

## **PART 1 ZONING REGULATIONS**

### **SECTION 1-5800 RURAL CLUSTER OPTION**

#### **1-5801 APPLICABILITY & RELATED PROVISIONS**

- (A) A Rural Cluster Option is available within the Rural Area in the A-1 Zone District and portions of the A-E Zone District consistent with the purpose and intent and general requirements stated in Section 2-950 of the Arapahoe County Subdivision Regulations.
- (B) An applicant for the Rural Cluster Option should refer to Section 2-950 of the Subdivision Regulations for applicable provisions addressing:
  - Applicability of the rural cluster option within the Rural Areas zoned A-1 and A-E;
  - Cluster subdivision review procedures;
  - Standards regarding the minimum amount of conservation area set-aside;
  - Standards regarding the design of the residential cluster and conservation area components of a rural cluster subdivision;
  - Standards regarding utility and infrastructure requirements; and
  - Standards regarding ownership and maintenance of the conservation area(s).

#### **1-5802 COMPONENTS OF A RURAL CLUSTER DEVELOPMENT**

A cluster subdivision is comprised of two components: (1) the residential cluster and (2) the conservation area. The residential cluster is the portion of the development parcel that is subdivided into lots for single-family residential and accessory uses.

The conservation area is the larger portion of the development parcel that is platted as a tract(s) and permanently preserved for agricultural or open space uses.

#### **1-5803 RESIDENTIAL CLUSTER STANDARDS**

##### **1-5803.01 ALLOWED USES ON RESIDENTIAL CLUSTER LOTS**

- (A) **Residential Cluster Lots Other Than Conservancy Lots.**

Notwithstanding the uses allowed in Section 1-1500 and Section 1-1600 of the Zoning Regulations, allowed uses shall be limited to one principal single-family dwelling unit, one mother-in-law apartment/dwelling unit attached to the principal dwelling structure, plus the following residential accessory uses:

  - (1) Home occupation.
  - (2) Shelter for agricultural implements and tools used to maintain premises.
  - (3) Keeping of not more than one (1) agricultural animal (e.g., horses, cattle, llamas, goats, chickens) per one (1) gross acre.

- (4) Private stables to keep permitted animals, provided the stable is located on the rear half of the lot and no closer than 25 feet to a lot line and 50 feet to any dwelling unit.
  - (5) Greenhouse, provided products are used for consumption by residents only.
  - (6) Keeping of not more than four (4) domestic pets (e.g., dogs, cats, birds, small animals, reptiles), not including any exotic animals, and provided such pets are customarily kept in homes and are customarily purchased at local pet stores for the sole pleasure and enjoyment of the occupants.
- (B) **Accessory Buildings.** Notwithstanding the uses allowed in Section 1-1503 and Section 1-1603 of the Zoning regulations, allowed accessory buildings shall be limited to:
- (1) **Maximum Number:** In addition to one detached garage, the maximum number of accessory buildings greater than 120 square feet in area shall be two (2). In addition, the maximum number of accessory buildings of 120 square feet or less shall be three (3).
  - (2) **Maximum Size:** The maximum size of an accessory building greater than 120 square feet shall be 800 square feet.
  - (3) **Maximum Height of Accessory Buildings:** Other than agricultural silos, the maximum height of accessory buildings shall be a maximum of 20 feet.
  - (4) **Minimum Accessory Building Setbacks:** All accessory buildings shall comply with the IBC minimum setback from the principal dwelling structure, and shall be a minimum of 50 feet from all lot property lines.
- (C) **Conservancy Lots.** Notwithstanding the uses allowed in Section 1-1500 and Section 1-1600 of the Zoning Regulations, allowed uses on the non-restricted portion of the conservancy lot shall be the same as for other residential cluster lots, as stated in subsection (A) above. On the restricted, conserved portion of the conservancy lot, uses shall be limited to those allowed in Section 1-5804.01, "Allowed Uses and Activities in Conservation Areas," below.

**1-5803.02 MAXIMUM GROSS DENSITY UNDER RURAL CLUSTER OPTION**

The maximum gross density permitted under the rural cluster option shall be measured using the gross land area (in acres) of the entire parcel that is the subject of the cluster subdivision application (i.e., including land set aside in tracts as the conservation areas).

