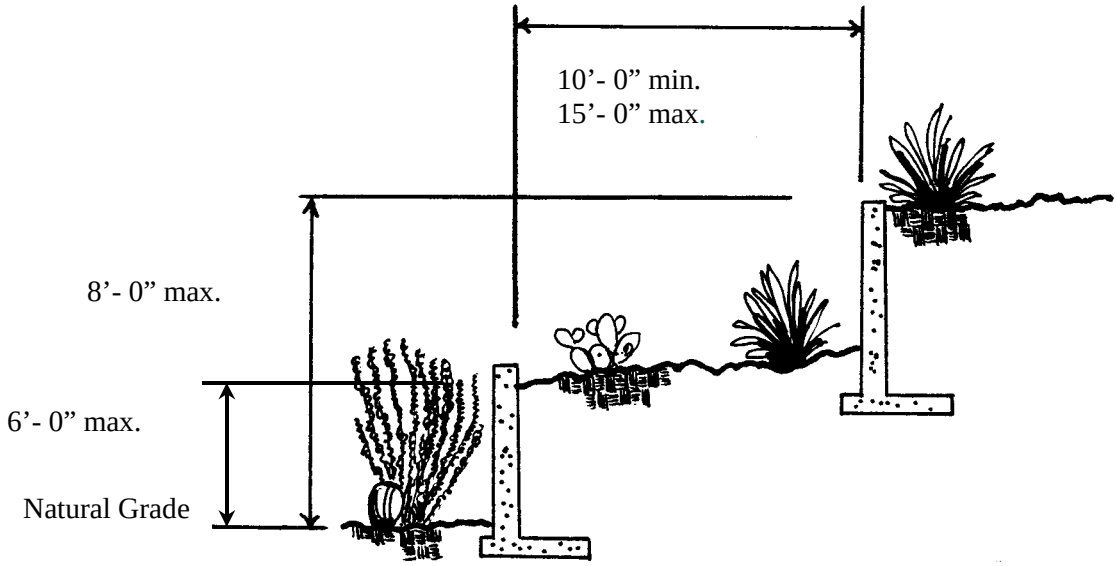
b. The maximum height of any retaining wall shall not be more than six (6) feet. The height of a retaining wall is measured from the low side of natural grade to the top of the wall whether the top is retaining earth or not.

c. A terraced combination of retaining walls may be allowed and shall be measured as a single retaining wall; however, the combined walls shall be: 1) no more than eight (8) feet total vertical height; 2) terraced with a minimum distance of ten (10) feet and a maximum separation of fifteen (15) feet; and 3) contain appropriate vegetation between the walls so as to soften the visual impact of the combined walls (see Figure 2407).

d. When a safety fence, on top of a retaining wall, is required by code, it shall be a view fence (80% open), shall be finished to blend with surrounding natural colors, and shall be the minimum height required by the Town Code.

e. Where retaining walls are provided, they shall meet all of the requirements of Section 2403 – Material and Texture of this Article.

FIGURE 2407 –TERRACED VERTICAL RETAINING WALLS



Section 2408. Subdivision Walls and View Fences. [559]

a. New subdivision walls and view fences that are not pre-existing (as defined below) and are constructed after January 2004, shall conform to the provisions of this article.

b. Pre-existing subdivision walls or view fences are subdivision perimeter walls or view fences located within forty (40) feet of the exterior property line of a platted subdivision or lot split that may, and typically do, run in general alignment with the property line along a public or private road and that are constructed before January 2004. A pre-existing subdivision perimeter wall or view fence need not extend the entire length of the perimeter to be considered a perimeter wall or view fence.

c. The terms of Section 6-3-13 of the Paradise Valley Town Code shall apply in all areas.

d. Location, height, setback, and design of subdivision perimeter walls or view fences shall be part of the approved final plat.

Section 2409. Corner Vision:

Refer to Section 8-1-13 of Chapter 8 – Safety, Health, Sanitation and Nuisance – of the Town Code for the corner vision criteria.

