

**ORDINANCE NO. (O)15-06**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 22, REVIEW AND APPROVAL PROCEDURES, SECTION 22.3.D.2.b, AND CHAPTER 27.10, ENVIRONMENTALLY SENSITIVE LANDS, SECTION 27.10.F.2.c, OF THE ORO VALLEY ZONING CODE REVISED; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER**

**WHEREAS**, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, which adopted that certain document entitled “Oro Valley Zoning Code Revised (OVZCR); and

**WHEREAS**, it is necessary to revise Chapter 22, Review and Approval Procedures, Section 22.3.D.2.b and Chapter 27.10, Environmentally Sensitive Lands, Section 27.10 F.2.c., to (1) amend the approval process for Environmentally Sensitive Lands Flexible Design Options, (2) allow for administrative approval of non-substantial changes to a Tentative Development Plan under a modified review process and (3) clarify what Tentative Development Plan changes are considered significant; and

**WHEREAS**, the Planning and Zoning Commission held a meeting on December 2, 2014, and voted to recommend approval of amending Chapter 22, Review and Approval Procedures, Section 22.3.D.2.b and Chapter 27.10, Environmentally Sensitive Lands, Section 27.10 F.2.c.iii; and

**WHEREAS**, the Mayor and Council have considered the proposed amendments to Chapter 22, Review and Approval Procedures, Section 22.3.D.2.b and Chapter 27.10, Environmentally Sensitive Lands, Section 27.10 F.2.c.iii and finds that they are consistent with the Town's General Plan and other Town ordinances and are in the best interest of the Town.


**NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Oro Valley that:**

**SECTION 1.** that certain document entitled Chapter 22, Review and Approval Procedures, Section 22.3.D.2.b and Chapter 27.10, Environmentally Sensitive Lands, Section 27.10 F.2.c.iii, of the Oro Valley Zoning Code Revised, attached hereto as Exhibit “A”, to (1) amend the approval process for Environmentally Sensitive Lands Flexible Design Options, (2) allow for administrative approval of non-substantial changes to a Tentative Development Plan under a modified review process and (3) clarify what Tentative Development Plan changes are considered significant is hereby approved.

**SECTION 2.** All Oro Valley ordinances, resolutions or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona this 4<sup>th</sup> day of February, 2015.

TOWN OF ORO VALLEY

  
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Dr. Satish I. Hiremath, Mayor

ATTEST:

  
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Julie K. Bower, Town Clerk

Date: 2/20/14

PUBLISH: DAILY TERRITORIAL  
FEBRUARY 11, 12, 13, 17, 2015

APPROVED AS TO FORM:

  
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Tobin Sidles, Legal Services Director

Date: 2/20/14

POSTED: 2/23/15 - 3/26/15

## EXHIBIT "A"

### **Section 22.3.D.2.b**

b. Any proposed changes to a Tentative Development Plan approved in conjunction with a rezoning shall be submitted to the Planning and Zoning Administrator, who shall review the item and shall ascertain whether or not the change is significant. ~~If a change is determined to be significant, revised plans shall be submitted for reconsideration by both the Planning and Zoning Commission and Town Council.~~ A significant change shall be determined by, but not be limited to, the following criteria:

- i. Any change to the permitted use or uses. Permitted uses shall mean the primary and alternative uses as set forth in the Tentative Development Plan and conditions attached to the approved rezoning.
- ii. Any change to the development standards or zoning conditions relating to building heights, PERIMETER setbacks, open space requirements, any reduction in open space, parking, floor area ratios and density.
- iii. Any change to the Tentative Development Plan associated with this rezoning which would vary any material terms or conditions of the rezoning, which would modify any proposed density standards, any kinds of street or land improvements proposed affecting the standards and layout for vehicular circulation, signs and nuisance controls intended for the development.
- iv. Nothing in this section shall be deemed to authorize the Planning and Zoning Administrator to modify or approve any aspects of development reserved to the Conceptual Design Review Board pursuant to Section 22.5.
- v. CHANGES APPROVED AS FLEXIBLE DESIGN OPTIONS AS PERMITTED BY SECTION 27.10.F.2.c SHALL BE EXEMPT.