- (A) **In the A-E Zoning District:** Gross density not to exceed 2.25 dwelling units per 35 acres is permitted. This represents a 125% increase over gross density typically permitted in the A-E zoning district.

- (B) **In the A-1 Zoning District:** Gross density not to exceed 1.75 dwelling units per 19 acres is permitted. This represents a 75% increase over gross density typically permitted in the A-1 zoning district.
- (C) **Calculations.** Where the total number of dwelling units calculated results in a fractional number, the applicant shall round to the nearest whole number.

**1-5803.03 DISCRETIONARY DENSITY BONUSES**

- (A) **General Provisions.**
- (1) **Bonuses are Discretionary.** At the discretion of the Board of County Commissioners, the applicant may earn density bonuses in addition to the maximum gross density permitted under the rural cluster option in Section 1-5803.02, above.
- (2) **Bonuses are Cumulative.** The applicant may seek application of more than one bonus density provision below, and the total bonus density earned shall be cumulative. However, in no case shall the total density earned through these bonus provisions be increased above the maximum gross density allowed in Section 1-5803.02, above, by more than 100% for the A-E district and by more than 50% for the A-1 district.
- (3) **Flexibility to Accommodate Bonus Density.**
- The Board shall have the authority to vary the minimum lot size and the minimum amount of conservation area required by this Section 1-5800 and Section 2-1000 of the Subdivision Regulations in order to accommodate the additional lots earned through these bonus density provisions and/or to bolster the economics of central water/sewer systems.
  - However, in no case shall the Board reduce the minimum lot size to less than 1.5 acres, or reduce the percentage conservation area requirement to less than 60%.
  - Notwithstanding this provision, cluster lots served by both an onsite wastewater system and an on-lot water well shall be a minimum of 2.5 acres.
  - Prior to any Board action under this provision to reduce the lot size for cluster lots served by an on-lot septic system, the county shall request the Tri-County Health Department to provide an opinion regarding the proposed reduction.
- (4) **No Guarantee of Density.** This subsection shall not be interpreted as a guarantee of achievable density. Cluster developments using bonus density provisions shall be subject to all other applicable regulations of this Section 1-5800 and Section 2-1000 of the Subdivision Regulations. Other

regulations or site specific conditions may prevent maximum bonus density levels from being achieved.

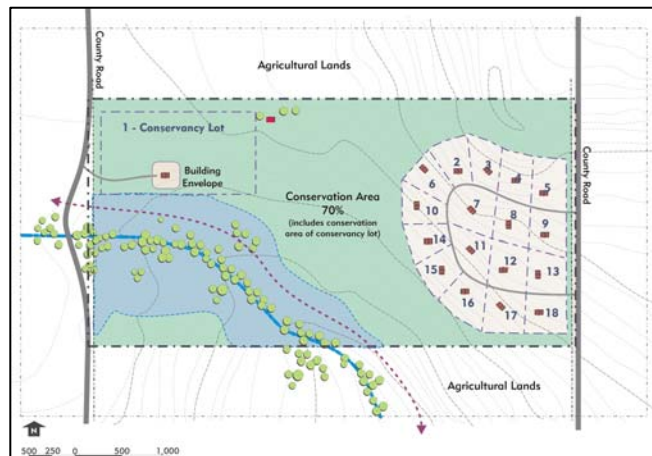
- (B) **20% Bonus for Providing Central (Community) Water.** The County may grant up to a 20% increase in the permitted maximum gross density for providing a central (community) water system to serve the residential cluster lots.
  
- (C) **20% Bonus for Providing Central (Community) Sewer.** The County may grant up to a 20% increase in the permitted maximum gross density for providing a central (community) sewer system to serve the residential cluster lots.
  
- (D) **20% Bonus for Fire Safety Protection.** The County may grant up to a 20% increase in the permitted maximum gross density for provision of sprinkler systems for fire protection in each approved residential dwelling unit. To be eligible for this bonus, such systems must be approved by the County and the fire district with jurisdiction over the rural cluster subdivision.
  
