

Chapter 17.57 HP--HILLSIDE PROTECTION DISTRICT

Sections:

- 17.57.010 Purpose of provisions.
- 17.57.020 Overlay zone--Scope--Conflict resolution.
- 17.57.030 Applicability of provisions--Maps.
- 17.57.040 Slope and lot size specifications and other restrictions.
- 17.57.050 Prohibitions.
- 17.57.060 Building site requirements.
- 17.57.070 Plans and reports required.
- 17.57.080 Soils report.
- 17.57.090 Geology report.
- 17.57.100 Grading and drainage plan--Contents.
- 17.57.110 Fire protection report.
- 17.57.120 Vegetation plan.
- 17.57.130 Other reports and plans.
- 17.57.140 Vegetation preservation requirements.
- 17.57.150 Grading and drainage plan--Review and approval.
- 17.57.160 Building height.
- 17.57.165 Exterior building design
- 17.57.170 Access to other properties.
- 17.57.180 Development proposal processing.
- 17.57.190 Lots of record.
- 17.57.200 Economic hardship relief provisions.
- 17.57.210 Bonds for improvements.
- 17.57.220 Application of hillside zone requirements to lots having an average slope in excess of twenty (20) percent.

Section 17.57.010 Purpose of provisions.

1. The purpose of the Hillside protection zone is to promote health, safety and the general public welfare of the residents of the city, by establishing standards for development of certain hillsides located in the city to minimize soil and slope instability, erosion, downstream siltation, and to preserve the character of the hillsides.
2. The provisions herein are designed to accomplish the following:
 - a. Encourage the location, design and development of building sites to provide maximum safety and human enjoyment while adapting the development to the natural terrain;
 - b. Provide for safe circulation of vehicular and pedestrian traffic to public and private areas and minimize the scarring and erosion effects of cutting, filling and grading related to Hillside street construction;
 - c. Prohibit activities and uses which would result in degradation of fragile soils and steep slopes;
 - d. Encourage preservation of open space to preserve the natural terrain;
 - e. Minimize flooding by protecting streams, drainage channels, absorption areas and floodplains from substantial alteration of the natural functions.

Section 17.57.020 Overlay zone--Scope-- Conflict resolution.

The Hillside protection zone shall be an overlay zone of the zone classifications set out in Section 17.40.010 of this title. Any permitted use in a district overlaid by the Hillside protection zone is a conditional use. Conditional uses authorized in districts overlaid by the Hillside protection zone remain conditional uses. In case of conflict between the provisions of the

existing zoning classification, building code, subdivision ordinance and/or other city ordinance and the Hillside protection overlay zone, the most restrictive provision shall apply. Nothing contained herein shall be construed to expand a use, make less restrictive a use, or allow a use which is not otherwise permitted in the zoning district overlaid by the Hillside protection zone.