Section 2410. Mechanical Equipment Screening: [559]

Mechanical equipment shall be fully screened from view. Walls may be used to screen mechanical equipment. Such walls shall:

a. Be of a minimum height and length needed to screen the mechanical equipment;

b. Have a maximum height of no more than six (6) feet. Screen walls over 6 feet in height may be allowed to properly screen the mechanical equipment, provided:

   i. Such walls meet the allowable setbacks and height of an accessory structure, and
   ii. Screening area surrounded by screen walls is calculated as part of the allowable floor area;

c. Have an architectural texture, color, and material compatible with the primary building on-site;

d. Meet setback requirements as shown in Table 2404A.

Section 2411. Courtyard:

A courtyard is a private landscaped outdoor living space adjoining the main house and enclosed by walls and / or portions of the main house. A courtyard may be constructed to enclose an outdoor living space, provided:

a. The courtyard walls shall meet all setback and height requirements for the building to which they are attached.

b. If any portion of the courtyard wall exceeds six (6) feet in height, the area enclosed by the courtyard walls shall be included in the calculation of the maximum 25% Floor Area Ratio (FAR) set forth in the Zoning Ordinance for residential properties. Accessory structures such as a fireplace, fountain, or doorway into the courtyard may exceed six (6) feet in height without causing the courtyard area to be included in the 25% FAR, as long as there are no more than two accessory structures located in the courtyard wall and the horizontal length of the accessory structures equal no more than 25% of the lineal feet of the total courtyard wall.

c. The courtyard walls shall be an integral part of the design of and have an architectural texture, color, and material compatible with the main building or house on-site.

d. If a main house is designed in such a way that a courtyard is formed by the house itself on more than three sides, the courtyard area shall be included in the calculation of the maximum 25% FAR.

Section 2412. Wing Wall:

A wing wall is an architectural feature attached to the main house that extends beyond the exterior facades of the main house. The wing wall shall:

a. Meet all setback and height requirements for the main house;

b. Have an architectural texture, color, and material compatible with the main house on-site;

c. Not enclose any area.

Section 2413. Driveway Columns and Entry Gates:

An increase in the height of the entry gates and associated columns at the driveway and pedestrian entrances may be permitted, provided:

a. Columns and entry gates located between the ten- (10) foot and the forty- (40) foot front yard setback may be allowed to exceed the three-foot maximum height, but in no event shall the height of the gate and its associated columns exceed six (6) feet. A transition maybe made from the top of the column to the three (3)-foot high wall, but the length of the horizontal transition shall not exceed the difference in the vertical height between the wall and the column or gate, whichever is greater.

b. Columns and entry gates at and beyond the forty- (40) foot front yard setback may be allowed to exceed the six-foot maximum height, but in no event shall the height of the gate and its associated columns exceed eight (8) feet. A transition may be made from the top of the column to the six (6)-foot high wall, but the length of the horizontal transition shall not exceed the difference in the vertical height between the wall and the column or gate, whichever is greater.

Section 2414. Tennis Courts [564a]

Refer to Section 502(9), Tennis Courts, of Article V, (R-43), and Section 402(8), Tennis Courts, of Article IV, (R-175) Single-Family Residential District of the Zoning Ordinance for regulations relating to tennis courts. If the use of a tennis court is discontinued, the tennis court wall or fence shall be removed or brought into conformity with the provisions of this Article.

Section 2415. Nonconformity: [559]

a. Wall and View Fence Height and Location.

With the exception of pre-existing subdivision walls and view fences, as defined in Section 2408 (b), any wall or view fence that is non-conforming due to its height or location within a required setback area shall be made to conform to the requirements of this Article when:

1. Approvals are granted for lot splits and subdivisions;

2. Permits are issued for a new house; or

3. Permits are issued for structural additions, or remodels, alterations, or repairs of an existing house, covered by a single or multiple building permits within a thirty six (36) month period that together involves structural addition of or demolition of more than fifty (50) percent of the original square footage of the main house.

4. Permits are issued for alterations, repair, or additions to such wall or view fence, covered by a single or multiple building permits within a thirty six (36) month period that together involves structural addition of or demolition of more than fifty (50) percent of the lineal feet of the wall or view fence.

b. Wall Finish.