- (E) **10% Bonus for Public Trail Dedications.** The County may grant a 10% increase in the permitted maximum gross density for the development and dedication of public trails, subject to the following conditions:
  - The trail shall be located east of Manila Mile Road and outside the boundaries of the Urban Drainage and Flood Control District;
  - The trail shall be located adjacent to riparian corridors and consistent with the Comprehensive Plan, as amended, or consistent with any trails/open space plan as adopted and amended; and
  - All trails shall be developed in accordance with applicable county construction standards and specifications, and shall provide for convenient public access.

**1-5803.04 CLUSTER LOT SIZE/LOT DIMENSIONS/BUILDING HEIGHT**

- (A) **Cluster Lot Size.** The minimum lot area requirements set forth in Sections 1-1507 and 1-1608 of the Zoning Regulations for the A-E and A-1 districts, respectively, shall not apply to lots within a residential cluster. Instead, lots within a residential cluster shall comply with the following requirements:
  - (1) **Residential lots in a rural cluster subdivision in the A-E or A-1 Zoning Districts** shall be:
    - A minimum size of 2.5 acres.
    - A maximum size of 10 acres, except for conservancy lots (see subsection (2) below).

- (2) **Conservancy Lots.** At the applicant's option, a residential lot in a rural cluster may exceed the maximum 10 acres if it is developed as a conservancy lot, according to the following standards. A conservancy lot is a buildable cluster lot, a significant portion of which is deed-restricted for conservation purposes. Typically, a conservancy lot is privately owned, and remains under the control of the individual lot owner.
- A conservancy lot shall be a minimum of 20 acres in size.
  - A conservancy lot may be a flag lot.
  - A minimum of 90 percent of the conservancy lot shall be protected from future development in perpetuity by a conservation easement or other deed restriction acceptable to the County. The total area of the conserved portion of the conservancy lot shall be credited toward the minimum conservation area required in Section 2-1003.04 of the Subdivision Regulations.
  - A maximum of one single-family detached residential unit, plus related accessory uses, may be developed on a conservancy lot, but not within the portion reserved for conservation purposes. *Please see* Section 1-5803.01, above, regarding permitted principal and accessory uses within residential clusters.
  - The conserved portion of the conservancy lot may be used only as permitted by Section 1-5804.01, "Allowed Uses in Conservation Areas," below.

Figure 1: Example of Rural Cluster Option incorporating one Conservancy Lot.



- (3) **Maximum Building Height and Minimum Cluster Lot Dimension Requirements.** The maximum building height, minimum lot width, and minimum yard requirements set forth in Sections 1-1506-7 and 1-1607-8 for the A-E and A-1 districts, respectively, shall not apply to development on lots within a residential cluster. Instead lots and

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structures in a residential cluster shall comply with the following standards:

<b>Maximum Building Height and Minimum Lot Dimension Requirements for Residential Clusters</b>	
<b>Maximum Building Height</b>	35 feet
<b>Maximum Accessory Building Height</b>	20 feet
<b>Minimum Lot Width</b>	100 feet, except for flag lots permitted according to Section 2-1304 of the County Subdivision Regulations
<b>Minimum Front Yard:</b>	
Principal Structure	50 feet
Accessory Structure	Front building line of the principal structure
<b>Minimum Side Yard:</b>	
Principal Structure	25 feet
Accessory Structure	50 feet
<b>Minimum Rear Yard:</b>	
Principal Structure	25 feet
Accessory Structure	50 feet

- (4) **Minimum Setbacks for Residential and Agricultural Uses.**
- Minimum Setbacks from Agriculture Uses—New Residential Development. Principal residential dwellings shall be constructed consistent with the following minimum setbacks from existing agricultural uses and structures located on adjacent lots, parcels, or tracts (including agriculture uses in the conservation area):
    - Pasture, cropland, orchards: 200 feet.
    - Barns and livestock buildings/corrals/pens: 300 feet.
  - Minimum Setbacks from Residential Uses—New Agricultural Operations. No livestock pens, fenced corrals, or buildings for keeping livestock shall be located nearer than 200 feet from dwellings existing on adjacent lots or parcels of lands.
  - Minimum Setbacks—Measurement. The setbacks required by this subsection shall be measured from the closest exterior wall of the principal residential dwelling to the closest boundary, edge, or fence/wall of the subject agricultural use or structure. Alternately, the setback may be measured from the closest edge of a designated building envelope for the proposed residential dwelling to the closest boundary of boundary, edge, or fence/wall of the subject agricultural use or structure.

