

**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
MEMORANDUM**

To: City of Sun Valley City Council
From: Brittany Skelton, Community Development Director
Date: June 3rd, 2021
Re: Proposed city-initiated Ord. 558 - Amendments to Title 9, Chapter 3, Article H. Hillside Development Regulations

The Wood River Valley, including the City of Sun Valley, is experiencing a development boom. Demand for vacant land and existing homes outpace supply. Because the inventory of vacant residential land is low parcels of land with challenging topography and other site constraints are no longer deterrents for to development.

When applying Sun Valley Municipal Code standards as explicitly written, any encroachment of a structure and any site disturbance into slopes in excess of twenty five percent (25%) is severely limited. The Earthwork, Drainage and Erosion Control section of Title 7, Engineering Specifications, Plans, Permits and Compliance, prohibits disturbance of slopes greater than twenty five percent (25%) unless a variance is granted (§7-2-2-E-9). In Title 9, Development Code, Chapter H., Hillside Development Regulations (the “Hillside Ordinance”), the building of structures upon record grade natural slopes in excess of twenty five percent (25%) is prohibited unless a variance is granted, with the exception of a limited geographical area (Bitterroot Road, Silverweed Way, and Snowbrush Lane) lots that slope downhill (§§9-3H-4-D through F).

- Development Code **§9-3H-4-D** “**No structure** may be built on a record grade of over twenty five percent (25%) slope except as provided in subsection E of this section and chapter 5, article B of this title....”
 - Subsection E exempts structures E of Sun Valley Rd, within 1,500’, and south of Dollar Rd
 - Chapter 5, article B, is the Variance chapter of code
- Engineering Standards **§7-2-2-E-9** “**Existing slopes greater than twenty five percent (25%) shall remain undisturbed.** If evidence acceptable to the city is provided by the applicant showing that strict enforcement of this provision would prohibit access to the property or placement of utilities would be impossible, then the applicant may apply for a variance. The other provisions of the hillside development regulations shall remain in effect.”

In applying the code standards as explicitly written, the number of variance applications for slope-related issues year-to-date in 2021 has surpassed the number of applications for slope-related variances in the preceding five (5) years: **2021 year to date** – 7 variances, **2016-2020** – 6 variances

Calendar Year	Number of Variance Applications Related to Slope Encroachments
2021 year to date	7
2020	2
2019	1
2018	2
2017	1
2016	0

The intent and purpose section of the Hillside Development Ordinance articulates its goals, which include:

- Providing for safe access and protecting the scenic character of the city from the impact of development on hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits;
- Permitting only development which minimizes the impact on the natural contour of the land;
- Protecting natural landmarks and prominent natural features of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits, and the natural skyline;
- Protecting property and minimizing erosion and destruction of the natural landscape by using appropriate cuts and fill;
- Promoting safe and reasonable access to and from properties, including access by emergency services;
- Directing development to areas of least slope on hillside property whenever such areas are part of the parcel or lot under application

Yet, the regulations of the Hillside Development, prohibit development on any natural slope exceeding 25% grade apply to all slopes exceeding twenty five percent (25%), regardless of the slope's visual prominence.

Relying on variances as a mechanism, on a regular basis, to overcome a regulation within a zoning code is not an appropriate use of a community's zoning code. The purpose and intent of a variance is to allow relief from code regulations when there are rare, site-specific, extenuating circumstances not caused by the property owner. If a community finds that property owners routinely need to seek variances to overcome commonplace issues encountered with routine development the appropriate resolution is to evaluate regulations in the code and revise the code to fairly and predictably regulate the commonplace issues.

The proposed amendments to the Hillside Ordinance have been drafted to amend the code to allow development that is compatible and appropriate for Sun Valley, and otherwise meets the purpose and intent of Hillside Ordinance, to encroach into and disturb natural slopes that exceed 25%. A Site Disturbance section has also been included in order to align the regulations in the Hillside Ordinance, which currently pertain to structures encroaching into slopes exceeding 25%, with the Title 7, the Engineering and Design title of Sun Valley Municipal Code, which regulates any and all site disturbance to slopes exceeding 25% in §7-2-2-E-9.