With the exception of pre-existing subdivision walls, as defined in Section 2408 (b), any non-conforming wall that is not finished on the side of the wall visible from any right-of-way or open space area shall be made to conform to the requirements of this Article when:

1. Approvals are granted for lot splits and subdivisions;

2. Permits are issued for a new house;

3. Permits are issued for structural additions, or remodels, alterations, or repairs of an existing house:

   i. covered by a single or multiple building permits within a thirty six (36) month period that together involves structural addition of or demolition of more than fifty (50) percent of the original square footage of the main house; or

   ii. the cost of which, computed on the basis of accumulated costs over any consecutive twenty four (24) month period, exceeds $150,000; or

4. Permits are issued for alterations or additions to such wall.

c. Side or Rear Wall Connections.

Side or rear wall or view fence connections to existing non-conforming walls and view fences and pre-existing subdivision walls and view fences may be placed within the twenty (20) foot setback area.

FOOTNOTE:

121 Ordinance # 231 – 7/25/85
133 Ordinance # 249 – 9/25/86
135 Ordinance # 251 – 9/25/86
171 Ordinance # 296 – 3/9/89
306 Ordinance # 306 – 12/21/89
325 Ordinance #325 - 10/29/91
508 Ordinance # 508 – 10/26/00
534 Ordinance# 534 – 01/22/04
559 Ordinance # 559 – 06/09/05

Article XXV. SIGNS [170 388 564]

Section 2501. Definitions:

The definitions in Section 201 of the Zoning Ordinance of the Town of Paradise Valley control.

Section 2502. Signs Prohibited on Public Property:

Signs in the right-of-way, or upon public property must be temporary and must comply with the limitations of Table XXV-1. Signs must not be placed or mounted on utility or traffic control structures.

Section 2503. Removal of Prohibited Signs:

Any sign which is placed, posted or affixed contrary to the provisions of Section 2502 may be removed by the Police Department or Street Department. The person responsible for the illegal sign is liable to the Town for the cost of removing it.

Section 2504. Public Signs:

The following signs are not subject to the provisions of this Article:

Directional and informational
Traffic control
Hazard or warning
Underground utility locator
Public bulletin boards
Town community buildings

Section 2505. Limitations on other Signs, Both Non-Commercial and Commercial:

All signs must be placed, posted or affixed on private property only as allowed in Table XXV-1.

Section 2506. Lighting: [388]

A. Lighting shall not be flashing, intermittent or scintillating; shall not be moving, animated or create noise in any manner.

B. Back lighting of freestanding letters mounted on a wall shall be limited to 100 lumens per square foot of sign area and the letters shall be fabricated so that the light source cannot be seen from off the property.

C. Indirect lighting of signs shall be limited to two (2) seventy-five (75) watt incandescent bulbs per sign. If the sign is double faced, the same type and amount of lighting may be used on each side. The seventy-five (75) watt incandescent bulbs shall be limited to seven hundred fifty (750) lumens per bulb, and shall be completely shielded from view at the nearest property line, and shall not exceed 0.75 foot candles of projected illumination measured at the nearest property line.

D. Signs that are internally illuminated shall not exceed 0.75 foot candles of projected brightness measured at the nearest property line.

Section 2507. Audible Signs:

Signs shall not include public address capability nor any other means of producing speech or music.

Section 2508. Permits Required:

Prior to erection all temporary signs must receive a permit issued by the Town.

Section 2509. Duration:

All temporary signs must be removed each day no later than sunset.

Section 2510. Banner Signs: [200]

Banner signs may be exhibited only on properties currently subject to a Special Use Permit, in compliance with the following terms:

1. Size: Maximum three feet in height, and no longer than ten feet.

2. Faces: Banner signs may be two sided.

3. Setback: Banner signs shall be set back at least ten (10) feet from all property lines and must be placed so that they do not block traffic vision to or from the driveway. Compliance with Zoning Ordinance Section 1022 regarding corner vision at intersection is required.

4. Lighting: Banner signs shall not be separately lighted or illuminated. If existing approved landscape lighting provides illumination of the banner without alteration of the existing lights, it shall not be considered a violation of this section.

5. Quantity: Banner signs shall be limited to no more than one at a time.

6. Permits: Prior to placing a banner sign a permit must be obtained from the Town Zoning Administrator. Days during which banner signs must be displaced shall be specified in the permit.