Section 17.57.030 Applicability of provisions

1. The maps showing those foothill areas which are included in the Hillside protection zone are attached to the ordinance codified in this chapter and are on file with the city planning commission. Such maps are a part of this title as if fully described and detailed herein.
2. The Hillside protection zone requirements shall also be applicable to residential development of all parcels and lots located in the city having an average slope in excess of twenty (20) percent, as defined in this chapter.
3. Request for exemption or relief. An applicant may submit a request to exempt a lot or parcel that would otherwise be subject to this Chapter under subsection 2 above or seek relief, in whole or in part, from specific provisions of this Chapter as follows.
 - a. The applicant provides a statement containing the proposal and an explanation of the conditions unique to the lot or parcel which provide sufficient cause for the City to grant exception or relief.
 - b. If seeking relief from specific provisions of this Chapter, the applicant identifies the specific provisions from which he or she is seeking relief, and the degree to which he or she is seeking relief for each.
 - c. The applicant provides a site plan showing the following:
 - i. Proposed improvements to the lot or parcel in sufficient detail to evaluate the proposal;
 - ii. Pre-development contours with areas of 30% and 40% slope shown; and
 - iii. Existing contours, if they differ from pre-development contours.
 - d. The applicant provides a report prepared by a geotechnical engineer licensed in the State of Utah containing the following:
 - i. The same site plan that was submitted by the applicant;
 - ii. A detailed analysis and discussion of the possible impacts of the applicant's proposal on slope stability, erosion, drainage, and other relevant engineering considerations (during construction, short term, and long term). If the applicant is seeking relief from specific provisions of this Chapter, the analysis and discussion shall address each point on which the applicant is seeking relief;
 - iii. Specific measures recommended by the geotechnical engineer to mitigate the impacts of the proposal; and
 - iv. The geotechnical engineer's opinion as to the effects of the applicant's proposal on the health, safety, and welfare of the general public and nearby residents, and on safety of property and improvements in the area.
4. Granting exemption or relief. The Planning Commission may grant the requested exemption or relief if:
 - a. The City Engineer reviews the geotechnical engineer's report and takes no exception to it; and
 - b. The Planning Commission finds that granting the requested exemption(s) or relief will not be injurious to the health, safety, and welfare of the general public or nearby residents, will not create an undue hazard to property and improvements, and will be consistent with the purposes of this Chapter identified in Section 17.57.010 above.

5. When an exemption is granted under this section, the City shall record a document describing the granted exemption with the Utah County Recorder's Office to provide notice of the exemption to interested parties.

Ord. 2015-10-O, amend. 07/07/2015.

Section 17.57.040 Slope and lot size specifications and other restrictions.

1. In keeping with the purpose set forth in Section 17.57.010, and after excluding all property having a slope greater than thirty (30) percent, lots within the Hillside protection zone shall comply with the following schedule:

Average Slope	Minimum Lot Size Residential Lots (Unless existing zone requires larger lots)	Maximum Residential Lots Per Acre (Unless existing zone requires a smaller maximum)	Maximum Percentage of Lots that may be covered by impervious materials (unless existing zone requires a smaller minimum)
0-20%	See existing zone	See existing zone	See existing zone
Greater than 20%-25%	15,000 square feet	2.9	See existing zone
Greater than 25%-30%	½ acre	2	See existing zone
Over 30%	Development not permitted	2	See existing zone

Average slope is determined by the following:

$$S = .00229 \times L / A$$

S=Average slope in percent, .00229--a conversion factor, L=the contour interval (or vertical distance between adjacent contour lines of the map, in feet). The contour may not exceed 10 feet. L=the total length in feet of all the contour lines within the subject parcel, excluding the areas of slope greater than 30%, and A=the area in acres of the subject parcel, excluding the areas of slope greater than 30%. Average slope shall be determined on an individual lot basis and/or by areas of generally uniform slope which have a maximum size of five acres. Average slope shall be determined with the parcel in its natural condition, prior to any development. Cuts and/or fills cannot be utilized to alter the slope determined.

2. No development shall be permitted on property having an average slope in excess of 30%, as defined in this chapter.
3. Roads and other vehicular routes shall not cross property having a slope greater than thirty (30) percent unless, after review by the planning commission, it is determined that:
 - a. Appropriate engineering measures can be taken to minimize the impact of the cuts and fills, consistent with the purpose of this chapter; and
 - b. The environment and aesthetics of the area will not be significantly affected.
4. No parcel or lot shall have a cut in excess of ten (10) feet, at any location, and no parcel or lot shall have a fill in excess of ten (10) feet, at any location.
5. Where streets or roads, public or private, are proposed to cross slopes greater than ten (10) percent, the following additional standards shall apply:
 - streets and roads will be built with minimum environmental damage and within acceptable public safety parameters.