**1-5803.05 FENCING STANDARDS**

**1-5803.05.01 STRICTEST FENCE STANDARD APPLIES**

In case of overlapping or conflicting fence standards in this section or in this Land Development Code, the strictest fence standard shall apply.

**1-5803.05.02 GENERAL FENCE STANDARDS**

- (A) Fencing should be avoided except as needed for wildlife corridors, domestic animal control, or livestock containment.
- (B) When fencing is proposed, it shall conform to the topography and shall be of a color and materials that blend with the surrounding natural environment.

**1-5803.05.03 PROPERTY LINE FENCING ADJACENT TO CONSERVATION AREAS**

- (A) To the maximum extent possible, property lines adjacent to a conservation area should remain unfenced to preserve the open character of the Rural Area.
- (B) The property owner may erect fences no higher than 42 inches on a property line bordering a conservation area. Such fences shall be limited to open, non-opaque fence materials (at least 50% open), except that wire mesh (e.g., chain link) and picket-style open fences are prohibited. For general fencing purposes, the County strongly encourages fence types typical of the agricultural fences historically used in the Rural Area, including 2-, 3-, or 4-strand wire fences; post and pole fences; post, pole and wire fences; and buck and pole fences.

**1-5803.05.04 RESIDENTIAL PRIVACY FENCING**

Privacy fencing and other solid and restricted access fencing shall be restricted to the immediate area surrounding the principal residential structure and shall not be used as a method to designate the outer boundaries of the property. Where building envelopes are designated on the Cluster Subdivision Plat, privacy fencing is permitted only within the building envelope.

**1-5803.05.05 FENCING IN WILDLIFE HABITAT**

- (A) Fencing in a critical wildlife habitat area shall not exceed 42 inches in height, except to the extent that staff approves higher fencing to confine permitted domestic animals.
- (B) Specific fence types and elements shall comply with the Colorado Division of Wildlife's specific fencing recommendations for the subject application. If CDOW does not recommend specific fence standards during its review, the applicant shall comply with the fencing guidelines and standards recommended for the applicable species in the Division's manual, *Fences with Wildlife In Mind*, as amended from time to time.

**1-5803.05.06      FENCING ADJACENT TO AGRICULTURAL USES**

- (A)    **Site-Specific Design.** Fences may be constructed to separate new residential development from adjoining agricultural lands and uses. Fences shall be designed on a site-specific basis to minimize impacts to ongoing agricultural operations. All fence wire on barbed wire and combination fences shall be placed on the side of the fence that faces the livestock.
- (B)    **Written Agreements.** The applicant shall include language, approved by the County, in protective covenants and on the recorded Cluster Subdivision Plat putting cluster lot owners on notice that maintenance of any fence for the purposes of fencing out livestock is the responsibility of the lot owner or the homeowners' association. Such agreements shall include a process for notifying owners adjacent to agricultural operations that Colorado has adopted statutory requirements for "fencing out" livestock. Those agreements shall place responsibility for fence maintenance on the developer, the appropriate association, or individual lot owner so long as the agricultural operation continues.
- (C)    **Existing Agricultural Access.** Fencing shall not in any way interfere with the operation or maintenance of any existing or historic agricultural access, including to historic ditches.

**1-5804 CONSERVATION AREA STANDARDS**

**1-5804.01      ALLOWED USES AND ACTIVITIES IN CONSERVATION AREA(S)**

Notwithstanding the uses allowed in Section 1-1500 and Section 1-1600 of the Zoning Regulations, the following uses and activities are the only uses allowed in the conservation area(s):

- (A)    Passive open space and trails.
- (B)    Agricultural or ranch uses, subject to the following conditions:
  - (1)    Limits on Types of Agricultural Uses Allowed. Agricultural or ranch uses shall be specifically limited to the following types only:
    - The production, cultivation, growing, and harvesting of plant crops, but not including silviculture (forestry).
    - The raising and/or the breeding of livestock, including horses, dairy and beef cattle, sheep, goats, fur-bearing animals, poultry, and swine, but not including confined animal feeding operations (CAFO). Animal grazing shall be prohibited: (a) within 100 feet of the bank of a perennial stream corridor; (b) within 100 feet of delineated wetlands; and (c) within critical wildlife habitat identified by the County. In addition, the number of livestock that may be raised or kept within the conservation area shall be limited, as follows:

- Large Animal Livestock (horses, cows, cattle, bison, elk, and similar-sized livestock of breeding age with similar waste impacts): 1 animal per 20 acres.
  - All Other Livestock (chickens, emus, llamas, alpaca, deer, geese, goats, ostrich, miniature horses, sheep, swine, and similar-sized livestock of breeding age with similar waste impacts): 1 animal per 5 acres.
  - The County may approve requests to keep, raise, or breed a greater amount of livestock than allowed by-right herein through the Special Exception Use process stated in Section 1-5500 of these Zoning Regulations. The County shall refer the special exception use application to the National Resource Conservation District (NRCD) for review, and its final decision shall be consistent with the NRCD's recommendation.
  - The production of nursery products and sod.
  - The harvesting, storage, packaging, processing, distribution, and sale or trade of such commodities where such activities occur at the point of production.
- (2) Agriculture Support and Related Uses Not Allowed. The agricultural and ranch uses specified in subsection (B)(1) above shall not include the uses, structures, and retail services normally associated with agriculture-related or agriculture-support uses such as, but not limited to: Mill feed and farm supply centers, kennels, veterinary hospitals, farm equipment and machinery sales or repairs, the commercial slaughter of animals, commercial riding stables, retail sales of farm goods/products not produced on the same property as where the point of sale occurs, and similar uses as the Planning Division Manager may determine.
- (C) Private stables to keep animals permitted on either the conservation area lands or on residential cluster lots.
- (D) Private barns, sheds, and similar agricultural accessory structures to store equipment necessary to support an active agricultural use of the conservation area.
- (E) Conservation and restoration of natural areas, including but not limited to riparian corridors and wildlife habitat.
- (F) Historic structures that are more than 50 years old.
- (G) Archaeological sites.
- (H) Perimeter fences, provided such fences comply with the fencing standards stated in Section 1-2603.05. Opaque, privacy-type perimeter fences and walls are prohibited.
- (I) Minor utilities and driveways, subject to criteria set forth in Section 2-1004, "Utility and Infrastructure Requirements," and limited to the following:
- Easements and improvements for stormwater drainage;

- Common or shared driveway used to connect a County access road with the residential cluster(s);
- Central sewer systems in accordance with all applicable federal, state, DRCOG, and Tri-County Health Department standards and specifications and subject to Location and Extent review under Section 1-5400 of the Zoning Regulations, as applicable; and
- Central water supply systems in accordance with all applicable federal and state standards and specifications and subject to Location and Extent review under Section 1-5400 of the Zoning Regulations, as applicable.

## PROPOSED REVISIONS TO PART 3 (APPENDICES), SECTION 3-400—DEFINITIONS:

**Comment:** Definitions are included in this section for ease of review. The following new or revised definitions have been added to the Definitions section of the Land Development Code, in Part 3 of the Appendix.

**Note:** No changes to the existing definitions in the Code for:

- Agriculture
- Buffer
- Cluster development
- Density
- Floodplain
- Geological hazard/geological hazard area
- Gross land area
- Land improvements
- Open space
- Park
- Plat – final and preliminary
- Street – local, private, etc.

### Proposed New Definitions:

#### A. **BUILDING ENVELOPE.**

An area of land within a buildable lot within which all site structures, buildings, and other hardscape elements shall be contained, except driveways. The building envelope also includes any building overhangs, eaves, protruding architectural features (e.g., bay windows, chimneys), and similar features.

#### B. **CENTRAL (COMMUNITY) SEWER SYSTEM.**

A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than 2,000 gallons of sewage per day, but not including an on-site wastewater system (individual sewage disposal system). The term “central sewer system” includes appurtenances such as interceptors, collection lines, outfall and the outlet sewers, pumping stations, and related equipment.

#### C. **CENTRAL (COMMUNITY) WATER SYSTEM.**

A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, and which serves at least 15 service connections used by year-round residents of the area served by the system; or that regularly serves at least 25 year-round residents.