7. Duration: The grantee of a special use permit may display a banner sign for 60 days each year. The duration of each display is the choice of each grantee provided the total number of days does not exceed 60. If a banner sign is displayed for more than 7 consecutive days another banner sign shall not be displayed until 14 days have elapsed.

8. Interior Banners:
Interior banners not visible from off the subject property may be utilized without compliance with the terms of this Section and are exempt from this Ordinance.

9. Fees: There shall be no fee for the first 48 hours of display of a banner sign each calendar year by each grantee. (A permit is required.) For each permit issued after the first 48 hours the fee shall be $25.00

FOOTNOTES:

170 Ordinance # 295 – 2/9/89
200 Ordinance # 328 – 12/19/91
388 Ordinance # 388 – 1/12/95
564 Ordinance # 564 – 11/03/2005

TABLE XXV-1

CATEGORY	CONTENT	MAXIMUM AREA	SET BACK	ILLUMINATION	PLAN REQUIRED[3]	QUANTITY	MAXIMUM Height
Residential	Name & Title	144 square inches		None	No	1	3 feet
Residential	Any	3 square feet each		None	No	6	3 feet
Subdivision	Name/ Logo Only	2 square feet per lot or 30 square feet, whichever is less, aggregate	25 feet	Internal, Indirect	Yes	2	3 feet
Subdivision	Premises [1] for sale	36 square feet, aggregate	25 feet	None	Yes	2	8 feet
Non-Residential	SUP[2]	SUP[2]	SUP[2]	SUP[2]	Yes	SUP[2]	SUP[2]

1. Must be removed when eighty per cent of the lots in the subdivision are sold (closed), or after the expiration of one year from the date first erected, whichever event occurs first.

2. Content, Maximum Area, Setback, Illumination, Quantity, and Height as approved by Special Use Permit or other Town action.

3. If a plan must be submitted, the plan must include the exact specifications of the sign, including dimensions, materials, method of illumination, number and location. The plan must be approved by the Town Council.

SPECIAL USE PERMIT GUIDELINES

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Section 1 General Purpose

The following guidelines should not be construed as an ordinance. These guidelines are a result of joint discussions between the Town Planning Commission and Town Council to provide a generally-accepted vision of appropriate site, bulk, density, perimeter, parking, sign, lighting, and other related standards during the review of a new or amended Special Use Permit for a non-residential development in the Town of Paradise Valley. The nature of the request, the architecture of the development, the unique characteristics of the site, among other factors; may merit less or more restrictive standards as determined during a complete review of each individual request. It should be noted that meeting all the guidelines listed below does not obligate the Town to grant a Special Use Permit or amendment thereto. These guidelines supplement the regulations as set forth in Article XI, Additional Use Regulations and Special Uses, of the Town Zoning Ordinance.

Section 2 Lighting

The following lighting guidelines shall apply to all non-residential properties requiring a Special Use Permit.

a. **Outdoor lighting shall be permitted so long as:**

   i. the light emitting element is shielded so that no beam of light extends above a horizontal plane placed at the lowest level of any exposed portion of the light emitting element; and

   ii. the light emitting element and reflecting device of all lighting or illumination units is hooded or shielded so that it is not visible from any adjacent lot or real property; and

   iii. such outdoor lighting or illuminating units do not direct light, either directly or through a reflecting device, upon any adjacent real property.

   iv. uplighting shall be permitted so long as no light emitting device is greater than 25 watts or emits more than 250 lumens.

b. Outdoor **pole** lighting shall be permitted **subject to the provisions of subsection A.8.a of this section** so long as:

   i. the height of such lights or illumination does not exceed **16** feet measured from the natural ground level; and

ii. **Each lighting or illuminating device shall be set back from the nearest property line a distance equal to or greater than the height of the device above natural ground level.**

c. **Outdoor light levels, measured in foot candles in accordance with Illuminating Engineering Society of North America (IESNA) standards, shall not exceed the following levels in the locations specified:**

i. **parking lots – 1.6.**

ii. **entrance roadways, interior driveways and drop off areas – 5.0.**

iii. **adjacent to service buildings and loading docks – 5.0.**

iv. **in conjunction with architectural lighting adjacent to all other structures – 3.0.**

v. **outdoor pool decks and function areas – 5.0.**

vi. **outdoor dining areas – 10.0.**

d. **No outdoor lighting shall be permitted within any setback area adjacent to a residential property unless:**

