

**OFFICIAL TITLE**

AN INITIATIVE MEASURE

AMENDING ARTICLE 8 OF THE CHARTER OF THE CITY OF SCOTTSDALE,  
ARIZONA, BY ADDING SECTIONS 12 AND 13; RELATING TO THE MCDOWELL  
SONORAN PRESERVE.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the City of Scottsdale:

**Section 1. Official Title.**

This Act shall be referred to as the "McDowell Sonoran Preserve Protection Act"

**Section 2. Findings and Declaration of Policy.**

The People of the City of Scottsdale (the "People") find and declare as follows:

- A. The McDowell Sonoran Preserve ("MSP") was formed by the People for the express purpose of preventing any development on preserve land.
- B. The People bought the preserve land by approving two sales tax increases for the specific purpose of buying land for preservation.
- C. Article 8 Section 8 of the City Charter requires that preserve land be left in its natural state.
- D. The second sales tax approved by the People permitted some funds to be used for "improvements" to preserved land, but did not authorize any construction on that land. The only improvements mentioned were trails and trail heads necessary to provide public access to those trails.
- E. The City Attorney has determined that because of that second vote, the City can build whatever it wants in the Preserve without a public vote. This denies the public a say in what happens in its Preserve.
- F. The existing MSP provides for limited public access to provide for passive recreation, while also protecting the Preserve, and has essential trailhead facilities to support access to trails, including handicapped accessible trails. Numerous visitors to the MSP are attracted to a "natural home" where they are able to find an inner peace as they become embedded with nature. The MSP has attracted large numbers of tourists and residents, has improved Scottsdale's quality of life, and has been an overwhelming success.

- G. All of the planned trails and trail heads, to support public access, have already been built or are under construction so there is no need for any additional "improvements" to the MSP. Therefore, with the exception of new trails approved by the McDowell Sonoran Preserve Commission, any additional improvements should require public approval.
- H. The City is proposing to build a museum/event center in the MSP that will violate many of the rules that were established to prevent the MSP from being transformed into a park or a commercial development. Commercial encroachment into the MSP would also set a negative precedent that could open the MSP for further commercial development. The People voted for a preserve, not a park.
- I. Because the People formed and paid for the MSP with the express intent of preserving the land, their approval should be required (subject to certain limited exceptions provided for in the Act) for any: (1) alterations to the natural state of that land, or (2) use of funds raised via the specific sales tax dedicated to the MSP.
- J. This Act should be liberally construed to ensure that the will of the People is carried out as described above.

### **Section 3. Amendments to Article 8 of the Charter of the City of Scottsdale**

Article 8 of the Charter of the City of Scottsdale is amended as follows to add Sections 12 and 13:

#### **Article 8: Contracts**

##### **Sec. 1. Preparation.**

All contracts shall be executed in the name of the City of Scottsdale by the mayor, except as it may be otherwise provided either by this charter, by law, or by ordinance or resolution of the city council. Contracts executed by the mayor must be countersigned by the city clerk who shall number and register the same in a book kept for that purpose.

##### **Sec. 2. Contracts for city improvements.**

The city may contract for city improvements as provided by law. When required, all such contracts shall be executed in writing and shall be awarded to the lowest responsible bidder after public notice and competition unless the council rejects all bids.

##### **Sec. 3. Purchases and bids.**

The city council shall by ordinance specify the conditions and procedures that shall apply when formal bidding is required, when informal bidding is required, and when no bidding is required, for all goods and services contracted for by the city.

#### **Sec. 4. Transfer of property.**

The city manager may transfer to or between offices, departments and agencies supplies, materials and equipment, subject to such regulations as the council may prescribe.

#### **Sec. 5. Fraud and collusion.**

Any member of the council or any officer or employee of the city who shall aid or assist a bidder in securing a contract to furnish labor, material, equipment, supplies or services at a higher price than proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the labor, material, equipment, supplies or services called for, or the conditions under which the proposed work is to be done, or who shall knowingly accept materials, supplies, or equipment of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor or service performed than has been actually performed or to receipt of a greater amount or different kind of material, supplies, or equipment than was actually received, shall be guilty of a misdemeanor and upon conviction thereof shall be removed from office.

#### **Sec. 6. Conflict of interest.**

All elected and appointed officers of the city, including members of boards and commissions; whether established by charter, ordinance, resolution, state constitution or statute; and all city employees shall be subject to the conflict of interest laws of the state of Arizona.

#### **Sec. 7. Sale or transfer of interests in city property.**

The city council shall, by ordinance, specify the conditions and procedures that shall apply when formal bidding is required, when informal bidding is required, and when no bidding is required for leasing, selling, or disposing of other interests in city real or personal property in a manner provided by law.

#### **Sec. 8. Preserve land designation.**

To establish a mountain and desert preservation heritage for present and future citizens of the city, the council may designate as preserve land any land owned by the city which is suitable for mountain or desert preservation. The council shall designate preserve land by resolution. Land purchased directly with the proceeds of a tax specifically authorized by the electors for purchase of preserve land shall be deemed designated as preserve land upon the city's acquisition. Land that may be designated as preserve land is any land owned by the city in fee title and any other real property interest which gives the city possession or use of land or power to cause land to be left in its natural condition.