- b. Such streets and roads shall, to the maximum extent feasible, follow contour lines, preserve the natural character of the land, and be screened with trees or vegetation.
 - c. Cutting and filling shall be held to a minimum and retaining walls employed to help provide planting areas conducive to revegetation. Revegetation plans will be required for all areas disturbed during road construction.
6. Use of retaining walls is encouraged to reduce the steepness of man-made slopes and provide planting pockets conducive to revegetation. The use, design, and construction of all retaining walls shall be subject to the approval of the planning commission based upon assessment of visual impact, compatibility with surrounding terrain and vegetation, and safety considerations.
 7. In order to mitigate adverse environmental and visual effects, slopes exposed in new development shall be landscaped or revegetated in accord with an approval revegetation/landscaping plan. Topsoil from any disturbed portion shall be preserved and utilized in revegetation. Fill soil must be of a quality to support plant growth.

Section 17.57.050 Prohibitions.

No development shall be allowed on or within fifty (50) feet slopes in excess of forty (40) percent, areas subject to landsliding, or other high-hazard geological areas as determined by a soils report or geology report produced pursuant to the requirements of this chapter.

Section 17.57.060 Building site requirements.

1. Each lot or parcel of land shall contain a primary building site appropriate to accommodate the primary residential structure, which building site shall be outlined on the subdivision plat. The primary building site shall include a buildable area of sufficient size to allow not less than two thousand five hundred (2,500) square feet of footprint for the residential structure, after allowing for all required setbacks, and other requirements.
2. Grading of the lot or parcel which is related to creation of the primary building site or construction of the structure shall not extend closer than twenty (20) feet from the lot or parcel boundary lines, nor more than thirty (30) feet, horizontally, in front, to the rear or to the side of the proposed structure unless a greater distance is approved by the planning commission upon a showing by the developer that a greater distance will not be contrary to the purpose of this chapter.
3. The primary building site shall have a natural or manmade slope of twenty (20) percent or less.
4. Building sites for accessory buildings or structures such as tennis courts, swimming pools, outbuildings, etc., shall be approved by the planning commission.
5. The driveway(s) to the building site shall have a maximum slope of twelve (12) percent and shall have direct access to a public street.

Section 17.57.070 Plans and reports required.

The planning commission shall require the following reports and plans to be provided by the applicant. The planning commission may waive any reports and plans it determines are not necessary to determine whether the development meets the requirements of this chapter.

Section 17.57.080 Soils report.

The soils report shall be prepared by a qualified soils engineer, and must contain at least the following information:

1. A slope analysis;
2. An estimate of the normal highest elevation of the seasonal high-water table;

3. The location and size of swamps, springs and seeps, which shall be shown on the site plan, and the reasons for the occurrence of these underground water sources. An analysis of the vegetative cover or other surface information may be used to show the presence of underground water;
4. A unified soil classification for the major horizons or layers of soil profile, or of the zone of the footing foundation;
5. Appropriate accepted soils engineering tests to determine bearing capacity, settlement potential, and shrink/ swell potential of the site soils;
6. Potential frost action, based on the depth to the water table and the Unified Soils Classification;
7. An analysis of the soil suitabilities, constraints and proposed methods of mitigating such constraints in implementing the proposed development plan;
8. A written statement by the person of firm preparing the soils report, identifying the means proposed to minimize hazard to life, property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment.

Section 17.57.090 Geology report.

1. A geology report shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. A geologic map shall accompany the report. Mapping should reflect careful attention to the rock composition, structural elements, and surface and subsurface distribution of the earth materials exposed or inferred within both bedrock and surficial deposits. A clear distinction should be made between observed and inferred features and/or relationships.
2. The reports shall contain at least the following information:
 - a. Location and size of subject area and its general setting with respect to major geographic and geologic features;
 - b. Identification (including author and date) of the geologic mapping upon which the report is based;
 - c. Topography and drainage in the subject area;
 - d. Abundance, distribution and general nature of exposures of earth materials within the area;
 - e. Nature and source of available subsurface information;
 - f. Estimated depth to bedrock;
 - g. Bedrock: igneous, sedimentary, metamorphic types;
 - h. Structural features, including but not limited to stratification, stability, folds, zones of contortion or crushing, joints, fractures, shear zones, faults, and any other geological limitations;
 - i. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and recommendations covering the adequacy of sites to be developed;
 - j. A written statement by the person or firm preparing the geology report identifying the means proposed to minimize hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment.

