

## **Chapter 18.67 BUFFER OVERLAY ZONE**

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### **18.67.010 Purpose.**

A. The purpose of this chapter is to:

1. Preserve and protect the open space characteristics of those lands in the vicinity of the public preserves while at the same time permitting the economically reasonable use of lands;
2. Protect and enhance existing public preserves in Pima County as a limited and valuable resource;
3. Establish mechanisms that will protect the public preserves and result in an ecologically sound transition between the preserves and more urbanized development;
4. Assure the continued existence of adequate wildlife habitat and foster the unimpeded movement of wildlife in the vicinity of Pima County's public preserves;
5. Provide for an aesthetic visual appearance from and to Pima County's public preserves;
6. Promote a continued economic benefit to the region by protecting the public preserves for the enjoyment of residents and visitors alike; and
7. Neither promote nor discourage changes in underlying zoning, but rather provide continuing performance standards for the unique lands within the buffer overlay zone.

(Ord. 1998-51 § 3, 1998; Ord. 1988-16 § 1 (part), 1988)

### **18.67.020 Definitions.**

A. Certain terms used in this chapter shall be defined, for the purpose of this chapter only, as follows:

1. Class I habitat. The areas identified on the Critical and Sensitive Biological Communities Maps as Class I habitat.
2. Class II habitat. The areas identified on the Critical and Sensitive Biological Communities Maps as Class II habitat.
3. Fence or wall: A structure intended for confinement, prevention of intrusion, boundary identification or screening of an activity or land use—includes fences and walls of four feet or less.

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4. Land parcel: An area of land with boundaries recorded in the Pima County Recorder's Office.
5. Master plan development: An area consisting of one or more land parcels or a portion of a land parcel for which a master subdivision plat is to be recorded with the general intent that, in a phased manner, individual lots are to be resubdivided or be subject to a development plan.
6. Native: Growing in the Arizona portion of the Sonoran Desert, without cultivation, and not introduced after 1920. A plant which occurs within the range of Sonoran Desert plants, but only in Mexico, is not native.
7. Private area: A land area adjacent to a residential structure, enclosed by a fence, wall or native vegetative screening, and not exceeding one-half acre.
8. Public preserve: An area under public ownership and management that is designated at the federal, state, or county level as a special status recreation or conservation area.
9. Riparian habitat: An association of plant and animal communities containing a high density and diversity of species, occurring in, on or immediately adjacent to a watercourse. It is typically composed of mesquite, catclaw acacia, desert broom, whitehorn acacia and blue palo verde, providing uninterrupted vegetative cover.

(Ord. 1998-51 § 3, 1998; Ord. 1998-38 § 1 (part), 1998; Ord. 1988-116 § 1 (part), 1988)

#### **18.67.030 Applicability.**

##### A. Public Preserves.

1. The following lands are designated as public preserves for the purpose of this chapter:
  - a. Saguaro National Park (Rincon Mountain and Tucson Mountain districts);
  - b. Tucson Mountain County Park;
  - c. Coronado National Forest (Santa Catalina Mountains unit);
  - d. Coronado National Forest (Santa Rita Mountains unit);
  - e. Catalina State Park;
  - f. Tortolita Mountain Park;
  - g. Coronado National Forest (Whetstone Mountains unit) (rural);
  - h. Coronado National Forest (Tumacacori Mountains unit) (rural);
  - i. Coronado National Forest (San Luis Mountains unit) (rural);
  - j. Cienega Creek Preservation Area;
  - k. Colossal Cave Mountain Park;
  - l. Empire/Cienega Resource Conservation Area;
  - m. Santa Rita Experimental Range and Wildlife Area;
  - n. Buenos Aires National Wildlife Refuge (rural);
  - o. Organ Pipe Cactus National Monument (rural);
  - p. Cabeza Prieta National Wildlife Refuge (rural);
  - q. Coyote Mountains Wilderness Area (rural);
  - r. Baboquivari Peak Wilderness Area (rural).

