

**CITY OF SUN VALLEY
CITY COUNCIL
MEMORANDUM**

To: City of Sun Valley City Council
From: Brittany Skelton, Community Development Director
Date: December 2nd, 2021
Re: Proposed city-initiated Ord. 562 - Amendments to Title 7, Engineering Standards and Design Practices, Chapter 2, Earthwork, Drainage, and Erosion Control, Section 2, Cut, Fill and Grading, of the Sun Valley Municipal Code

INTRODUCTION

Over the past several months Council has drafted and refined regulations pertaining to encroachments into, and disturbances of, natural slopes (record grade) exceeding 25%. Council held public hearings regarding the amendments, as put forward in Ordinance 558 and affecting Title 9, the Development Code, on August 5th, September 2nd, October 7th, November 4th, and December 2nd, 2021.

To date, regulations pertaining to disturbance of slopes exceeding 25% as contained in Title 7, Engineering Standards and Design (the “Engineering Code”), have been out of sync with the regulations contained in Title 9, the Development Code.

The purpose of Ordinance 562 is to carry over the new regulations contained in Ordinance 558 and the Development Code into the Engineering Code. Adoption of Ordinance 562 will also reconcile the prior inconsistencies between the two titles regulation of disturbances of slopes exceeding 25%.

Noticing

Ordinance 562 was noticed for public hearing by: 1) publishing in the Idaho Mountain Express on November 17th, November 24th, and December 1st; 2) posting of the public hearing materials at City Hall and on the City website; and 3) mailing notice to all political subdivisions providing services within the planning jurisdiction on November 17th, 2021.

Public Comment

At the time of completion of this staff report (11/23/2021) no written public comment specific to Ordinance 562 has been received.

Staff Recommendation: Staff recommends the Council consider the proposed ordinance, consider public comment, deliberate, make minor, non-substantive revisions to the proposed ordinance language as appropriate, and approve the first reading of Ordinance 562. Additionally, because the content of the regulations has been considered during the public hearings that occurred for Ordinance 558 from August to December, staff recommends waiving the second and third readings of Ordinance 562.

Recommended Motion: “I move to approve the **first reading** of Ordinance 562 by title only and to waive the second and third readings: ORDINANCE NO. 562 AN ORDINANCE OF THE CITY OF SUN VALLEY, IDAHO,

AMENDING TITLE 7, ENGINEERING STANDARDS AND DESIGN PRACTICES, CHAPTER 2, EARTHWORK, DRAINAGE, AND EROSION CONTROL, SECTION 2, CUT, FILL AND GRADING, OF THE SUN VALLEY MUNICIPAL CODE”

Attachments:

1. Ordinance 562
 - a. Exhibit A: Ordinance Revisions

ORDINANCE NO. 562

AN ORDINANCE OF THE CITY OF SUN VALLEY, IDAHO, AMENDING TITLE 7, ENGINEERING STANDARDS AND DESIGN PRACTICES, CHAPTER 2, EARTHWORK, DRAINAGE, AND EROSION CONTROL, SECTION 2, CUT, FILL AND GRADING, 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 record grade 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 exceptions to regulations regarding development on record grade slopes in excess of twenty five percent (25%) in limited, site-specific situations; and

WHEREAS, the City of Sun Valley has held public hearings for Ordinance 558 regarding such amendments on August 5th, September 2nd, October 7th, November 4th, and December 2nd, 2021; and

WHEREAS, the City of Sun Valley seeks to adopt amendments to Title 7, Chapter 2, Section 2, that are consistent with the amendments to Title 9, Chapter 3, Article H.; and

WHEREAS, the City of Sun Valley held a public hearing on December 2nd, 2021 to consider the code amendments contained herein.

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

SECTION 1: Title 7, Chapter 2, Section 2 of the Municipal Code of the City of Sun Valley shall be amended as follows:

7-2-2: CUT, FILL, AND GRADING:

A. Grading: Essential grading shall be shaped to blend with natural land forms and to minimize the necessity of padding and/or terracing of building sites.

B. Cut And Fill: Cut and fill shall be shaped, rounded, minimized and nonuniform to simulate natural existing contours.

C. Areas Not Well Suited For Development: Areas which are not well suited for development because of existing soil conditions, ridges, ridge lines, ridge tops, knolls, saddles, summits, wildlife habitat, natural features or hydrology should be allocated for open space or recreational uses.

D. Revegetation: Where existing soils and vegetation are disrupted by development, provision shall be made for the revegetation of the disturbed areas with perennial vegetation sufficient to stabilize the soil upon the completion of construction. Until such time as said revegetation has been installed and established, a storm water pollution prevention plan (SWPPP) shall be followed for disturbed areas. The SWPPP shall incorporate best management practices (BMPs) as described in this section to maintain and protect all graded surfaces from erosion and protect water sources from sedimentation and water quality degradation.