After the Commission's vetting, revisions, and recommendation of approval for the proposed ordinance amendments, the ordinance will be forwarded for review by City Council during one, if not more, public hearings. Concurrent with Council's review of the Hillside Ordinance staff will prepare revisions to Title 7, the Engineering and Design section of Sun Valley Municipal Code, to align Title 7 with the slope-disturbance regulations newly proposed for the Hillside Ordinance; amendments to Title 7 are only required to be heard by City Council because Title 7 is not part of the zoning ordinance.

Ordinance 556 is attached and the proposed amendments are contained in Exhibit A to the ordinance. Existing regulations proposed to be removed or revised are ~~stricken~~ and proposed or revised regulations are in red, underlined font.

Noticing: The Planning & Zoning Commission public hearing regarding the subject ordinance was duly noticed in accordance with Idaho State Statute 67-6507 and with Sun Valley City Code Title 9, Chapter 5 by: 1) publishing in the Idaho Mountain Express on May 19th, 26th, and June 2nd; 2) posting of the notice in five prominent public locations in the City; 3) mailing and emailing notice to applicable agencies and neighboring jurisdictions and emailing notice to interested parties; and, 4) posting of the public hearing materials at City Hall and on the City website.

Additional opportunity for public comment will occur during a hearing, or hearings, on the ordinance held by City Council.

Public Comment: To date, no written public comment has been received.

Staff Recommendation: Staff recommends the Planning and Zoning Commission consider the proposed zoning code text amendments, consider public comment, deliberate, make revisions to the proposed ordinance language as appropriate, and recommend approval of Ordinance 558 to Sun Valley City Council.

Recommended Motion: "I move to recommend approval of Ordinance 558 to Sun Valley City Council.

ORDINANCE NO. 558, AN ORDINANCE OF THE CITY OF SUN VALLEY, IDAHO, AMENDING TITLE 9, CHAPTER 3, ARTICLE H, HILLSIDE DEVELOPMENT REGULATIONS."

Alternative Actions:

1. Table the ordinance to a date certain; direct staff to consider public comment and the Commission's input, and to return with further revisions.

Attachments:

1. Draft Ordinance 558
 - a. Exhibit A: Ordinance Revisions

ORDINANCE NO. 558

AN ORDINANCE OF THE CITY OF SUN VALLEY, IDAHO, AMENDING TITLE 9, DEVELOPMENT CODE, CHAPTER 3, DESIGN AND DEVELOPMENT REGULATIONS, ARTICLE H, HILLSIDE DEVELOPMENT REGULATIONS, OF THE SUN VALLEY MUNICIPAL CODE

WHEREAS, the City of Sun Valley has regulations in place regarding development on significant hillsides, ridges, and knolls; and

WHEREAS, the City of Sun Valley has regulations in place regarding development on all slopes that exceed twenty five percent (25%) grade, regardless of the prominence or significance of the slope; and

WHEREAS, applying all regulations contained within the Hillside Development chapter of Sun Valley Municipal Code to insignificant, isolated, and minor areas of slopes exceeding twenty five percent (25%) does not always further the purpose and intent of the Hillside Development ordinance; and

WHEREAS, the City of Sun Valley desires to amend the Hillside Development ordinance in order to allow, as of right, exceptions to regulations regarding development on slopes in excess of twenty five percent (25%) in limited, site-specific situation; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Sun Valley, Idaho, as follows:

SECTION 1: Title 9, Chapter 3, Article H [Hillside Development Regulations] of the Municipal Code of the City of Sun Valley shall be amended as indicated in Exhibit A.

SECTION 2: REPEALER. All previous ordinances, resolutions, orders, or parts thereof, that are in in conflict are hereby repealed.

SECTION 3: SAVINGS AND SEVERABILITY. It is hereby declared to be the legislative intent that the provisions and parts of this ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this ordinance is held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4: EFFECTIVE DATE. This ordinance shall be in full force and effect after its passage, approval, and publication, according to law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2021.