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2. The boundaries of the above designated public preserves, for the purposes of this chapter, are the administrative boundaries of the public preserves as they existed on August 11, 1998.
  3. Public preserves listed above that are noted "rural" are designated as rural public preserves.
- B. Applicable Lands. The buffer overlay zone applies to:
1. That portion of a land parcel of 25 acres or more on August 11, 1998, which is located within one mile of a public preserve, except as noted in Subsection 18.67.030.C;
  2. That portion of a land parcel of 25 acres or more on August 11, 1998, that is classified as either resource conservation (RC) or resource transition (RT) in the area adjacent to the Tucson Mountain section of Saguaro National Park and Tucson Mountain Park, lying within special area 5-01 Tucson Mountains North, as described in the document entitled Comprehensive Plan Regional and "Special Area" Plan Policies and as designated on the comprehensive plan land use plan;
  3. Land parcels of 25 acres or more on August 11, 1998, located within the administrative boundary of a designated public preserve;
  4. A rezoning request or a specific plan request, any portion of which is subject to the buffer overlay zone.
- C. Excluded lands:
- The buffer overlay zone does not apply to:
1. Any portion of a land parcel that is located more than one mile from a designated public preserve, except as noted in Subsection 18.67.030.B;
  2. That area within the Mount Lemmon community plan as adopted by the board of supervisors on April 7, 1980;
  3. Any portion of a land parcel that is located more than one-quarter mile from the Cienega Creek Preservation Area as shown on Exhibit 1 to Ordinance 1998-51 and county zoning maps.
- D. Allowed uses: All uses of the underlying zone are allowed in the buffer overlay zone, except as may be restricted by a condition of rezoning or specific plan. The development standards of the underlying zone apply except when in conflict with this chapter, in which case, this chapter applies.
- E. Map notation: Land subject to the buffer overlay zone shall be shown on county zoning maps by its underlying zone designation plus the suffix "BZ," except that subject land adjacent to a rural public preserve shall be shown on county zoning maps by its underlying zone designation plus the suffix "RBZ."

(Ord. 1998-51 § 3, 1998; Ord. 1998-38 § 1 (part), 1998; Ord. 1992-96 § 1 (part), 1992; Ord. 1988-116 § 1 (part), 1988)

#### **18.67.040 Critical and sensitive biological communities maps.**

- A. The board of supervisors shall by resolution adopt three critical and sensitive biological communities maps. They are:
1. Critical and Sensitive Biological Communities Map—Northeast Sector;
  2. Critical and Sensitive Biological Communities Map—Southeast Sector;
  3. Critical and Sensitive Biological Communities Map—Western Sector.
- B. The maps may be amended by resolution of the board of supervisors after review by the planning and zoning commission.

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- C. Procedure for an amendment of a critical and sensitive biological communities map requested by an applicant for rezoning or specific plan:
  - 1. If a site analysis is not required, the applicant shall submit a report containing, at a minimum, responses to all vegetation and wildlife sections in the site analysis guidelines.
  - 2. The site analysis or report shall establish that the natural conditions of the site differ from that depicted on the map.
- D. Class I habitat: Areas identified on the critical and sensitive biological communities maps as Class I habitat include:
  - 1. Deciduous riparian woodlands: Vegetative communities associated with perennial stream flows and generally composed of cottonwood, willow, ash, walnut, sycamore, and mesquite species;
  - 2. Mesquite bosques. Nearly continuous forest canopies of mesquite trees growing in association with water tables near the surface of annual or perennial streams: Blue palo verde and catclaw acacia also commonly occur in mesquite bosques;
  - 3. Lakes, ponds, and wetlands with adjacent plant cover;
  - 4. Important wildlife movement corridors: Desert or riparian habitats providing uninterrupted vegetative cover extending from a public preserve; and
  - 5. Major extensions of riparian habitat from public preserves: Riparian habitats are typically composed of mesquite, catclaw acacia, desert broom, whitehorn acacia and blue palo verde.
- E. Class II habitat: Areas identified on the critical and sensitive biological communities maps as Class II habitat include:
  - 1. Major segments of riparian habitat not extending from a public preserve, containing a high density and diversity of plant and animal species;
  - 2. Palo verde-saguaro vegetation community: The upland habitat which is the dominant plant association in most of the foothills regions of the Tucson basin; and
  - 3. Ironwood plant community: A community in which ironwoods are the dominant species in association with saguaros and palo verde trees:

(Ord: 1998-51 § 3, 1998; Ord: 1998-38 § 1 (part), 1998; Ord: 1988-116 § 1 (part), 1988)

#### **18.67.050 Performance standards for issuance of permit.**

- A. Applicability.
  - 1. The performance standards of this section shall apply to new building construction of one thousand square feet or greater, except as specifically exempted in this section.
  - 2. Requests for rezonings and specific plans that include land subject to this chapter shall be evaluated for conformance to the performance standards of this chapter as part of the rezoning staff report to the planning and zoning commission.
- B. Reserved.
- C. Building color, reflective finish: All exposed exterior walls and roofs of buildings (unless a roof is screened by a parapet wall extending at least three feet above the building), retaining walls, and accessory structures that are visible from outside the land parcel boundary, shall be earthtone in color and shall blend in with the natural setting: Colors shall not exceed a light-reflective value of sixty percent: Mechanical equipment shall be screened and painted to reduce visibility.
- D. Fences and walls:

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1. Height: A fence or wall shall not exceed four feet in height unless it encloses an area of less than one-half acre, or a horse corral, dog kennel, swimming pool or spa.
  2. Location: A fence or wall shall not be constructed:
    - a. To delineate property boundaries unless the fence or wall is four feet or less in height; or
    - b. In a location or manner that impedes wildlife movement through natural open space from and to off-site locations.
  3. Barbed wire: If barbed wire fences are used, the fence shall contain no more than four strands of wire: The bottom and top wires shall be barbless and the middle wires may be barbed: The top wire shall be no more than forty-eight inches from the ground surface, and the bottom wire shall be no lower than sixteen inches from the ground.
  4. Barbed wire fences not to exceed five feet in height are allowed for ranching or agricultural activities in areas adjacent to a rural public preserve: The fence shall not be structural.
- E. Lighting.
1. External lighting shall be limited to that necessary to provide the functional requirements of safety, security and identification, and shall be in accordance with the county outdoor lighting code (Title 15).
  2. Except for lighting that is attached to a building, light standards for roads, parking lots, driveways and all other outdoor areas shall not exceed forty-two inches in height and shall be in accordance the county outdoor lighting code (Title 15).
  3. Tennis court and horse corral exception: Lighting for tennis courts and horse corrals shall be exempt from the restrictions of subdivision 1 of this subsection, but shall be in accordance with the county outdoor lighting code (Title 15).
- F. Parking lots: Parking lots for nonresidential uses shall be located and screened by vegetation so that visibility from roadways and public preserves is reduced to the greatest extent possible.
- G. Setback: No structure, parking lot, private driveway or road shall be placed within one hundred fifty feet of a public preserve, except that the setback shall be three hundred feet for any land parcel subject to a specific plan or a rezoning approved on or after August 11, 1998: An exception may be sought in accordance with Section 18.67.060.
- H. Utilities:
1. All new or relocated utility lines shall be placed underground, unless the relocated line is a one hundred fifteen kilovolt (or greater) transmission line: All utility lines relocated due to improvement projects shall be placed underground unless such relocated line is a forty-six kilovolt (or greater) transmission line.
  2. Location of underground utility lines (including sanitary sewers) shall be planned, joint-trenched where possible, and located beneath the paved portions of roadways or within twenty-five feet of the edge of the paved portions whenever possible so as to minimize vegetative disruption.
  3. When making upgrades and reinforcements to existing utilities, existing poles shall be used wherever possible to provide the required transition to underground service to new developments: However, a new pole, set in line with the existing overhead system, shall not be deemed to be a new utility when necessary to serve approved new developments: Upgrades and reinforcements of existing overhead utilities are allowed to the extent that the total number of cables is not increased.
  4. Areas adjacent to a rural public preserve are exempt from the regulations of this subsection H.
- I. Vegetation:

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1. Approved and prohibited plant lists: A buffer overlay zone approved plant list and a buffer overlay zone prohibited plant list, adopted by resolution, are incorporated in the landscape design manual, pursuant to Section 18.73.030.
  - a. The approved plant list shall include only native plants.
  - b. The prohibited plant list shall include species that are incompatible with natural areas and public preserves or incompatible because of their mature height expectations.
2. Approved plants: Plants not on the approved plant list shall not be planted in the buffer overlay zone outside private areas, except that:
  - a. All native species of cacti may be planted; and
  - b. Native species not included on the approved plant list may be planted with the prior written approval of the planning director or authorized representative.
3. Private areas: Any plant not on the prohibited plant list may be planted in a private area, except for nonnative species of plant whose mature height may reasonably be expected to exceed the ridgeline of the highest adjacent structure.
4. Common areas: Only those plants on the approved plant list, or approved pursuant to subdivision 2 of this subsection, shall be planted in recorded common areas: A landscape or revegetation theme shall be established emphasizing the preservation and enhancement of native plant species: Natural open space common areas shall be further limited to on-site species.
5. Golf courses may be planted with Bermuda grass.
6. To the fullest extent possible, buildings and other improvements shall be sited so as not to disturb native trees, shrubs or cacti: Where removal of this plant material cannot be avoided, all reasonable efforts shall be made to relocate this plant material in to other areas located within the buffer overlay zone: Nursery-grown native species may be planted in lieu of salvaging mature on-site material at a 3:1 ratio, however at least thirty percent of the on-site material shall be salvaged when physical conditions permit: Should revegetation and replanting be necessary, only plant material listed in the approved plant list, or approved pursuant to subdivision 2 of this subsection, shall be used in public, recreation, or common areas.
7. The restrictions of this subsection shall be imposed as covenants running with the land for subdivisions and other development resulting from rezonings or specific plans approved in the buffer overlay zone.
8. Areas adjacent to a rural public preserve are exempt from the restrictions of this Subsection I.
- J. Trails Access. Public access to trails identified in the Pima Regional Trail System Master Plan Map or successor shall be reserved in subdivisions in accordance with Section 18.69.040(D) (subdivision standards).
- K. Washes. Washes identified on the critical and sensitive biological communities maps, and other washes identified by the criteria applied in the maps, shall be left in their predevelopment state, subject to the following exceptions and requirements:
  1. Disturbance within the wash area deemed critical and sensitive shall be permitted in association with roadway, utility and trail crossings, however:
    - a. Encroachment for these crossings shall not reduce the width of the critical and sensitive wash area by more than twenty percent at any cross-section of the critical and sensitive area.
    - b. Additional reduction may occur only where necessary to provide floodwater retention requested by the Pima County flood control district or to provide for larger drainage

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structures so as not to impede movement of wildlife as approved by the Arizona Game and Fish Department; and