IF A CHANGE IS DETERMINED TO BE SIGNIFICANT, REVISED PLANS SHALL BE SUBMITTED FOR RECONSIDERATION BY BOTH THE PLANNING AND ZONING COMMISSION AND TOWN COUNCIL.

### **Section 27.10.F.2.c – Flexible Development**

#### **c. Flexible Development**

- i. Process. Development requirements may be modified to allow flexibility as a part of the rezoning, subdivision plat, or site plan review process. The process to enable use of flexible development options is delineated by application type:
  - a) As part of a rezoning application, OR SUBSEQUENT APPLICATION, THE PLANNING AND ZONING ADMINISTRATOR MAY REVIEW AND APPROVE ALL FLEXIBLE DESIGN OPTIONS EXCEPT THE FOLLOWING WHICH Town Council retains discretion to enable on a cases-by-case basis.
    - 1) SUBSECTION F.2.c.iii.a OF THIS SECTION, BUILDING SETBACK (PERIMETER)
    - 2) SUBSECTION F.2.c.iii.b OF THIS SECTION, LANDSCAPE BUFFER YARD (WHEN ADJOINING A RESIDENTIAL USE OR A PUBLIC STREET)

- 3) SUBSECTION F.2.c.iii.c OF THIS SECTION, MINIMUM LOT SIZE
  - 4) SUBSECTION F.2.c.iii.d OF THIS SECTION, MINIMUM LOT WIDTH
  - 5) SUBSECTION F.2.c.iii.f OF THIS SECTION, BUILDING HEIGHT
  - 6) SUBSECTION F.2.c.iii.g OF THIS SECTION, OPEN SPACE
  - 7) SUBSECTION F.2.c.iii.h OF THIS SECTION, MIXED USE
  - 8) SUBSECTION F.2.c.iii.i OF THIS SECTION, MODIFIED REVIEW PROCESS
- b) For site plan and subdivision plat proposals utilizing the ESL application incentive provided in subsection B.3 of this section, all flexible options are permitted upon Planning and Zoning Administrator review and approval, except the following:
- 1) Subsection F.2.c.iii.e of this section, Building Height. Increases to building height in excess of five (5) feet must be considered by the Conceptual Design Review Board and approved by Town Council.
  - 2) Subsection F.2.c.iii.f of this section, Open Space.
  - 3) Subsection F.2.c.iii.g of this section, Mixed Use.

**Section 27.10.F.2.c.i.c – NEW SECTION**

- c) APPEAL. ADMINISTRATIVE DECISIONS OF FLEXIBLE DESIGN OPTIONS MAY BE APPEALED IN THE FOLLOWING MANNER:
- 1) THE APPROVAL OR DENIAL BY TOWN STAFF OF AN APPLICATION SHALL BE FINAL UNLESS, WITHIN TWENTY (20) DAYS FROM THE DATE OF STAFF'S DECISION, THE APPLICANT FILES AN APPEAL IN WRITING TO THE TOWN COUNCIL. SUCH APPEAL SHALL BE IN WRITING IN CARE OF THE TOWN CLERK AND SHALL INDICATE WHERE, IN THE OPINION OF THE APPELLANT, TOWN STAFF WAS IN ERROR. THE TOWN CLERK SHALL SCHEDULE THE APPEAL FOR TOWN COUNCIL REVIEW AND THE TOWN COUNCIL, AT ITS MEETING, SHALL UPHOLD, MODIFY OR OVERRULE THE DECISION TOWN STAFF. THE DECISION OF THE TOWN COUNCIL SHALL BE FINAL.
  - 2) THE TOWN COUNCIL SHALL HAVE THE RIGHT AND PREROGATIVE TO INITIATE ITS OWN REVIEW OF ANY DECISION OF TOWN STAFF AND SHALL UPHOLD, MODIFY OR OVERRULE SAID DECISION. COUNCIL SHALL HAVE TWENTY (20) DAYS TO INITIATE A REVIEW AND THE APPLICANT SHALL BE NOTIFIED.
- ii. Review Criteria. The determination to permit a modification is subject to all of the following findings:
- a) Enables development to the base zoning density, at a minimum, for the entire site.