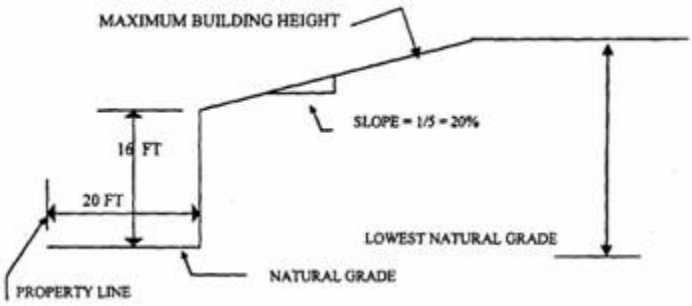
i. **the lighting measured at the property line does not exceed 0.5 foot candles; and**

ii. **all light emitting elements are less than three (3) feet in height.**

Section 3 <u>Open Space Criteria</u>

The following Open Space Criteria shall apply to all non-residential properties requiring a Special Use Permit. To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines. No building shall penetrate an imaginary plane beginning at 16 feet above the natural grade and 20 feet from exterior property lines, which plane slopes upward at a ratio of one foot vertically for each five feet horizontally measured perpendicular to the nearest property line, as illustrated in Figure 3-1. This limitation shall apply until the maximum allowable height is reached. All height measurements shall commence at the ground elevation at the 20-foot beginning line. Building height measurements shall be taken from the high points of the structure to the closest point on the 20-foot beginning line perpendicular to that portion of the structure. Notwithstanding the foregoing, no structure shall be located closer to an exterior property line than as otherwise permitted for that use.

Figure 3-1



Section 4 <u>Resorts</u>

1. Site Standards

   a. ***Except for properties that have existing special use permits for resort uses****, the minimum site area shall be 20 acres which shall not be bisected by any public right-of-way*.

   b. **Except for properties that have existing special use permits for resort uses, the site shall have primary access from and frontage of at least 300 feet on a Major or Minor Arterial as designated in the Paradise Valley General Plan**.

   c. **Principal structures shall be those containing guest units or those containing guest registration areas, facility administrative offices and accessory uses. Principal structures with guest units also may contain permitted accessory uses**.

   d. **Accessory structures shall be those containing accessory uses**.

   e. **Service structures shall include those structures used for support and maintenance of the resort**.

   f. **All parking on a site shall be at the surface or underground**.

   g. **No individual retail business, office or business service shall occupy more than 2000 square feet. Entrances to any retail business, office or business service shall be from within a principal or accessory structure.**

2. Bulk and Density Standards

   a. Maximum building height:

      i. *Principal Structures* - ***36*** *feet*

      ii. **Accessory structures - 24 feet**

      iii. *Service structures - 18 feet*

      iv. **Towers and other architectural features may exceed maximum building heights, subject to special use permit or major amendment approval**.

      v. **To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines in accordance with the Open Space Criteria per Section 3 of the Special Use Permit Guidelines.**

   b. Lot coverage

      i. *Total of all structures* - **25***%*

      ii. *Total of all impervious surfaces including building footprints - 60%*

      iii. *Open space, which shall consist of land and water areas retained for active or passive recreation purposes or essentially undeveloped areas retained for resource protection or preservation purposes, a minimum of* ***40****%*

   c. *Maximum density of guest units –* **1 unit for each 4000** *sq. feet of site area*

3. Perimeter Standards

   a. Minimum distance from exterior property lines where the adjacent use is residential:

      i. *Principal structures* - ***100*** *feet*

      ii. *Accessory structure* - ***60*** *feet*

      iii. **Service structure - 100 feet**

      iv. *Outdoor game courts and swimming pools* **which are generally available to all guests** *- 200 feet*

      v. *Parking lots and interior drives, excluding exterior points of access* **–60** *feet*

      vi. **Any portion of an equestrian facility, including structures, barns, stalls and corrals - 200 feet**

   b. Minimum distance from exterior property lines where the adjacent use is other than residential **or is adjacent to a public street:**

      i. *Principal structures - 100 feet*

      ii. *Accessory structure* - **40** *feet*

      iii. **Service structure – 65 feet**

      iv. *Outdoor game courts and swimming pools* ***which are generally available to all guests*** *- 65 feet*

      v. *Parking lots and interior drives, excluding exterior points of access - 40 feet.*

   c. **There shall be a 40 foot wide landscaped area adjacent to an exterior property line where it abuts residentially zoned property**.

