



## Legislation Text

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**TO:** Chair and Planning Commission

**FROM:** Eva Cutro, Community Development Director  
Paul Michaud, Senior Planner  
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**DATE:** October 17, 2017

**CONTACT:**

**AGENDA TITLE:**

Discussion of Hillside Code Updates (Article XXII of the Town Zoning Ordinance)

**BACKGROUND**

History

Hillside related matters can be found throughout the Town Code but are most prevalent in Article XXII, Hillside Development Regulations, of the Zoning Ordinance which is often referred to as the "Hillside Code."

On July 21, 2015, staff presented a list of topics relating to the Hillside Code to the Planning Commission as part of a periodic review and update of the Town Code. In January of 2016, the Town Council identified several Quality of Life Initiatives including an update to the Hillside Code. Staff worked with then Planning Commissioner Moore in preparing a draft ordinance identifying topics of discussion and potential amendments. The draft ordinance was reviewed by the Planning Commission at the December 20, 2016 and January 3, 2017 work sessions and the January 17, 2017 citizen review work session. In March and May of 2017, the Town Council identified hillside as one of its top five initiatives for the 2017-2018 term. On June 22, 2017, the Town Council issued a Statement of Direction (SOD) for the Hillside Code update.

**DISCUSSION/FACTS**

Since there has been a significant amount of work already done on the draft ordinance, the SOD identifies which updates or topics the Council agrees with (and do not require further changes) and identifies which topics need additional study and review by the Planning Commission.

The Town Council identified the following topics in the draft ordinance as appropriate and acceptable: Material Palette & Light Reflective Value, Reviews & Administrative Hillside Chair Review, Disturbed Area Calculation, Demolition on Hillside Properties, Hillside Models, Accessory Structures & Accessory Structure Height Limits, the 40' Overall Height Measurement, the Process to Remove a Property from the Hillside Designation, and Pool Barriers & Perimeter Fencing Standards. These topics are subject to a final non-substantive review and red-line revision by a Town Manager working group (comprised of Councilmembers Moore and Pace). The Planning Commission is directed not to

change the content of these items during subsequent reviews, unless the Commission submits a request to the Council for further direction.

The SOD identifies nine topics for Planning Commission review:

1. Retaining Walls.
2. Driveway Disturbance Credit.
3. Lighting.
4. Hillside Assurance/Bond.
5. La Place du Sommet Subdivision and applicable code.
6. Solar Panels and Hillside Review Process.
7. Cantilever Limitations.
8. On-Site Retention.
9. Add a Safety Section in the Code.

#### August 1, 2017 Planning Commission Work Session

The Commission reviewed and discussed the nine topics during the August 1, 2017 work session. There was consensus on three of the nine topics (e.g. limiting guard rails height to a maximum of 42" tall, including the area under a cantilever as disturbed area and floor area, and consensus that retention basins that do not use retaining walls and are revegetated back with native plants should receive partial disturbance credit). The Commission directed staff to work with Commissioner Campbell on Driveway Disturbance Credit and Hillside Assurance, Commissioner Strom on Lighting, and Commissioner Covington regarding stealth solar on pitched roofs.

#### September 19, 2017 Planning Commission Work Session

The Commission reviewed and discussed the six remaining topics at the September 19, 2017 work session. There was consensus on three of the six remaining topics (that no edits were needed regarding driveway disturbance credit, hillside assurance/bond, and cantilevers).

The Commission made the following recommendations:

- Solar Panels. Divide the solar section of the code into two paragraphs: one paragraph to address solar panels and a second paragraph to address stealth solar technology.
- Safety Section. Add objective criteria to the safety section of the code and examine the possibility of imposing insurance requirements on projects.
- Lighting. Forward the Statement of Direction back to the Town Council for clarification on hillside lighting.
- Cantilevers. Add another illustration to Figure 7, showing a cantilever on a building.

A copy of the September 19<sup>th</sup> meeting minutes is enclosed for reference.

#### Discussion

The goal of this meeting is to review the proposed amendments and identify any additional changes or improvements. Below is a summary of the remaining topics:

1. **Lighting.** The Statement of Direction (SOD) identifies that the Planning Commission must evaluate the hillside lighting standards to address Kelvin requirements, adding Lux as another

light measurement, and extend the holiday lighting limitation to start on October 15<sup>th</sup>. During the course of the Commission's review of the Hillside Code Update, the lighting section of the draft ordinance was reorganized to be user friendly and expanded to update lighting options and standards. On October 12, 2017, the Town Council re-examined the hillside lighting section of the SOD and voted 6 to 0 to make no changes to the Statement of Direction. The draft ordinance has been updated to reflect the three changes outlined in the SOD. Please reference pages 32 - 38 of the draft ordinance regarding the proposed amendments to the lighting section.

2. **Solar Panels.** Code currently requires solar panels to be integrated into the building design and requires the panels to be hidden from view when viewed at the same elevation or lower. Staff has received requests to place solar panels on pitched roofs; however, this does not meet code since the panels must be screened from the same elevation or lower (essentially limiting solar panels to flat roofs or pitched roofs that are fully screened by the surrounding hillside). The Council directed the Commission to explore the use of stealth solar technology and to evaluate the placement of solar on pitched roofs.

The draft language allows solar panels to be placed on pitched roofs when the panels are screened from the same elevation or lower by the adjoining hillside or hillside cut. The draft language also allows solar shingle and solar tiles to be placed on pitched roof provided they blend in with the design of the building and have a light reflective value of 38% or less. This section of code was also divided into two separate paragraphs, with one paragraph addressing solar panel requirements and the other paragraph addressing stealth solar technology requirements. Please reference page 23 of the draft ordinance regarding this amendment.

3. **Add a Safety Section in the Code.** The Council directed the Commission to identify standards and processes that trigger additional safety measures and reviews (such as enabling the Town to hire consultants to help review geotechnical reports or examine potential grading and drainage issues). The draft language identifies that the Town may require construction staging and safety plans and that the Town may hire an outside firm to assist with or provide a safety review. The list of construction and safety criteria was updated to identify objective standards and conditions. However, staff is still researching the feasibility of requiring insurance on construction projects and will address this at the November 7<sup>th</sup> meeting. Please reference page 12 of the draft ordinance regarding this amendment.
4. **Cantilevers.** An illustration of a building cantilever has been added to Figure 7. Please reference page 22 of the draft ordinance regarding this amendment.

### Next Steps

The draft code is scheduled for Public Hearing on November 7, 2017.

### Attachments

- Statement of Direction (SOD)
- Draft Hillside Ordinance dated October 17, 2017
- Master Fee Schedule with Hillside Assurance
- Sample images of stealth solar applications
- Articles regarding Hillside Construction Accidents

- September 19, 2017 Planning Commission Meeting Minutes
- Hillside Ordinance Storm Water Email from Commissioner Strom