**D. CONFINED ANIMAL FEEDING OPERATION (“CAFO”).**

A confined animal or poultry growing operation (facility) for meat, milk, or egg production or stabling wherein livestock are fed at the place of confinement for 45 days or longer in any 12 month period and crop or forage growth is not maintained in the area of confinement. For purposes of these Zoning Regulations, “confined animal feeding operations” includes animal feeding operations consistent with this definition and all related animal waste treatment or collection facilities that are regulated by the Colorado Department of Public Health and Environment pursuant to the Confined Animal Feeding Operations Control Regulations, 5 CCR 1002-81, as amended, or any superseding regulations.

**E. CONSERVANCY LOT.**

A large, privately owned lot constituting part of a conservation area in a rural cluster development. The purpose of the conservancy lot is to provide surrounding residents with visual access to open space land while keeping the land under private ownership and maintenance. Only a limited portion of any such lot shall be developed; the remainder shall be protected through conservation easements or other types of deed restrictions, and may be used only in conformance with this Code’s standards for conservation areas. Public access to conservancy lots is not required.

**F. CONSERVATION AREA.**

The land set aside in a rural cluster subdivision and permanently preserved, through a conservation easement or other County-approved mechanism, for conservation, agricultural, or other low-impact uses as allowed by this Code. The conservation area is typically contained in delineated tracts, as shown on the approved Cluster Subdivision Plat, but may also be contained within conservancy lots, as defined herein.

**G. CONSERVATION EASEMENT.**

A recorded deed restriction under which a property owner retains title to real property but gives up some or all of the development rights associated with it, the terms and restrictions of which are specified in a conservation easement document for the property. For a conservation easement to be recognized under federal law, the easement document must transfer the rights to enforce property restrictions to a qualified conservation organization or government agency.

**H. DEED RESTRICTION.**

Clauses in a deed limiting the future uses or enjoyment of a property. Deed restrictions may impose a vast variety of limitations and conditions; for example, they may limit the density of buildings and dictate the types of structures that can be built.

**I. FEE SIMPLE OWNERSHIP.**

The complete ownership interest in real property, free and clear of any condition, limitation, or restriction on its alienation; the ownership of the entire “bundle” of rights attached to real property.

**J. FLAG LOT.**

A polygonal-shaped lot, with the appearance of a flag and flagpole, that does not front or abut a public roadway and where the narrow “flagpole” part of the lot is used to provide access to the public roadway. Typically, the widest part of a flag lot is located at the rear of another lot or parcel, and the flagpole part of the lot is comprised entirely of a private right-of-way or driveway.

**K. LIVESTOCK.**

Cattle, sheep, goats, swine, mules, poultry, horses, alternative livestock as defined by Colorado statutes (e.g., elk), and such domesticated animals as fox, mink, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit.

**L. ONSITE WASTEWATER SYSTEM (“OWS”).**

An absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or disposing of sewage that is not part of or connected to a central (community) sewer system. Includes, by way of example only, septic tanks and absorption areas.

**M. QUALIFIED CONSERVATION ORGANIZATION.**

A non-profit organization, as defined under Section 501.C-3 of the *Internal Revenue Code*, and usually a conservation organization or land trust, designated to enforce the recorded deed restrictions on the use of property, as typically defined through a conservation easement.

**N. QUALIFIED PROFESSIONAL.**

A professional acceptable to the County, and who is either licensed by the State of Colorado to perform the type of work involved, or who is accredited by or registered with a professional group and who is operating within the scope of his/her accreditation or registration.

**O. RURAL AREA.**

Lands within unincorporated Arapahoe County, which are located outside the boundaries of both “Urban Services area” (as depicted in the Comprehensive Plan) and any “Urban Growth Boundary” for Bennett, Byers, Strasburg, or Watkins (As depicted in an approved sub-area plan).

**P. SENSITIVE DEVELOPMENT AREA.**

Those land areas shown as having significant resource value on the Arapahoe County resource Composite Map, or any of the following features identified by the County and riparian areas, agricultural land use, NREC-designated “Prime Farm

Land", steep slopes, water buffers, ecological resources, historic and archeological sites, viewsheds, ridgelines, and important visual resources.

**Q. SLOPE.**

The vertical elevation of a land area divided by the horizontal distance, expressed as a percentage. For purposes of this Land Development Code, slopes must cover a total land area of at least 5,000 square feet.

**R. STEEP SLOPE.**

Slopes that are 15% or greater.