Section 17.57.100 Grading and drainage plan--Contents.

1. A grading and drainage plan shall be prepared by a professional engineer registered in the state. The plan must be sufficient to determine the erosion-control measures necessary to prevent soil loss during construction and after project completion.
2. The plan shall include, at least, the following information:

- a. A map of the entire site, showing existing details and contours of the property and proposed contour modifications, using a minimum of ten-foot contour intervals at a scale of one inch equals one hundred (100) feet;
- b. Map(s) of area(s) to be graded, showing existing details and contours at five-foot intervals where terrain will not be modified, and proposed details and contours of two-foot intervals where terrain modifications is proposed, using a scale of one inch equals twenty (20) feet;
- c. An investigation of the effects of high-intensity rainstorm (one-hundred-year occurrence according to U.S. Department of Commerce Weather Bureau Frequency Curves), evaluating how the proposed drainage system will handle the predicted flows, including effects of drainage areas outside the development which drain through the subject area and the anticipated flow of the drainage leaving the development;
- d. The history, including frequency and duration, or prior flooding;
- e. The location of any existing buildings or structures on the development, and any existing buildings or structures on land of adjacent owners which are within one hundred (100) feet of the property, or which are on the land of adjacent owner and may be affected by the proposed development;
- f. The direction of proposed drainage flow and the approximate grade of all streets (not to be construed as a requirement for the final street design);
- g. Proposed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices, to be constructed with or as part of the proposed work, together with a map showing drainage areas and the proposed drainage network, including outfall lines and natural drainageways which may be affected by the proposed project. Including the estimated runoff of the areas served by the drainage plan;
- h. A description of the method to be used on obtaining fill for use on the site of acquisition of such fill;
- i. A description of methods to be employed in disposing of soil and other material which is removed from the site, including the location of the disposal site;
- j. A plan showing temporary erosion-control measures to prevent erosion during the course of construction;
- k. A schedule showing when each stage of the project will be completed, including the total area of soil surface which is to be disturbed during each stage and an estimate of starting and completion dates. The schedule shall be drawn to limit to the shortest possible period the time that soil is exposed and unprotected. In no event shall the existing natural vegetation or ground cover be destroyed, removed or disturbed more than fifteen (15) days prior to commencing grading for development as scheduled;
- l. A written statement by the person or firm preparing the grading and drainage plan, identifying any grading and drainage problems of the development and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel, and adverse impact on the natural environment.

Section 17.57.110 Fire protection report. A fire report including but not limited to identification of potential fire hazards, mitigation measures, access for fire protection equipment, and existing and proposed fire flow capability. The fire protection report shall address, as appropriate, the State Forester's Wildfire Hazard and Residential Development Identification Classification and Regulation Report.

Section 17.57.120 Vegetation plan.

The vegetation plan and report shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject, and shall include at least the following:

1. A survey of existing trees, large shrubs and ground covers;
2. A plan of the proposed revegetation of the site, detailing existing vegetation to be preserved, new vegetation to be planted, and any modifications to existing vegetation;
3. A plan for the preservation of existing vegetation during construction activity;
4. A vegetation maintenance program, including initial and continuing maintenance necessary;
5. A written statement by the person or firm preparing the vegetation plan and report, identifying any vegetation problems, and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life or property, adverse effects on the safety, use or stability of a public way or drainage channel, and adverse impact on the natural environment.

Section 17.57.130 Other reports and plans.

Other reports and plans shall be prepared as deemed necessary by the planning commission.

Section 17.57.140 Vegetation preservation requirements.

1. Vegetation shall be removed only when absolutely necessary, i.e., for buildings, filled areas, roads, and firebreaks. Every efforts shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping, i.e., cut-and-fill slopes. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas, including lots which may be subject to future grading, as each stage of grading is completed. Areas not contained within lot boundaries shall be protected with adapted fire-resistant species of perennial vegetative cover after all construction is completed. The new vegetation shall be equivalent to or exceed the amount and erosion-control characteristic of the original vegetation cover.
2. The property owner and contractor shall be fully responsible for any destruction of native vegetation proposed for retention under the approved vegetation plan, and shall be responsible for the replacement of destroyed vegetation, including vegetation destroyed by employees and subcontractors.

