SUMMARY OF AGENDA ITEM

DATE: 05-17-07 **SUBMITTED BY: LaRon Garrett**

RESOLUTION/ORDINANCE # 2278/717
TITLE: Hillside Grading Requirement Modifications

PURPOSE:

To modify the current Hillside Grading requirements to be more practical and environmentally friendly

SUMMARY OF CHANGES TO ACCOMPLISH THIS PURPOSE:

The following changes are included in this modification:

Requires builders to submit a landscape plan with the grading plan to show that disturbed areas will be properly addressed.

Allows for additional grading on hillside lots if the builder re-vegetates those areas prior to receiving a Certificate of Occupancy.

Provides additional options for smaller lots (less than 8,000 square feet) to meet the Hillside Requirements

Includes provisions for Multi-Family and Commercial projects that are not included in the current Hillside Provisions

Allows flexibility in certain cases where staff can make adjustments and still insure that the intent of the code is met.

RECOMMENDED COUNCIL ACTION:

Approval

BACKGROUND:

The Town created a hillside ordinance several years ago. At that time the density portions of the code were omitted. This allowed the creation of very small lots that are almost un-buildable with the current code. These changes addresses construction on all size lots with provisions that will protect the hillside and reduce and/or re-vegetate scarred areas.

The Planning and Zoning Commission approved these changes unanimously.

MAY 17 2007 Ga.6

ORDINANCE NO. 717

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 15-07-002.H OF CHAPTER 154 OF THE CODE OF THE TOWN OF PAYSON (THE UNIFIED DEVELOPMENT CODE) RELATING TO HILLSIDE GRADING REQUIREMENTS.

WHEREAS, the Town of Payson desires to amend the Unified Development Code relating to hillside grading requirements; and

WHEREAS, on June 5, 2006, the Town of Payson Planning and Zoning Commission held a public hearing on the such amended hillside grading requirements and following the public hearing recommended approval of such amendments; and

WHEREAS, on May 17, 2007, the Mayor and Common Council of the Town of Payson also held a public hearing on such amended hillside grading requirements; and

WHEREAS, the Town of Payson has found that the adoption of this Ordinance Number 717 is necessary and appropriate to protect the health, safety, and welfare of the citizens of the Town of Payson as a lawful exercise of police power vested in the Town by the State of Arizona; and

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 and was adopted as a public record by Ordinance Number 588; and

WHEREAS, it is the desire of the Mayor and Common Council to amend Section 15-07-002.H of the Town of Payson Unified Development Code by reference pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That the amendments to Section 15-07-002.H of the Town of Payson Unified Development Code was heretofore declared to be a public record by adoption of Resolution Number 2278 and are adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 717.

Section 2. That at least three copies of the amendments to Section 15-07-002.H of the Town of Payson Unified Development Code, as adopted by this Ordinance Number 717 shall be filed in the Office of the Town Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

1st Reading & Public Hearing MAY 17 2007 G.6

Section 3. That all ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 717 are hereby repealed to the extent of such conflict.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 717 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance Number 717. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 717 and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department
SIS:drs May 9, 2007 (4:57PM)
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RESOLUTION NUMBER 2278

IS PROVIDED FOR INFORMATION ONLY

AT THE MAY 17, 2007 COUNCIL MEETING

RESOLUTION NUMBER 2278

WILL BE AN ACTION ITEM

AT THE JUNE 7, 2007 COUNCIL MEETING

RESOLUTION NO. 2278

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 15-07-002.H OF CHAPTER 154 OF THE CODE OF THE TOWN OF PAYSON (THE UNIFIED DEVELOPMENT CODE) RELATING TO HILLSIDE GRADING REQUIREMENTS, AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD.

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to amend Chapter 154 of the Code of the Town of Payson (the Unified Development Code) relating to hillside grading requirements; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. Chapter 154 of the Code of the Town of Payson (the Unified Development Code) is hereby amended, and as amended shall read as set forth in Exhibit A attached hereto.

Section 2. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2278 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Resolution Number 2278. The Town Council of Payson declares that it would have adopted Resolution Number 2278 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department
SIS:drs May 9, 2007 (4:31PM)
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EXHIBIT "A"

to Resolution No. 2278

H. Hillside Properties

1. Applicability
   All new properties created after the effective date of the original "Hillside Grading Requirements" effective August 8, 1999, with a slope of 15% or greater on 50% or more of the total area of the property. These regulations shall apply to all properties reconfigured by Lot Line Adjustment, or created by Minor Land Division or Subdivision Plat.