   d. **There shall be a minimum 30 foot wide landscaped area where an exterior property line abuts a public or private local or collector street and a 50 foot wide landscaped area where an exterior property line abuts a Major or Minor Arterial**.

   e. The provisions of Chapter XXIV, Walls, and Fences, of the Town's Zoning Ordinance shall apply.

4. Parking and Circulation

   a. **On site parking shall be provided as follows**:

      i. **For each guest unit - 1.2 spaces**.

      ii. **For each dwelling unit - 2.0 spaces**.

      iii. **For each 50 square feet of net dining area in restaurants - 1.0 space**.

      iv. **For each two seats or equivalent area in meeting rooms, auditoriums or group assembly areas - 1.0 space**.

      v. **For each 300 square feet of net sales areas in retail establishments – 1.0 space**.

vi. **For each 300 square feet of net occupied space in office and service establishments - 1.0 space**.

b. **These requirements may be modified in conjunction with special use permit or major amendment approval based on information documenting overlapping usage of on-site facilities by guests or visitors and as contained in an approved traffic and parking analysis**.

c. *All parking and driveway areas shall be located so as to prevent lights from shining onto adjacent residential property*.

d. All parking areas and driveways located within 200 feet of adjacent residentially zoned property shall be screened with a minimum three foot high, solid, decorative wall or a landscaped berm providing equivalent screening or a combination of both.

e. *Landscaped islands shall be provided every 100 feet within surface parking areas.* **Shade tree planters shall be provided between every four stalls**.

f. **No loading, truck parking, trash containers or outdoor storage area shall be located within 100 feet of adjacent residentially zoned property. All such areas shall provide visual and noise screening to minimize impacts on adjacent residential property**.

5. Signs

a. **An identification sign may be located at each entrance to the resort from a Major or Minor arterial street. The maximum height shall be 8 feet and the maximum sign area shall be 40 square feet, aggregate.**

b. **On entrances from all other streets, the maximum height shall be 4 feet and the maximum area shall be 32 square feet, aggregate.**

c. **All signs shall be only backlit or indirectly illuminated according to the standards in Article XXV, Signs, of the Town's Zoning Ordinance.**

d. **No moving or animated signs shall be permitted. Changeable copy is permitted within the allowable sign area.**

e. **Traffic and directional signs within the site shall not exceed 12 square feet in area, aggregate, and shall not exceed 5 feet in height**.

f. **A sign, mounted on an exterior wall of any structure shall contain only structure identification as necessary for emergency access.**

6. Lighting as per Section 2 of the Special Use Permit Guidelines

Section 5 <u>Medical Office</u>

1. Bulk and Density Standards

   a. Maximum building height

   i. *Principal Structures* – **30** *feet*

   ii. **Accessory structures – 24 feet**

   iii. **Service structures – 18 feet**

   iv. **Towers and other architectural features may exceed maximum building heights, subject to special use permit or major amendment approval**.

   v. **To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines in accordance with the Open Space Criteria per Section 3 of the Special Use Permit Guidelines.**

   b. **Maximum lot coverage for all buildings - 25%**

   c. **Minimum lot area - 5 acres**

2. Perimeter Standards

   a. **Building setback when property is adjoining residentially zoned property – 60 feet**

   b. **Building setback when property is adjoining a public street - 40 feet**

   c. **Parking lots and internal driveways shall be set back a minimum of 60 feet from adjoining residential zoned property**

   d. **Parking lots shall be shielded with a minimum 3 foot high wall or landscaped berm providing equivalent screening or a combination of both so that no vehicle lights shall shine onto adjacent residential property**.

   e. **Parking lots adjoining public streets shall be screened with a minimum three foot high, solid, decorative wall or a landscaped berm providing equivalent screening or a combination of both**.

   f. **There shall be a 40 foot wide landscaped area adjacent to an exterior property line where it abuts residentially zoned property**.

   g. **There shall be a minimum 30 foot wide landscaped area where an exterior property line abuts a public or private local or collector street and a 50 foot wide landscaped area where an exterior property line abuts a Major or Minor Arterial**.