Section 17.57.150 Grading and drainage plan--Review and approval.

The drainage and grading plans shall be approved by the city engineer prior to final approval by the planning commission. Approval by the city engineer shall be based upon official standards. It is unlawful to excavate or grade any area within the Hillside protection zone prior to final approval of the grading and excavation plan by the planning commission.

Section 17.57.160 Building height.

1. Single family residences constructed on hillsides should step down the hillside rather than regrading the hillside into a flat site. A simple box form will stand out from the natural, complex undulations of hillsides more than a building form that is broken into smaller elements. A building can be broken up by raising and lowering the roofline, varying the face of the building (not just single straight plan), adding balconies and overhangs, etc. These elements create shadow patterns that are similar to shadows cast by rocks, trees and cliffs on hillsides and tend to lessen the apparent size of the building.
3. To the maximum extent feasible, buildings shall be sited in locations that are sympathetic to existing contours rather than those that require a building solution that

would dominate the site. Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site.
(Ord. 2001-1, Amended 01/16/01, prior Ord. 2000-5)

Section 17.57.165 Exterior building design

Exterior building design standards shall be as follows:

1. Indigenous materials and colors shall be used in order to mimic natural textures.
2. To the maximum extent feasible, predominate tones on exterior walls shall tend toward neutral colors such as warm, earthy hues, dark green of forests, grays and gray-brown of the mountains, the tan of grasses, and similar colors. Bright, harshly contrasting color combinations shall be avoided.
3. The color of roof surfacing materials shall be either brown, gray, or another color that blends in with the surrounding landscape.
4. Wood roofing shingles shall not be allowed in the canyons or foothills because of their potential to ignite during wildfires.

(Ord. 2000-5, Add, 09/08/2000)

Section 17.57.170 Access to other properties.

Safe, convenient and adequate access, approved by the planning commission, shall be provided to adjacent private and public lands for vehicles, pedestrians and essential service and maintenance equipment.

Section 17.57.180 Development proposal processing.

1. Development proposals in the hillside protection zone shall be processed in a timely manner under established conditional use or subdivision procedures.
2. In order to fulfill the purpose of the hillside protection zone, described in Section 17.57.010, the planning commission shall determine whether the proposed development meets the requirements of this chapter, based on the required reports and other data available to it. The planning commission shall, when it deems necessary, request recommendations from other agencies such as the board of health, Utah State Forestry, U.S. Forest Service, and the U.S. Soil Conservation Service.
3. Any area which is determined to contain natural hazards to life, limb or property, including but not limited to soil hazards, geologic hazards or hydrologic hazards, shall not be approved for development unless the applicant demonstrates that such identified hazards or limitations can be overcome in such a manner as to minimize hazard to life, limb or property; adverse effects on the safety, use or stability of public way or drainage channel; and other adverse impacts on the natural environment.
4. The planning commission may set requirements it determines are necessary to overcome any natural hazards and to ensure that the purpose of this chapter are met. These requirements may include, but not be limited to, a revegetation program, a time schedule for completion of the development, flood-control and erosion-control improvements, location of structures, and phasing of development.

Section 17.57.190 Lots of record.

The planning commission may waive any requirements of this chapter for lots of record, lots and plans of subdivisions which were approved by the planning commission prior to the enactment of the ordinance from which this section derives, if the planning commission finds that such waiver would not be injurious to the health, safety and the general public welfare of the inhabitants of the city and is consistent with the purpose of this chapter.

Section 17.57.200 Economic hardship relief provisions.