2. Development Policies
   The following general development policies shall be used for developing all properties on which the Hillside regulations apply:

   a. All vegetation, including plants, trees and grasses shall be preserved to the best extent possible to reduce scarring, storm water runoff, and preservation of the natural environment.

   b. Building and other structures shall be designed with terracing-like features which follow the original contours of the site thereby discouraging high protruding structures which will dominate hillside areas and negatively impact the scenic quality. Where possible, structures are to be constructed so that the roof lines are below ridge lines

   c. Grading shall be kept to a minimum, attempting to conform to the natural contours of the land, and sharp angles at the top and ends of cut and fill slopes shall be rounded in a natural manner.

   d. Replacement vegetation shall be planted on all cut and fill slopes to prevent erosion and enhance the natural beauty.

   e. Natural drainage ways shall be preserved to the best extent reasonable.

   f. Geological formations, such as rock outcrops, shall be preserved whenever reasonable.

   g. Utilities and other infrastructure necessary for development will be installed in a manner and location which protects and preserves hillside areas.

3. Determination of Slope Percentage and Area
   The location of the 15% and greater slopes shall be determined by a computer slope analysis program using software approved by the Town of Payson Public Works Engineer.

   The area of slope of 15% or greater shall be determined for each parcel, tract or lot created. If the area of 15% or greater slope exceeds 50% of the total parcel, tract or lot

area, that property shall be considered a "Hillside" property and shall be developed in accordance with the requirements of this section.

Manmade areas of disturbance in place prior to the property potentially being designated as a "Hillside" property may be ignored when calculating the area of slope over 15%.

NOTE: A property may be exempt from the requirements of this section if all of the following items are complied with:

1. The Lot Line Adjustment Map, Minor Land Division Map or Subdivision Plat depict an allowable restricted building envelope on the property that is substantially more restrictive than the standard building setback areas; and

2. The area of slope greater than 15% within the restricted building envelope is less than 50% of the restricted building envelope; and

3. The restricted building envelope is not adjusted to increase the 15% or greater slope area of the restricted building envelope to more than 50% of the restricted building envelope.

4. <u>Development Standards and Regulations for Single Family Residential Properties 8,000 Square Feet or Larger</u>
The development standards regulations in this section are for single family residential properties. Development standards and regulations for smaller single family, multi-family, and commercial properties are in Paragraph 7.

a. Clearing and Grubbing

(1) Except for creating a fire-wise protection area, no clearing, grubbing or brushing is allowed on"Hillside" Properties without a grading permit.

b. Grading:

(1) Grading is any excavation or embankment or combination thereof.

(2) The amount of area allowed to be disturbed on a "Hillside" property, excluding the disturbed area under a roof, open deck or porch, and the driveway surface area, shall be no more than 10% of the total lot area. Any grading on a "Hillside" property in conjunction with the construction of roadways, drainage facilities, utilities, etc. for an overall development shall be included in the amount of allowable disturbed area of the parcel.

(3) An Engineered Grading and Drainage Plan shall be prepared and sealed by an Arizona Registered Professional duly licensed to prepare such plans by the Arizona State Board of Technical Registration for each "Hillside" property in accordance with

these requirements and the requirements of the Town of Payson Grading and Drainage Manual. This plan shall be approved by the Town of Payson Engineering Department prior to the issuance of a building permit and prior to any type of brushing or grading proceeding on the property.

(4) The Engineered Grading and Drainage Plan shall include at a minimum the following information:

I. Existing Topography including contour lines, trees 6" in diameter at 4.5' above the ground, major geologic features, adjacent roadway and improvements, existing utilities, etc.. Also include the location of any existing disturbance on a "Hillside" property in conjunction with the construction of roadways, drainage facilities, utilities, etc. for an overall development.

II. Proposed elevations of all constructed items and grading such as finished floor (FF), all finish grades, driveways, walkways, retaining walls, etc..

III. Location of all structures, decks, underground utility service lines, retaining walls, walkways, driveways, curbs, hand railings, fences, slopes, and similar related items.

IV. A calculation showing the amount of allowable graded area of the lot, the amount of disturbed area excluded from the grading calculations, and the disturbed area outside the excluded area.