3. **Parking**

   a. **On-site parking shall be provided as follows**:

   i. **Medical offices - 1 space for each 200 square feet of interior floor area**.

   ii. **Outpatient surgical facilities - 1 space for each 2 employees plus 1 space for each surgical room**.

iii. **Medical laboratories - 1 space for each 2 employees**.

iv. **Physical therapy facilities - 1 space for each 1.5 employees**.

v. **Pharmacy – 1 space for each 300 square feet of interior area.**

b. **These requirements may be modified in conjunction with special use permit or major amendment approval based on information documenting overlapping usage of on-site facilities by staff and visitors and as contained in an approved traffic and parking analysis**.

4. Signage

In addition to the provisions of Chapter XXV, Signs, of the Town's Zoning Ordinance, the following regulations shall apply:

a. **One ground sign that is no higher than 8 feet and no larger than 40 square feet in area shall be permitted at each principal entrance to the property**.

b. **No moving or animated signs shall be permitted**.

c. **Traffic and directional signs within the site shall not exceed 12 square feet in area or five feet in height**.

5. Lighting

Lighting as per Section 2 of the Special Use Permit Guidelines

Section 6 <u>Religious Facility, Private School, Non-Profit Organization, Public/Quasi Public</u>

1. Bulk and Density Standards

   a. *Maximum building height of principal building – 35 feet*

   b. **Maximum building height for all other structures - 24 feet**

   c. **Maximum lot coverage for all buildings - 25%**

   d. **Minimum lot area - 5 acres**

   e. **Towers and other architectural features may exceed building maximum heights subject to special use permit or major amendment approval**.

   f. **To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines in accordance with the Open Space Criteria per Section 3 of the Special Use Permit Guidelines.**

2. Perimeter Standards

   a. **Building setback when property is adjoining residentially zoned property – 60 feet**

   b. **Building setback when property is adjoining a public street - 40 feet**

   c. **Parking lots and internal driveways shall be set back a minimum of 60 feet from adjacent residentially zoned property**.

   d. **Parking lots shall be shielded with a minimum 3 foot high wall or a landscaped berm providing equivalent screening or a combination of both so that no vehicle lights shall shine onto adjacent residentially zoned property**.

   e. **Parking lots adjoining public streets shall be shielded by a minimum 3 foot high wall or landscaped berm providing equivalent screening or a combination of both**.

   f. **There shall be a 40 foot wide landscaped area adjacent to an exterior property line where it abuts residentially zoned property**.

   g. **There shall be a minimum 30 foot wide landscaped area where an exterior property line abuts a public or private local or collector street and a 50 foot wide landscaped area where an exterior property line abuts a Major or Minor Arterial**.

3. Parking

   a. On-site parking shall be provided as follows:

      i. **Places of assembly - 1 space for each 3 seats or for each 54 inches of total pew length**

      ii. **Classrooms - 1 space for each classroom**

      iii. **Administrative offices - 1 space for each 300 square feet of net interior floor area**

      iv. **Professional offices - 1 space for each 300 square feet of net interior floor area**

b. **These requirements may be modified in conjunction with special use permit or major amendment approval based on information documenting overlapping usage of on-site facilities by employees or visitors and as contained in an approved traffic and parking analysis**.

4. Signage

In addition to the provisions of Chapter XXV, Signs, of the Town's Zoning Ordinance, the following regulations shall apply:

a. **One ground sign no higher than 8 feet and no larger than 32 square feet in area shall be permitted at each principal entrance to the property**.

b. **No moving or animated signs shall be permitted**.

c. **Changeable message panels shall be permitted**.

d. **Traffic and directional signs within the site shall not exceed 12 square feet in area and five feet in height**.