1. Hardship relief petition. Any applicant for development, after a final decision on its development application is taken by the city council, may file a hardship relief petition with the city recorder seeking relief from all or part of the hillside protection overlay zone regulations on the basis that the denial of the application has created a substantial economic hardship to the extent of depriving the applicant of all reasonable use of its property.
2. Affected property interest. The hardship relief petition must provide information sufficient for the planning commission and the city council to determine that the petitioner possesses a protectable interest in property under Article I, Section 22 of the Constitution of Utah and/or the Fifth Amendment to the United States Constitution.
3. Economic hardship standard. For purpose of this ordinance, a substantial economic hardship shall be defined as a denial of all reasonable use of the property. Upon a finding that the denial of the application has resulted in a denial of all reasonable use of the property, the Lindon City Council may provide the petitioner with relief from all or part of the hillside protection overlay zone regulations.
4. Time for filing notice of petition and petition. No later than ten (10) calendar days from final action by the city council on any development application, the applicant shall file a notice of petition in writing with the city recorder. Within thirty (30) days of filing of a notice of petition, the applicant shall file a hardship relief petition with the city recorder.
5. Information to be submitted with hardship relief petition.
 - a. The hardship relief petition must be submitted on a form acceptable to the city, shall be signed by the applicant and verified, and must be accompanied at a minimum by the following information:
 - i. Name of the petitioner;
 - ii. Name and business address of the current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture, limited liability company, or other, and if owned by a corporation, partnership, joint venture, or limited liability company, the name and address of all principal shareholders, members, or partners.
 - iii. Price paid and other terms of purchase of the property, the date of purchase, and the name of the party from whom purchased, including the relationship, if any, between the petitioner and the party from whom the property was acquired;
 - iv. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
 - v. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the five years prior to the date of application;
 - vi. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the five years prior to the date of application;
 - vii. The assessed value of and ad valorem taxes on the property for the previous five years;
 - viii. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance an term of the loan and other significant provisions, including but not limited to, rights of purchasers to assume the loan;

- ix. All listings of the property for sale or rent, price asked and offers received, if any, within the previous five years;
 - x. All studies commissioned by the petitioner or agents of the petitioner within the previous five years concerning feasibility of development or utilization of the property;
 - xi. For income producing property, itemized income and expense statements from the property for the previous five years;
 - xii. Information from a title report or other source showing all recorded liens or encumbrances affecting the property as of the date of the petition;
 - xiii. A specific description of the exact hillside protection zone regulations the application economic hardship to the extent of depriving the petitioner of all reasonable uses of its property, together with the factual basis for said assertion; and
 - xiv. A specific description of the modifications from the hillside protection zone regulations which petitioner asserts are necessary, to the minimal extent necessary, to prevent the petitioner from sustaining a substantial economic hardship to the extent of depriving the petitioner of all reasonable use of its property, together with the factual basis for said assertion.
 - b. The planning commission or the city council may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning whether there has been a denial of all reasonable use constituting a substantial economic hardship.
6. Failure to submit information. In the event that any of the information required to be submitted by the petitioner is not reasonably available, the petitioner shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.
7. Hearing by the planning commission. Within thirty (30) days of the filing of a completed hardship relief petition, together with all required and requested supporting information and documentation required by the city council or the planning commission, the planning commission shall schedule a public hearing with notice consistent with the provision of Section 17.02.010 of the Lindon City Code. The public hearing shall be held on or before thirty (30) days from the date of notice, unless a reasonable extension of time is agreed to by both the planning commission and the petitioner. At the public hearing, the petitioner shall be entitled to testify and to call witnesses and present facts and evidence. The petitioner shall be entitled to cross examine witnesses. All witnesses shall be sworn and testify under oath.
8. Application of the economic hardship standard. In applying the economic hardship standard, the planning commission shall consider among other items the following information or evidence:
 - a. Any estimates from contractors, architects, real estate analysts, qualified developers, or other competent and qualified real estate professionals concerning the feasibility, or lack of feasibility, of construction or development on the property as of the date of the petition, and in the reasonably near future;
 - b. Any evidence or testimony of the market value of the property both considering and disregarding all or portions of the hillside protection zone requirements; and
 - c. Any evidence or testimony deemed relevant by the planning commission.
9. Burden of proof. The petitioner shall have the burden of proving that the denial of the application creates a substantial economic hardship as defined herein.