- b) Compatibility with adjacent land uses is achieved through architectural design, buffers, and placement of structures and improvements to reduce view impacts.
- c) The modification does not conflict with an approved treatment plan for cultural resources.
- d) Statutes, development agreements, appeal processes, or other provisions of this code are not violated.

### iii. Requirements Subject to Modification

The following requirements may be modified as they relate to the proposed construction of single-family attached and detached residences, multi-family residences, commercial, employment and mixed use projects.

- a) **Building Setback.** Minimum setbacks may be reduced to no less than five (5) feet on lots less than or equal to twelve thousand (12,000) square feet and up to twenty percent (20%) of the required distance on lots greater than twelve thousand (12,000) square feet. Reductions are subject to the following:
  - 1) Side yards shall not be less than five (5) feet, unless a zero lot line design is utilized.
  - 2) Setback reductions shall not result in on-lot driveway lengths that are less than twenty (20) feet.
  - 3) Reductions do not apply to setback requirements in subsection F.2.d.ii.e.2 of this section for a conservation subdivision design.
- b) **Landscape Buffer Yards.** Minimum required buffer yards may be reduced to ten (10) feet with a corresponding decrease in planting ratios specified in Section 27.6, Table 27-10, except when the buffer yard is adjacent to an existing residential subdivision or public street.
- c) **Minimum Lot Size.** Minimum lot sizes, INCLUDING ASSOCIATED LENGTH AND WIDTH, in all R1, R-4, R-S and SDH-6 districts may be modified, subject to conservation design requirements of this section.
- d) **MINIMUM LOT WIDTH.** MINIMUM LOT WIDTH IN ALL R1 AND SDH-6 DISTRICTS MAY BE MODIFIED.
- e) **Off-Street Parking.** ALTERNATIVE PARKING ANALYSIS. Modifications resulting in reduced amounts of parking and circulation area are supported. Off-street parking requirements may be reduced in accordance with Section 27.7.C.2.
- f) **Building Height.** Building heights for single-family attached and multi-family dwelling types may be increased by no more than thirteen (13) feet.
- g) **Open Space.** Reductions may be provided in accordance with subsection F.2.f of this section, open space requirements.

- h) Mixed Use. Residential uses that are functionally integrated, including access, nonvehicular circulation and amenities, with commercial or employment uses may be approved within commercial zoning districts.
- i) Modified Review Process. Site Plans and preliminary plats submitted in SUBSTANTIAL conformance with the approved Tentative Development Plan, as determined by the Planning and Zoning Administrator, may be administratively approved. ANY PROPOSED CHANGES TO A TENTATIVE DEVELOPMENT PLAN MUST BE ADMINISTERED AS SPECIFIED IN SECTION 22.3.D.2.b., except 22.3.D.2.b.iv.
- j) Recreation Area Credit. Permissible passive and/or active recreational amenities located within resource management area ESOS may be credited toward residential recreation area requirements as approved by the Planning and Zoning Administrator when the locational requirements of Section 26.5, Provision of Recreational Area, are satisfied. Connectivity of open space must be maintained.
- k) Native Vegetation Preservation. When fifty percent (50%) or more of a site is preserved as ESOS, requirements for native plant salvage and mitigation (Section 27.6B) shall be waived within a development envelope. This modification cannot be applied to areas of distinct vegetation which are designated as a core resource area or native plants that are considered threatened or endangered under the Endangered Species Act or highly safeguarded by the Arizona Department of Agriculture.