



## Legislation Text

---

**File #:** 18-248, **Version:** 1

---

**TO:** Mayor Collins and Town Council

**FROM:** Kevin Burke, Town Manager  
Dawn-Marie Buckland, Deputy Town Manager  
Paul Michaud, Interim Community Development Director  
George Burton, Planner

**DATE:** May 31, 2018

**CONTACT:**

**AGENDA TITLE:**

Discussion of Hillside Code Updates - **Safety Section** (Article XXII of the Town Zoning Ordinance and Chapter 5 of the Town Code)

**Town Value(s):**

- ☒ Primarily one-acre, residential community
- ☐ Limited government
- ☐ Creating a sense of community
- ☐ Partnerships with existing schools and resorts to enhance recreational opportunities
- ☐ Improving aesthetics/creating a brand
- ☒ Preserving natural open space

The Hillside Code Update will aid in the protection of the hillside environment and help provide for the safety and welfare of Town.

**Council Goals or Statutory Requirements:**

The Hillside Code Update meets a Town Council Quality of Live Initiative.

**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.

The Planning Commission reviewed the hillside code update at six work sessions (starting on July 11, 2017) and 3 public hearings/meetings. On December 19, 2017, the Planning Commission voted 5 to 1, to forward the draft Hillside Code to the Town Council with a recommendation of approval.

#### March 22, 2018 Town Council Work Session

The Town Council reviewed the draft hillside code at the March 22<sup>nd</sup> work session. During the review, the Council requested the following regarding the Safety Section:

- The Council requested that staff provide a clear background regarding the purpose of the safety section and the issues the Town is trying to address. Staff shall also include the Safety Checklist and Construction Guidelines in the packet; and present how the Safety Checklist and process will work on a sample property (please reference Exhibit F and Decision Tree).
- Identify which hillside and safety requirements also apply to flat land or non-hillside properties (please reference Exhibit E).

#### May 10, 2018 Town Council Work Session

During the May 10<sup>th</sup> review, Council identified the following:

- The applicant shall not be required to notify the neighbors at time of hillside application submittal.
- The construction staging plan shall be required as part of the building permit process, in which it is an administrative review by the Town Building Official and Town Engineer prior to issuance of the building permit. Also, a seal from a registrant will not be required on the construction staging plan.
- Neighborhood notification. Notice via the “Notify Me” function shall be opt-in only.
- Safety Improvement Plan process. Council requested that staff provide a time line or chart illustrating how the safety improvement process will work (please reference the timeline chart in Exhibit F).

#### May 24, 2018 Town Council Work Session [new text]

The Town Council reviewed the draft hillside code at the May 24<sup>th</sup> work session. During the review, the Council identified or requested the following:

- There was consensus from the Council to modify the language regarding the insurance requirement. The consensus was to remove the language requiring a property owner to carry the insurance one year after the issuance of the Certificate of Occupancy or approved final inspection.
- There was consensus to removed the requirement of a “construction means and methods narrative” from the Construction Staging Plan process.
- Staff shall work with Council Member Moore and Council Member Pace to further refine the Hillside Improvement Plan Timeline, the Safety Checklist, and the safety Definitions.

Staff immediately worked with Councilmember Pace and Councilmember Moore and revised the three documents mentioned. This included a major clean-up of the “Safety Checklist” that enabled the elimination of the *Conditions* section and clarified the *Geotechnical* section to specify exactly

what geotechnical reports must include. The author of the geotechnical report must address all sections even if the response is simply “not applicable.” Staff worked with Councilmember Pace to further revise the Hillside Improvement Plan Timeline to reflect suggestions brought forth by the industry work group while addressing concerns from staff on the sequence of actions. The safety Definitions sheet was updated through the work of Councilmember Moore.

Staff revised the appropriate sections of the Ordinance and included exhibits for reference, where applicable.

### Discussion

This report focuses on the Safety Section of the code update.

### Topic No. 19. Addition a Safety Section in the Code.

- 1. Add a Safety Section in the Code. SOD - 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 additional safety measures and reviews may be required at the Town's discretion during the plan review process and or construction. Examine the typical cost of the additional review in those standards and modify the application fee.***

The Safety Section of the code is intended to reduce the negative impacts of hillside construction on neighboring properties and to promote public safety. Hillside properties are prone to natural hazards and the safety section of code is designed to protect lives and property from disasters resulting from hillside development and to mitigate the potential issues such as increased erosion, boulders rolling, rockfalls, landslides, construction traffic, and construction parking. As a result, the Council directed the Commission to identify standards and processes that trigger additional safety measures and reviews.