- c. Erosion protection shall only be permitted within the critical and sensitive wash area to protect fill slopes required for roadway, utility and trail crossings: Erosion protection measures shall be designed so as to not hinder the movement of wildlife.
2. Mitigation Plans for Construction Impacts.
    - a. Construction impacts may affect up to ten percent of the low-flow channel length where defined channels exist, or up to ten percent of the length of the centerline of flow where braided or undefined channels exist, provided that a mitigation plan for any construction impacts within the critical and sensitive wash area shall be submitted to the Pima County flood control district together with a site plan, tentative plat or development plan.
    - b. The mitigation plan shall reflect predevelopment wildlife habitat and visual conditions as a baseline, and provide for post-development replacement with species on the approved plant list, or approved pursuant to subsection I.2 of this section, with a similar spatial arrangement that will result in re-establishment of predevelopment habitat conditions.
- L. Functional Open Space.
1. Functional open space which does not impede wildlife movement and is within or immediately adjacent to an interconnected natural open space system shall be credited as natural open space at fifty percent.
  2. Functional open space which does not impede wildlife movement, is part of an interconnected open space system and creates wildlife habitat opportunities shall be credited as natural open space at one hundred percent.
  3. All other functional open space, including golf courses, shall receive no credit towards natural open space requirements.
  4. On those parcels where no Class I or Class II habitat is present, or have no areas eligible to be designated as natural open space, one hundred percent of designated functional open space shall be credited as natural open space.
- M. Reserved.
- N. Natural Open Space. Thirty percent of the land subject to the buffer overlay zone shall be preserved as natural open space, except that fifty percent of the land subject to the buffer overlay zone shall be preserved as natural open space for any land parcel subject to a specific plan or a rezoning approved on or after August 11, 1998. The landowner may, and is encouraged to, preserve a greater percentage of natural open space. The natural open space shall form an interconnected system. The selection and treatment of lands comprising the natural open space requirement shall consist of the following:
1. One hundred percent of all Class I habitat area;
  2. Any balance of acreage needed to achieve the natural open space requirement shall be composed primarily of Class II habitat areas, if available, or functional open space to be credited pursuant to subsection L of this section.
  3. Boundaries of designated natural open space shall be surveyed and identified on the final plat or, where a plat is not required, may be described in:
    - a. Covenants running with the land; or
    - b. Conservation easement pursuant to Arizona Revised Statutes Section 33-271, et seq.; or
    - c. Dedication to and acceptance by the county for the county parks system as natural open space;

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- d. The building permit or zoning permit, where not otherwise designated by plat, covenant or conservation easement.
  4. Master Planned Development. Boundaries of designated natural open space shall be surveyed and identified on a master subdivision plat. Minor alterations of the boundary may be allowed in a resubdivision of one or more lots of the master subdivision plat with the consent of the planning director provided that in so doing:
    - a. The new boundaries are surveyed and identified on the resubdivision plat;
    - b. The resubdivision does not create any less total amount of natural open space than shown on the master subdivision plat;
    - c. The performance standards of this chapter are in no way diminished; and
    - d. No special condition of a rezoning or specific plan is violated.
  5. For land parcels located within the buffer overlay zone of the Cienega Creek Preservation Area, the one hundred-year floodplain and erosion hazard setback area shall be preserved as natural open space.
- O. Visual Quality Standards.
1. This subsection shall apply only to the rezoning of land subject to this chapter.
  2. All development in areas identified as having high visual sensitivity, according to the procedures set forth in county site analysis requirements, shall have minimal visual impact. Development in these areas shall be designed to be in harmony with the form, line, color, texture and scale of the existing landscape.
  3. All development in areas identified as having medium visual sensitivity, according to procedures set forth in county site analysis requirements, shall remain subordinate to the existing landscape when viewed in the middle ground (one-fourth to two miles). Development in these areas shall be designed to be in harmony with the form, line, color and scale of the existing landscape.
  4. Nothing contained in the visual quality standards shall limit uses or lessen densities otherwise allowed, but may govern specific location and design of the development.

(Ord. 2011-2 § 16, 2011; Ord. 2011-1 § 2 (part), 2011; Ord. 1998-51 § 3, 1998; Ord. 1998-38 § 1 (part), 1998; Ord. 1988-116 § 1 (part), 1988)

#### **18.67.060 Exceptions and variances.**

- A. General requirements for exceptions:
1. Exceptions to the requirements of the performance standards in Section 18.67.050 may be granted by the Pima County design review committee (DRC), except as otherwise noted in this section, when, due to the natural conditions of the site or other conditions beyond the control of the property owner, the performance standard would impose an undue hardship.
  2. Procedure:
    - a. The applicant for an exception shall document and justify requested exceptions. The planning director, in consultation with the county engineer and the adjacent public preserve manager, or their authorized representatives, shall review the request and make a written recommendation to the DRC.
    - b. The DRC may grant exceptions to performance standards after a public hearing with notice to owners of property within 300 feet of the site.