5. Lighting

Lighting as per Section 2 of the Special Use Permit Guidelines

Section 7 <u>Country Club and Golf Course</u>

1. Bulk and Density Standards

   a. **Uses may be conducted indoors or outdoors**.

   b. **Structures associated with the facility shall not exceed one story or 24 feet in height**

   c. **Lot coverage of all structures on a site shall not exceed 20% excluding outdoor game courts and swimming pools, and shall not exceed 30% including outdoor game courts and swimming pools**.

   d. **Minimum site area - 5 acres**

   e. **To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines in accordance with the Open Space Criteria per Section 3 of the Special Use Permit Guidelines.**

2. Perimeter Standards

   a. **No tee or hole within any golf course or driving range shall be closer than 100 feet from the principal structure on any residentially zoned land**.

   b. **No portion of any outdoor game court or swimming pool and decking shall be closer than 150 feet from the property line of any residential zoned land**.

   c. **Building setback when property is adjoining residentially zoned property – 40 feet.**

   d. **Building setback when property is adjoining a public street – 40 feet.**

   e. **Parking lots and internal driveways shall be set back a minimum of 60 feet from adjacent residentially zoned property.**

   f. **Parking lots shall be shielded with a minimum 3 foot high wall or a landscaped berm providing equivalent screening or a combination of both so that no vehicle lights shall shine onto adjacent residentially zoned property.**

   g. **Parking lots adjoining public streets shall be shielded by a minimum 3 foot high wall or landscaped berm providing equivalent screening or a combination of both.**

   h. **There shall be a 40 foot wide landscaped area adjacent to an exterior property line where it abuts residentially zoned property**.

   i. **There shall be a minimum 30 foot wide landscaped area where an exterior property line abuts a public or private local or collector street and a 50 foot wide landscaped area where an exterior property line abuts a Major or Minor Arterial**.

3. Parking

   a. On-site parking shall be provided as follows:

      i. employees - 1 space per employee.

      ii. per golf course hole - 2 spaces.

iii. **per driving range station tee area - 2 spaces.**

iv. **putting or chipping green - 1 space per 500 square feet.**

v. **tennis, racquetball or handball - 3 spaces per court.**

vi. **swimming pool - 1 space per 60 square feet of deck area.**

vii. **dining areas and bar - 1 space per 50 square feet of dining area.**

viii. retail sales area - 1 space per 300 square feet of gross sales area.

ix. **exercise room - 1 space per 150 square feet of gross area.**

x. **event hall - 1 space per 50 square feet of assembly area or 1 space per 2 fixed or portable seats.**

b. **These requirements may be modified in conjunction with special use permit or major amendment approval based on information documenting overlapping usage of on-site facilities by guests or visitors and as contained in an approved traffic analysis**.

4. Signage

In addition to the provisions of Chapter XXV, Signs, of the Town's Zoning Ordinance, the following regulations shall apply:

a. **One ground sign which shall be no higher than 8 feet and no larger than 40 square feet in area shall be permitted at each principal entrance to the property**.

b. **No moving or animated signs shall be permitted**.

c. **Changeable message panels shall be permitted**.

d. **Traffic and directional signs within the site shall not exceed 12 square feet in area or five feet in height**.

5. Lighting

Lighting as per Section 2 of the Special Use Permit Guidelines

Section 8 <u>Guardhouse, Gatehouse, and Access Control Gates</u>

1. Bulk, density and design standards

    a. **The appearance of the guardhouses, gatehouses, and access control gates and related improvements shall be architecturally and aesthetically compatible with adjacent buildings, structures and landscaping**.

    b. **There shall be a turnaround provided outside a guardhouse, gatehouse, or access control gate which shall meet Town standards for cul-de-sacs**.

    c. **An access control gate shall be set back a minimum of 150 feet from the centerline of the nearest intersecting street providing access to the facility**.

    d. Guardhouses and gatehouses shall be no higher than **16** feet in height.

    e. No guardhouse or gatehouse shall exceed **250** square feet in area.

    f. No **access control gate** shall be higher than **8** feet.

    g. **Pedestrian and non-motorized vehicle access shall be provided adjacent to roadway access.**

2. Signage

    a. **One wall sign, not to exceed 6 feet in height or 6 square feet in area shall be permitted.**

    b. **Ground signs, not to exceed 4 feet in height or 2 square feet each in area shall be permitted**.

3. Lighting

Lighting as per Section 2 of the Special Use Permit Guidelines