The draft language recommended by the Planning Commission is included in the draft Hillside Code (Article 22 of the Zoning Ordinance) and identifies that the Town may require a construction staging plan and safety plan. The Town may hire an outside firm to assist with or provide a safety review. Safety triggers such as unique topography, difficult access to a site, unstable rock formations, and steep slopes were added to the code to enable the Town to require a safety plan. The safety section recommended by the Planning Commission is highlighted in grey and is listed on pages 12 -13 of the draft Ordinance 2018-08.

However, via direction from Town Council, the safety section was relocated from Article 22 of the Zoning Ordinance to Chapter 5 of the Town Code. The safety section was also expanded to address additional safety items and outlines the safety review process (such as identifying safety conditions on the subject lot, construction staging criteria, geological report and seismic refraction survey conditions, blasting requirements, and drainage requirements). Addressing the safety items should help mitigate hazardous conditions such as boulders rolling down the hill, the concentration of drainage flows, the obstruction of streets with construction traffic or construction materials. A safety improvement checklist will be added to the Hillside application to aid applicants with the potential safety conditions and criteria.

The current hillside code already addresses many of the safety issues. Depending upon the type and scope of development, the Town can require a geotechnical report, seismic refraction

survey, a grading and drainage plan, and a drainage report. These plans or documents must be sealed by a registered professional and are reviewed by the Town.

The draft code identifies specific safety concerns that may need to be addressed. These concerns include items such as boulders, damage that may result from future rockslides, evaluation of fractures, unstable fill, rocks, etc. However, many of the proposed safety requirements are addressed in the geotechnical report and building permit review process.

At present, the Town does not require a Construction Staging Plans for hillside lots and flat land lots. Instead, the Town attaches a general list of construction and zoning regulations to every building permit (a copy of the Construction and Zoning Regulations are enclosed) and the Hillside Committee adds stipulations regarding parking, storage of construction material, and construction time frames (please reference Exhibit H). However, the draft code will require the applicant to submit a Construction Staging Plan as part of the building permit review process, in which it is an administrative review by the Town Building Official and Town Engineer prior to issuance of the building permit. Also, a seal from a registrant will not be required on the Construction Staging Plan.

The current code requires neighborhood notification of the concept hillside review, formal hillside review, and combined hillside review. The new safety section in the draft code will require the applicant to provide an additional notification to the process. The applicant will be required to notify the neighboring properties when they submit a Safety Improvement Plan. The Safety Improvement Plan review is part of the hillside review process. The applicant will have the choice or option of submitting the Safety Improvement Plan with the Concept Review submittal or the Formal Review submittal. However, the Safety Improvement Plan must be reviewed and deemed complete by the Town before the hillside application can be forwarded to the HBC for Formal Review.

Lastly, the new safety section in the draft code modifies the current hillside application process. The neighbors will have 45 days to review and provide comment regarding the construction staging plan and safety plan. Neighborhood comments regarding the safety plan must be sealed by a technical registrant. The Town Engineer, The Town's Technical Advisory Board, and the Town's Third-Party Technical Advisors will review the plans in accordance with the safety improvement checklist. After the first review is finished, staff will provide the applicant with the Town's review comments and the neighbor's review comments. The applicant will resubmit updated plans and documents in response to the review comments. Once the updated plans are reviewed and deemed complete, the application will be forwarded to the Hillside Building Committee for Formal Review (please reference Exhibit F).

Please reference pages 1 - 4 of the draft hillside safety ordinance (Ordinance 2018-09) regarding the safety section requirements.

#### Comparison of Hillside Requirements and Flat Land Requirements

During the March 22<sup>nd</sup> work session, Council requested that staff identify which hillside and safety requirements also apply to flat land or non-hillside properties. Please reference Exhibit E for a comparison of these requirements.

#### Summary of Hillside HOA Regulations

Silver Leaf is a hillside community located in north Scottsdale. Staff contacted the Design Review Manager for the Silver Leaf community to identify what hillside requirements are used by a private association. The Silver Leaf requirements are summarized in Exhibit G.

### Blasting

Staff was tasked to evaluate and examine if the Town's blasting code need to be updated. Please reference Exhibit K, which identifies some resident history/experience regarding blasting in the Town and compares the Town's blasting requirements with other Arizona municipalities. Based upon the comparison with other municipal blasting regulations, three modifications were made to the Town's blasting code:

1. Changes the pre-blasting radius from 300' to 500';
2. Added a requirement for the contractor to provide a blasting schedule; and
3. Added a requirement for the use of blasting mats.

Staff would like to receive direction from Council if they would like to keep or modify the proposed updates to the blasting code.

### Next Steps

Staff will incorporate input and edits from the Council into the draft code.

### Attachments

- Hillside Code Statement of Direction (SOD)
- Hillside Safety Improvement Plan Timeline
- Hillside Safety Improvement Plan Checklist
- Definitions for Safety Improvement Plan on Hillside
- Update Blasting Code - Chapter 5, Article 5-10-4
- Exhibits E - H and Exhibit K
- Construction and Zoning Regulations