V. A line on the grading plan shall depict the maximum limits of disturbance of the property. A temporary fence, 3' high minimum, shall be constructed on the property coincident with the maximum limits of disturbance line shown on the grading plan prior to any clearing, grubbing or grading of the property.

VI. Proposed landscaping of all disturbed areas in accordance with paragraph 4f of this section. The landscaping may be shown on a separate plan sheet for clarity.

VII. Appropriate and adequate details to ensure that construction will be completed in accordance with the intent of the original plan.

(5) The fence identified in Paragraph 4-V above shall be installed by the contractor and approved by the Town of Payson Engineering Department immediately prior to the issuance of a Grading Permit. This fence shall remain in place until after the final inspection of the grading by the Engineering Department.

(6) Generally, retaining walls shall not be higher than 6 feet. However, retaining walls may be up to 8 feet high if located in the rear of the structure and hidden from view from the roadway and adjacent lots. If terraced retaining walls are used,

additional retaining walls shall be set back from the first wall a minimum of four feet horizontally. Terraced retaining walls over four feet in height shall be set back an additional one foot horizontal for every one foot vertical.

Retaining walls shall be constructed of concrete, masonry, stacked rock, mechanically stabilized earth (MSE), or other methods as shown on the approved Grading Plan. The retaining wall design and coloring shall be part of the approved Grading Plan. Exposed retaining walls shall be colored to blend in with the natural environment and/or screened with indigenous vegetation prior to issuance of a Certificate of Occupancy.

c. Utilities:

(1) Utility service lines, including but not limited to electrical, telephone, water, sewer, gas and CATV, shall be installed underground.

(2) The underground utility service lines shall be installed in a location that will not disturb additional area outside the allowable disturbed area as shown on the approved grading plan. It is recommended that these utility lines be installed parallel to and adjacent to the driveway to reduce the amount of disturbed area.

(3) Area disturbed by the installation of utility service lines shall be within the fenced area required in paragraph 5 above and will count toward allowable disturbed area.

d. Driveways and Walkways:

(1) Driveways shall be located in such a manner as to minimize the amount of disturbed area. The area of the driving surface is exempt from the allowable disturbed area calculations. However, all grading for slopes, retaining walls, etc. adjacent to the driveway driving surface is counted in the allowable disturbed area.

(2) Shared driveways between adjacent properties are encouraged. If the shared driveway concept is used, each affected lot may receive credit for the additional undisturbed area created by using the shared driveway concept. The credit shall be the difference between the estimated area that would have been constructed as driveway surface if the individual driveway option were used and the actual driveway surface of the shared driveway on the property.

(3) A safety curb shall be installed along the edge of all fill slopes along driveways any time a retaining wall is constructed adjacent to the driveway and the vertical drop is 18" or greater. No curb is required if a minium 3' wide safety shoulder is provided.

(4) Walkways and sidewalks shall be constructed so as to minimize the amount of disturbed area. All grading, slopes, walkway surface, etc. shall be counted as part of the disturbed area. The surface area of the sidewalk connecting the driveway and

front door is exempt from the disturbed area. A handrail in accordance with applicable building codes shall be installed along sidewalks and walkways any time a retaining wall is constructed within 2' of a sidewalk and the vertical drop is 30 inches or greater.

e. Cut and Fill Slopes:

(1) The maximum vertical height of any cut or fill slope shall not exceed 12'.

(2) The slope of new cut surfaces shall not exceed 2' horizontal to 1' vertical unless deemed stable by an Arizona Registered Professional competent in the geotechnical area.

(3) The slope of new fill surfaces shall not exceed 3' horizontal to 1' vertical unless protected from erosion by appropriate rip-rap. The slope of rip-rapped protected surfaces shall not exceed 2' horizontal to 1' vertical.

(4) All cut and fill slopes and all areas backfilled against retaining walls shall be re-vegetated in accordance with paragraph 4f of this section.

f. Re-vegetation of Graded Areas:

(1) All plants used for re-vegetation of the disturbed area shall be listed on the Town of Payson Low Water Plant Use List.

(2) Whenever possible, existing trees with 6" or greater trunk diameter at 4.5' above the ground that must be removed for the site construction are to be salvaged and replanted in areas requiring re-vegetation.

(3) Plants used shall be appropriate to aid in erosion control on the disturbed areas.