E. Design Criteria: To minimize the potentially adverse effect of necessary site preparation work, at a minimum, the following design criteria shall be adhered to; however, the site geotechnical report will supersede requirements identified here:

1. Prior to excavating, storm water pollution prevention measures must be implemented to enhance erosion control and reduce sedimentation. Such measures must be taken regardless of the size of the excavation. The most current version of the "State Of Idaho Best Management Practices For Storm Water Pollution Prevention" is the recommended resource. If the excavation or surface disturbance is one acre or greater, the party responsible for the disturbance must submit a notice of intent to the EPA;

2. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish which is determined by the geotechnical or on site engineer to be detrimental to proper compaction or otherwise not conducive to soil stability;

3. Fills shall be compacted to at least ninety five percent (95%) of maximum density, as determined by the most current edition of the ISPWC;

4. Excavations shall be backfilled and compacted in accordance with the most current edition of the ISPWC for the intended use of the area;

5. Cut slopes shall be no steeper than two horizontal to one vertical (2:1), unless geotechnical information indicates the soils are not stable, and more restrictive slopes may be required. Subsurface drainage shall be provided as necessary for stability;

6. Fill slopes shall be no steeper than two horizontal to one vertical (2:1), unless geotechnical information indicates the soils are not stable, and more restrictive slopes may be required. Fill slopes shall not be located on natural slopes of two to one (2:1) or steeper, or where fill slope toes extend out within twelve feet (12') horizontally of the top of an existing or planned cut slope;

7. Tops and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3') plus one-fifth ($\frac{1}{5}$) the height of the cut or fill, but need not exceed ten feet (10'). Additional setback distance shall be provided as necessary to accommodate drainage structures;

8. No portion of any private driveway shall exceed a seven percent (7%) slope, unless an exception is approved by the Fire Chief not to exceed a maximum of ten percent (10%) slope, nor shall the inside turning radius of any private driveway be less than fifteen feet (15'). Landing areas of driveways shall be not less than twenty two feet (22') in length and do not exceed a four percent (4%) slope; and

9. ~~Existing~~ Record grade slopes greater than twenty five percent (25%) shall remain undisturbed except as provided in Subsections A and B. For the purpose of interpreting these standards, the definition of record grade contained in section 9-1C-1 shall be used.

A. 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, or other improvements required to serve the development then the applicant may apply for a variance through section 9-5B-8. The other provisions of the hillside development regulations shall remain in effect. (Ord. 382, 10-25-2006, Ord. 662, 2021)

B. In limited circumstances site disturbances are permitted to make minor encroachments into record grade slopes exceeding twenty five percent (25%) without receiving a variance through section 9-5B-8. The allowances provided in this section are not by-right entitlements and depend on the Director or Commission making findings that the development has been designed in a manner that will not create a visual concern, or physical dominance that would unreasonably negatively impact views, as well as findings that all other applicable standards of Sun Valley Municipal Code are met. The allowances

provided in this section are in no way intended to be a means to permit development to be located further upslope on a development site than would otherwise be permitted.

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, site disturbances 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%) located entirely within an existing, platted building envelope and site areas related to rotated and expanded building envelopes where building footprints are permitted to be located in accordance with 9-2A-3-I-1-b.
 - 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.
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. In the Recreation (REC) and Public/Institution (PI) zoning districts, land alteration related to the construction of earthen recreational features where structures are not proposed or required for retainage.
 - a. Such land alterations shall be accompanied by a detailed landscaping revegetation plan in order to minimize the visual impact of cuts, fill, and grading and to facilitate integration of the new feature into the existing landscape.

6. Other circumstances not described above where the Community Development Director, 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.
 - a. For the purpose of interpreting this ordinance, de minimis shall mean lacking significance or importance; so minor as to merit disregard. A finding of de minimis encroachment shall consider criteria including square footage of the encroachment relative to the size of the subject property, the slope of the adjacent existing grade and adjacent proposed finished grade, the elevation of existing adjacent grade and the proposed elevation of adjacent finished grade, and the visibility of the encroachment from adjacent properties and adjacent streets, trails, or public lands. (Ord. 562, 2021)
7. Sites 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 does not present visual concerns or physical dominance on the city's landscape.
8. Existing platted lots containing significant downhill sloping terrain as primarily accessed from above. (Ord. 562, 2021)

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:

Peter M. Hendricks, Mayor

ATTEST:

Nancy Flannigan, City Clerk