10. Findings of the planning commission. The planning commission shall, on the basis of the evidence and testimony presented, make specific findings as part of its report and recommendations to the city council, which may including the following:
 - a. Whether the petitioner has complied with the requirements for presenting the information to be submitted with a hardship relief petition;
 - b. Whether the petitioner has a protectable interest in property;
 - c. The market value of the property considering the hillside protection zone requirements;
 - d. The market value of the property disregarding all or specific provisions of the hillside protection zone requirements;
 - e. Whether it is feasible to undertake construction on or development of the property as of the date of the application, or in the reasonably near future thereafter;
 - f. Whether, in the opinion of the planning commission, the denial of the application would create a substantial economic hardship as defined herein.
11. Report and recommendations of the planning commission.
 - a. The planning commission, based upon the evidence and findings, shall make a report and recommendation to the city council concerning the hardship relief petition.
 - b. If the planning commission recommends that the city council approve the hardship relief petition, then the report of the planning commission shall discuss the type and extent of incentives necessary, in the opinion of the planning commission, to provide an appropriate increase in market value or other benefit or return to the petitioner sufficient to offset the substantial economic hardship. The types of incentives that the planning commission may consider include, but are not limited to, the following:
 - i. Modification or waiver of specific requirements of the hillside protection zone requirements to the minimal extent necessary to offset the substantial economic hardship.
 - ii. A waiver of permits fees;
 - iii. Approval of development on some portions of the property within the hillside protection zone; and
 - iv. Acquisition of all or a portion of the property at market value.
 - c. The report and recommendation shall be submitted to the city council and mailed to the petitioner within thirty (30) days following conclusion of the public hearing.
12. City council review and consideration. Within sixty (60) days following receipt of the planning commission's report, the city council shall hold a public hearing and provide notice as provided in Section 17.02.010 of the Lindon City Code to review the report and recommendations of the planning commission. At the public hearing, the petitioner shall be entitled to testify and to call witnesses and present facts and evidence. The petitioner shall be entitled to cross examine witnesses. All witnesses shall be sworn and testify under oath. At the public hearing the city council may limit the testimony and evidence to new testimony and evidence not presented to the planning commission. The city council shall approve, in whole or in part, or disapprove the hardship relief petition. The city council may modify or waive the requirements of the hillside protection zone, or may adopted any incentive, to the extent reasonably necessary to offset any substantial economic hardship as defined herein and may condition such incentives upon approval of specific development plans. The city council may take such action without the necessity of resubmission of the petition to the planning commission.
13. Findings of the city council. The city council shall, on the basis of the report and recommendation of the planning commission and the evidence and testimony presented,

make specific findings as part of its decision. The findings may adopt, change, or modify the findings of the planning commission.

14. Decisions of the city council. The decision of the city council shall be mailed to the petitioner within thirty (30) days following conclusion of the public hearing.
15. Time limits/transferral of incentives. Any modifications, waivers, or incentives adopted by the city council pursuant to this section may be transferred and utilized by successive owners of property or parties in interest, but in no case shall the incentives be valid after the expiration date of the development approval.
16. Decisions final. The decisions of the city council shall be final.

Section 17.57.210 Bonds for improvements.

Bonds for improvements required under this chapter shall be deemed in the nature of public improvements and shall be subject to the bonding provisions of Chapter 17.38 of the Lindon City Code.

Section 17.57.220 Application of hillside zone requirements to lots having an average slope in excess of twenty (20) percent.

All rules and regulations apply to the hillside protection zone district--HP, in Lindon, shall apply to the use of the land, building, and other structures situated on all other parcels and lots located in the city having an average slope in excess of twenty (20) percent as defined in Chapter 17.57. of the Lindon City Code.

Section 17.57.230 Delegation of Responsibility

The Planning Commission may delegate to City Staff or the City's contract agents, any and all review, approval, waiver and other authority and responsibilities outlined in Chapter 17.57 of the Lindon City Code. (Ordinance 2006-11, adopted 11/21/2006.)