APPROVED:

ATTEST:

Peter M. Hendricks, Mayor

Nancy Flannigan, City Clerk

ORDINANCE NO. 558 - AN ORDINANCE OF THE CITY OF SUN VALLEY, IDAHO, AMENDING
TITLE 9, CHAPTER 3, ARTICLE H, OF THE SUN VALLEY MUNICIPAL CODE

9-3H-1: Purpose

9-3H-2: Applicability

9-3H-3: General Provisions

9-3H-4: Regulated Structures

9-3H-5: Regulated Site Disturbance

9-3H-1: PURPOSE:

The purpose of these regulations is to promote the public health, safety, and general welfare by:

- A. Providing for safe access and protecting the scenic character of the city from the impact of development on hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits;
- B. Permitting only development which minimizes the impact on the natural contour of the land as described in figure A of this section and not as in figure B of this section;

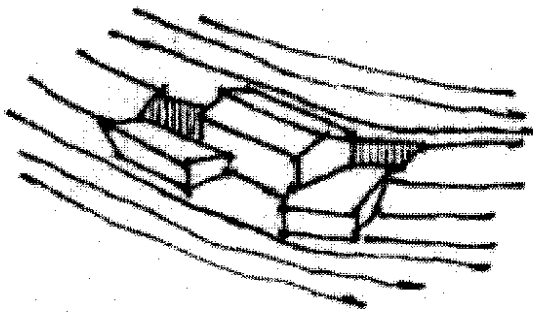


Figure A

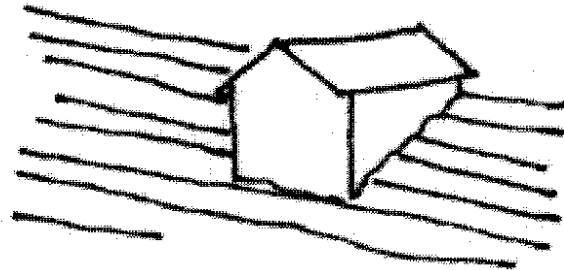


Figure B

- C. Protecting natural landmarks and prominent natural features of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits, and the natural skyline as described in figure C of this section, and not as in figure D of this section; and

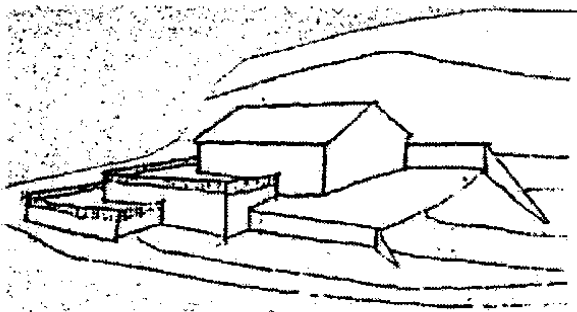


Figure C

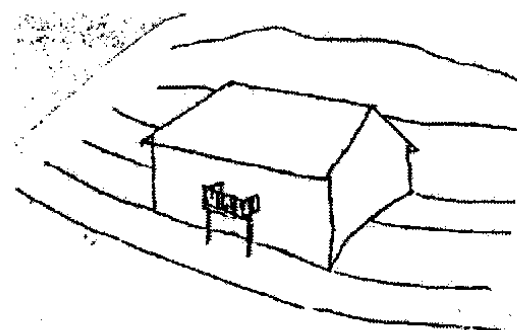
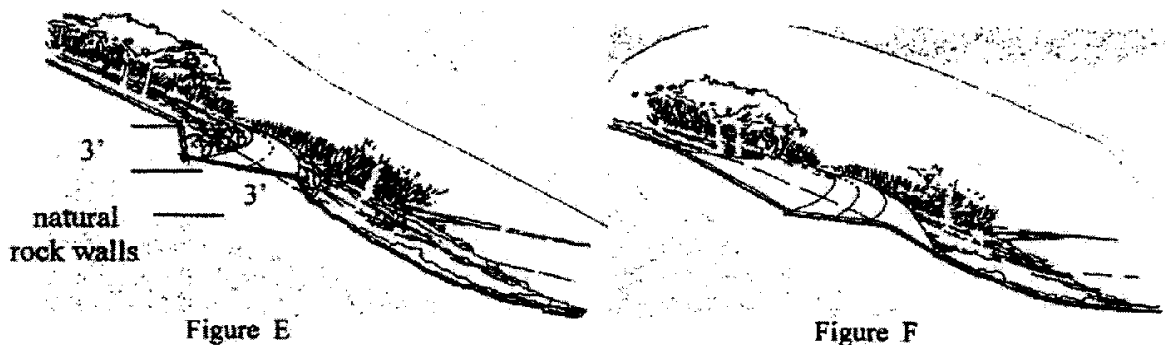


Figure D

D. Protecting property and minimizing erosion and destruction of the natural landscape by using appropriate cuts and fills as described in figure E of this section, and not as in figure F of this section; and