(4) Re-vegetation landscaping shall consist of at least one tree (15 gallon minimum size with a minimum trunk diameter of 2" at the soil level) and four shrubs (5 gallon minimum size) per each 200 square feet of disturbed area.

(5) An appropriate drip irrigation system shall be installed with the landscaping and the property owner shall be responsible to keep the landscaping in living condition.

(6) All landscaping and irrigation must be in place prior to final inspection and approval.

(7) A landscaping plan meeting the above criteria must be submitted with the hillside grading plan.

5. <u>Hardship Conditions and Violation Remedies</u>

In extreme conditions it may be impractical to meet the above requirements. At the sole discretion of the Town of Payson Public Works Engineer, if it is impractical to stay within the 10% disturbed area limits any one or combination of the following options may be used to approve the Grading Plan:

a. Disturbed areas caused in conjunction with the construction of roadways, drainage facilities, utilities, etc. for the overall development may be declared exempt from the amount of allowable disturbed area of the parcel.

b. Additional area in excess of the allowable 10% disturbed area may be allowed if the additional disturbed area is landscaped to the following requirements: Two trees (15 gallon minimum with a minimum trunk diameter of 2") and eight shrubs (5 gallon minimum size) per each 300 square feet of disturbed area.

c. Allow credit for construction of driveways, walk ways or similar type construction that disturb substantially less area than would normally be expected.

d. Allow credit for other acceptable solutions as approved by the Town of Payson Public Works Engineer.

6. Final Approval

Upon completion of all construction the contractor and/or owner shall request a final inspection from the Town of Payson Engineering Department.

If all grading is in conformance with the approved grading plan, the Engineering Department shall approve of the Certificate of Occupancy. If during the final inspection of the grading and drainage it is determined that the field construction is not in accordance with the approved plan, the Engineering Department may exercise any or all of the following options:

(1) Require remedial action to bring the field grading and drainage into compliance with the approved plan;

(2) Require an "As-Built" plan, including updated disturbed area calculations, to determine if the field conditions are in compliance with all the requirements of this Section. If it is determined from the "As-Built" plan that the construction on a particular property is not in compliance with these requirements, the Registered Professional shall prepare a revised design to bring the property into compliance. Upon approval by the Town of the revised plan, all construction must be completed on the property prior to issuance of a Certificate of Occupancy.

(3) Issue a citation for violating the provisions of this Section.

The Engineering Department may not approve a Certificate of Occupancy, Temporary or Permanent, for any property in violation of these requirements.

7. Single Family Lots Less Than 8,000 Square Feet, Multi-Family and Commercial Developments

   The following general development policies shall be used for developing all multi-family and commercial properties on which the Hillside regulations apply:

   a. Single Family Lots Less Than 8,000 Square Feet

      (1) Graded area may exceed the amount of allowable graded lot area as defined in Paragraph 4(b)(2) if both of the following criteria are met:

         I. The lot is located in a development that has identified undisturbed public open space that is designated a "Natural Area Open Space".

         II. The total square footage of the graded lot area that exceed the maximum allowed in Paragraph 4(b)(2) for all lots in the development does not exceed the total area of the property described in Paragraph 7(1)(I).

      (2) If the single family lot less than 8,000 square feet does not meet the criteria of Section 7 a (1) I and II, it shall be graded in accordance with Section 4 of the Hillside Grading Code.

   b. Condominium, Apartment, and Commercial Developments

      (1) All areas outside the building envelope(s) and parking areas, vegetation, including plants, trees and grasses shall be preserved to the best extent possible to reduce scarring, storm water runoff, and preservation of the natural environment.

      (2) Where feasible, structures shall be designed with terracing-like features which follow the original contours of the site thereby discouraging high protruding structures which will dominate hillside areas and negatively impact the scenic quality.

      (3) Grading, outside the building envelope(s) and parking areas shall be kept to a minimum.

      (4) Replacement vegetation shall be planted on all cut and fill slopes to prevent erosion and enhance the natural beauty.

      (5) Geological formations and natural drainage ways shall be preserved to the best extent reasonable.

(6) Utilities and other infrastructure necessary for development shall be installed underground in a manner and location which protects and preserves hillside areas.

8. Hillside Grading Violations

Property owners and/or contractors cited for violation of these grading requirements and who do not remedy the situation within 15 calendar days shall be subject to penalties as stated in Section 10.99 of Town of Payson Code.