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- c. The decision of the DRC may be appealed to the board of supervisors at a noticed and advertised public hearing. Written notice shall be provided to owners of property within 300 feet of the site.
  3. Standards. An exception may not be granted unless:
    - a. The application demonstrates that the wildlife habitat value or visual quality of a land parcel is not diminished;
    - b. The exception will not be detrimental to the nearest public preserves; and
    - c. The exception is in harmony with the purpose of this code and chapter as well as the provision of this chapter from which the exception is requested.
  4. Conditions. Conditions may be imposed on an exception that will:
    - a. Secure the purpose of this code and chapter as well as the provision of this chapter from which the exception is granted; and
    - b. Provide adequately for the protection of the nearest public preserves.
- B. Exceptions to setback requirement (Section 18.67.050.G).
1. If a land parcel existing on August 11, 1998, and legally conforming to the development standards of the underlying zone, cannot be used because of the structure setback, then the land parcel shall be allowed a single dwelling unit, provided that all other applicable requirements of this chapter and code are met.
  2. If a land parcel existing on August 11, 1998, and legally conforming to the development standards of the underlying zone, does not have reasonable access because of the setback, the private driveway or road may be located closer to the public preserve, provided that the planning director, after consultation with the manager of the nearest public preserve, determines that it is the minimum setback necessary to afford relief.
  3. The property owner may appeal the decision of the planning director to a board of adjustment in the same manner as an appeal from a decision of the zoning inspector (refer to Chapter 18.93).
  4. Signage within the setback shall conform to Chapter 18.79 (Sign Standards). Internally illuminated signs shall be designed to allow only the illumination of the sign copy. The source of illumination for internally illuminated signs shall not be visible from the public preserve.
  5. A structure within three hundred feet of a public preserve shall have minimal visual impact and shall be designed to be in harmony with the form, line, color, texture and scale of the existing landscape.
- C. Exceptions for Habitat Restoration or Enhancement.
1. Where determined to be biologically appropriate because of ecological benefits, requests for special exceptions to the performance standards of Section 18.67.050, including limited reductions in natural open space requirements, may be granted by the board of supervisors, after review by the adjacent public preserve manager, in exchange for restoration or enhancement of Class I and II riparian or upland habitat, which provides, in the opinion of the Board, an equivalent satisfaction of the purposes of this chapter.
  2. Detailed plans for proposed restoration or enhancement shall be provided. The plans shall include:
    - a. A description of existing habitat and quantification by a standard biological technique of biological value;
    - b. A proposed restoration/enhancement program;

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- c. The quantification of biological value of the proposed plan as compared to the existing situation pursuant to paragraph a of this subdivision;
  - d. Short-term and long-term maintenance plans; and
  - e. Specific known examples of the successful application of such techniques as they relate to the species proposed for planting in a given location such as riparian or upland habitat.
3. Such requests, and a determination of appropriate incentives, if any, shall be considered pursuant to Section 18.67.060.A.
- D. Variances to natural open space requirements (Section 18.67.050.N). A request for a variance may be made to the board of adjustment to reduce the minimum natural open space requirement for a single-family detached dwelling on a lot or parcel of five acres or less in accordance with the standards and procedures of Chapter 18.93 (Boards of Adjustment).
- (Ord. 1998-51 § 3, 1998; Ord. 1988-116 § 1 (part), 1988)

#### **18.67.070 Rezoning and specific plan procedural requirements.**

- A. Applicability. This section applies to a rezoning or to a specific plan request, any portion of which is subject to the buffer overlay zone.
- B. Notice.
  1. Copies of the application for a rezoning request or for a specific plan request, any portion of which is subject to the buffer overlay zone, shall be sent to the managers of those public preserves within one mile of the land parcel and those neighborhood associations within one mile of the land parcel registered with the planning division.
  2. Managers of public preserves and registered neighborhood associations within one mile of the land parcel shall be notified fifteen days prior to the date that the proposed exceptions under Section 18.67.060 go to the board of supervisors or the board of adjustment.

(Ord. 2009-59 § 6, 2009; Ord. 1998-51 § 3, 1998; Ord. 1998-38 § 1 (part), 1998; Ord. 1988-116 § 1 (part), 1988)