E. Promoting safe and reasonable access to and from properties, including access by emergency services; and

F. Directing development to areas of least slope on hillside property whenever such areas are part of the parcel or lot under application. (Ord. 428, 7-15-2010, [Ord. 558, <date>](#))

9-3H-2: APPLICABILITY:

The following regulations shall apply in all districts, subject to such exceptions or further regulations as are provided in the regulations pertaining to individual districts. (Ord. 428, 7-15-2010, [Ord. 558, <date>](#))

9-3H-3: GENERAL PROVISIONS:

All development in the city shall utilize the following design criteria in order to provide for safe access and protect the natural, scenic character and the aesthetic value of the city from the impact of inappropriate development on hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits:

A. Streets, driveways, and utilities are designed to run with the existing natural contours to the maximum extent possible.

B. Unstabilized cut slopes shall not be steeper than two to one (2:1); in other cases, retaining walls or similar measures acceptable to the city shall be provided.

C. Cuts and fills shall be shaped, rounded, minimized, and nonuniform to simulate natural existing contours.

D. Private driveways shall not exceed a ten percent (10%) slope. The inside turning radius of any private driveway shall not be less than fifteen feet (15'); landing areas of driveway/street intersections shall not be less than twenty two feet (22') in length and shall not exceed a four percent (4%) slope.

E. Garages should be located at the lowest possible floor level on uphill sloping lots and at the uppermost floor level on downhill sloping lots, to minimize grading for driveways as well as the length of driveways (minimize the extent of grading).

F. Flat yard areas on sloping lots shall be minimized to reduce cuts and fills.

G. Slopes designated for protection shall be identified by the applicant and shall not be disturbed, not even on a temporary basis, during construction on the site, as per subsection 9-5A-4K, [Grading Plan](#), of this title.

H. Disturbances to hillside property affected by site preparation or actual construction shall be revegetated in a manner that is compatible with the site.

9-3H-4: REGULATED STRUCTURES:

The purpose of these regulations is to promote the public health, safety, and general welfare by using the following criteria for building design:

A. In the RA, RS-1, and RS-2 zoning districts, buildings on natural topography greater than twenty percent (20%) slope shall be designed in a manner to reduce visibility by using stepped building forms, natural colors and materials, sloped roofs, and landscaping, and shall use a combination of these techniques such that the building does not skyline.

B. In the RM-1, RM-2, SC, CC, REC, and PI zoning districts, buildings on natural topography greater than fifteen percent (15%) slope shall be designed in a manner to reduce visibility by using stepped building forms, natural colors and materials, sloped roofs, and landscaping, and shall use a combination of these techniques such that the building does not skyline.

C. For any buildable lot of record without an approved a platted building envelope, no structure may be built on a record grade of over fifteen percent (15%) slope if there is adequate area available for development below the fifteen percent (15%) slope line.

D. No structure may be built on a record grade of over twenty five percent (25%) slope except as provided in subsection E of this section. ~~Where subsection E is not applicable, and chapter 5, article B of this title. If~~ if evidence acceptable to the city is provided by the applicant showing that strict enforcement of this provision would prohibit a substantial portion of permitted or conditional uses of the property then the applicant may apply for a variance in accordance with Chapter 5, Article B, of this title. ~~The~~ All other provisions of the hillside development regulations shall remain in effect.

~~E. Structures east of Sun Valley Road, within one thousand five hundred feet (1,500'), and south of Dollar Road, may be built on a record grade of over twenty five percent (25%) slope subject to the applicable regulations of the respective zoning district for each property, and subject to the evaluation standards of article A of this chapter. This area is exempted from subsection D of this section because the steep slopes that comprise the ravine of Trail Creek do not present visual concerns or physical dominance on the city's landscape.~~

~~F. Existing platted lots containing significant downhill sloping terrain as primarily accessed from above may be exempted from this article at the discretion of the planning and zoning commission provided that:~~

~~—1. Development will not create a visual concern or physical dominance that would unreasonably negatively impact views; and~~

~~—2. All other applicable standards are met. (Ord. 428, 7-15-2010)~~

E. In limited circumstances structures are permitted to make minor encroachments into record grade over twenty five percent (25%) slope without receiving a variance through section 9-5B-8 of this title. If the development has been designed in a manner that will not create a visual concern or physical dominance that would unreasonably negatively impact views, and all other applicable standards of Sun Valley Municipal Code are met, structures are permitted to encroach into the following record grades over twenty five percent (25%):