#### **Sec. 9. Permanent designation.**

A preserve land designation shall be perpetual unless that designation is removed as provided in this charter.

**Sec. 10. Encumbrance of preserve land.**

The city shall not convey ownership or grant any easement, lease, lien or other real property interest in any land designated as preserve land.

**Sec. 11. Removal of preserve land designation.**

The council may remove the preserve designation from any parcel of land less than one (1) acre in area. Such removal shall be limited to a maximum of six (6) parcels within any one (1) calendar year. Such removal shall not become effective until sixty (60) days after an affirmative vote of two-thirds (2/3) of all members of the council and after resolution of any referendum concerning such removal. Removal of the preserve designation from any other parcel of land shall require approval by an affirmative vote of two-thirds (2/3) of all members of the council, but shall not become effective unless submitted by the council to the electors and approved by vote of the majority of votes cast at the election.

**SEC. 12. PROHIBITION ON ALTERING THE NATURAL STATE OF PRESERVE LAND.**

A. NO LAND DESIGNATED AS PRESERVE LAND PURSUANT TO SECTION 8 OF THIS ARTICLE SHALL BE ALTERED FROM ITS NATURAL STATE UNLESS SPECIFICALLY AUTHORIZED BY A MAJORITY OF THE VOTES CAST THEREON AT A GENERAL OR SPECIAL MUNICIPAL ELECTION.

B. THIS SECTION DOES NOT APPLY TO:

- (1) NEW TRAILS APPROVED BY THE MCDOWELL SONORAN PRESERVE COMMISSION;
- (2) MAINTENANCE ON EXISTING TRAILS AND TRAIL HEADS THAT WERE COMPLETED OR UNDER CONSTRUCTION PRIOR TO THE EFFECTIVE DATE OF THIS SECTION;
- (3) MAINTENANCE ON TRAILS ADDED PURSUANT TO SUBSECTION (B)(1) OF THIS SECTION;
- (4) APPROPRIATE RESTORATION EFFORTS WITHIN THE PRESERVE;
- (5) EXPANSION OF TRAIL HEAD PARKING FACILITIES AS DEPICTED IN EACH APPROVED TRAIL HEAD PLAN; AND
- (6) COMPLETING THE CONSTRUCTION OF THE LITTLE GRANITE, FRAESFIELD, AND PIMA/DYNAMITE TRAIL HEADS, AND ANY NECESSARY TRAIL CONNECTIONS, AS DEPICTED IN EACH TRAIL HEAD'S APPROVED PLAN PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

### **SEC. 13. LIMITATIONS ON THE USE OF PRESERVE FUNDS.**

- A. PRESERVE FUNDS SHALL NOT BE APPROPRIATED OR SPENT BY THE CITY FOR ANY PURPOSE OTHER THAN THE ACQUISITION OF PRESERVE LAND, THE BUILDING OF NEW TRAILS AS AUTHORIZED BY SECTION 12(B)(1) OF THIS ARTICLE, OR THE SERVICING OF ANY PRINCIPAL, INTEREST, OR APPROPRIATE COSTS RELATED TO BONDS ISSUED AGAINST PRESERVE FUNDS, UNLESS SPECIFICALLY AUTHORIZED BY A MAJORITY OF THE VOTES CAST THEREON AT A GENERAL OR SPECIAL MUNICIPAL ELECTION.
- B. THIS SECTION DOES NOT APPLY TO FUNDING IMPROVEMENTS THAT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION OR THOSE AUTHORIZED BY SECTIONS 12(B)(1), 12(B)(5), AND 12(B)(6) OF THIS ARTICLE.
- C. FOR PURPOSES OF THIS SECTION, "PRESERVE FUNDS" MEANS ALL FUNDS GENERATED BY:
- (1) THE SALES TAX INCREASES AUTHORIZED BY THE PASSAGE OF PROPOSITION 400 IN 1995 AND BALLOT QUESTION 1 IN 2004;
  - (2) ANY FUTURE NET INCREASES IN CITY REVENUE AUTHORIZED OR IMPOSED FOR PURPOSES OF ACQUIRING OR MAINTAINING PRESERVE LAND; AND
  - (3) THE PROCEEDS FROM ANY FUTURE SALE OF MUNICIPAL OR GENERAL OBLIGATION BONDS FOR PURPOSES OF ACQUIRING LAND OR CONSTRUCTING TRAILS AND TRAIL HEADS FOR THE PRESERVE.

#### **Section 4. Administrative Acts.**

The City shall make any and all notifications and take all administrative steps that may be required by law to effectuate the amendments to the Charter provided for in this Act

#### **Section 5. Effective Date.**

This Act shall be effective immediately upon its passage by the People of the City of Scottsdale.

#### **Section 6. Severability.**

If any provision of this measure is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions that can be given effect without the invalid provisions.