1. Areas of slope greater than twenty five percent (25%) are located entirely within an existing, platted building envelope.
2. Isolated areas of slope greater than twenty five percent (25%) located outside of an existing, platted building envelope, including circumstances where no platted building envelope exists, that are insignificant in size.
3. The toe of substantial areas of slope greater than twenty-five percent (25%) when such encroachment is reasonably unavoidable due to considerable site constraints including, but not limited to, limited lot depth, providing driveway access to the lot, regulations contained within Article I. Flood Hazard Protection and Article J. Riparian Zones, or the presence of wetlands identified in a site-specific wetlands inventory completed within the past 365 days.
 - a. This provision is not intended to allow a substantial portion of the one-third (1/3) of a structure's footprint that is permitted to be located outside of the envelope in accordance with 9-2A-3-I-1-a to be located upslope of the platted building envelope.
4. Retaining walls required by Title 7, Engineering Standards and Design Practices.
5. Other circumstances not described above where the Administrator, when reviewing administrative applications, or the Planning and Zoning Commission, when reviewing applications before the Commission, or Planning and Zoning Commission make a Finding of Fact that the encroachment into record grade slope greater than twenty five percent (25%) is de minimis.
6. Structures east of Sun Valley Road, within one thousand five hundred feet (1,500'), and south of Dollar Road, may be built on a record grade of over twenty five percent (25%) slope subject to the applicable regulations of the respective zoning district for each property, and subject to the evaluation standards of article A of this chapter. Encroachments into record grade slopes over twenty five percent (25%) are permitted because the ravine of Trail Creek do not present visual concerns or physical dominance on the city's landscape.
7. Existing platted lots containing significant downhill sloping terrain as primarily accessed from above. (Ord. 558, <date>)

9-3H-5: REGULATED SITE DISTURBANCE:

The purpose of these regulations is to promote the public health, safety, and general welfare by using the following criteria for building design:

A. Record grade slopes greater than twenty five percent (25%) shall remain undisturbed except as provided in subsection B. Where subsection B is not applicable, if evidence acceptable to the city is provided by the applicant showing that strict enforcement of this provision would prohibit a substantial portion of permitted or conditional uses of the property then the applicant may apply for a variance in accordance with Chapter 5, Article B, of this title. All other provisions of the hillside development regulations shall remain in effect.

B. In limited circumstances site disturbances are permitted to make minor encroachments into record grade over twenty five percent (25%) slope without receiving a variance through section 9-5B-8 of this title. If the development has been designed in a manner that will not create a visual concern or physical dominance that would unreasonably negatively impact views, and all other applicable standards are met, structures are permitted to encroach into record grades over twenty five percent (25%) in the following circumstances:

1. Areas of slope greater than twenty five percent (25%) are located entirely within an existing, platted building envelope.

2. Areas of slope greater than twenty five percent (25%) located outside of an existing, platted building envelope that are reasonably unavoidable in order to construct a driveway that meets International Fire Code standards and or other applicable life safety standard contained in Sun Valley Municipal Code, provided disturbed areas have been designed to integrate and complement existing conditions or proposed conditions.
3. Areas of slope greater than twenty five percent (25%) located outside of an existing, platted building envelope that are necessary in order to construct a structure that has been permitted, either by variance or compliance with 9-3H-4-E, provided disturbed areas will be revegetated and regraded to be compatible with the site.
4. The toe of substantial areas of slope greater than twenty-five percent (25%) when such disturbance is reasonably unavoidable due to considerable site constraints including, but not limited to, limited lot depth, regulations contained within Article I. Flood Hazard Protection and Article J. Riparian Zones, or the presence of wetlands identified in a site-specific wetlands inventory completed within the past 365 days.
 - a. This provision is not intended to allow a substantial portion of the altered site, or an associated site improvement not classified as a structure (including but not limited to at-grade patios or decks, gas fire pits, and site walls), to be located upslope of a platted building envelope.
5. Other circumstances not described above where the Administrator, when reviewing administrative applications, or the Planning and Zoning Commission, when reviewing applications before the Commission, make a Finding of Fact that the disturbance into record grade slope greater than twenty five percent (25%) is de minimis. (Ord. 558, <date>)