

  
CITY OF                      SUN VALLEY  
REPORT TO THE CITY COUNCIL

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**To:** Honorable Mayor and City Council  
**From:** *MH* Mark Hofman, Community Development Director  
**Meeting Date:** January 3, 2013  
**Agenda Item:** **Ordinance No.459- City Code Amendment for Planning and Zoning Commission Qualifications and Appointments**

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**SUBJECT:** Public hearing for proposed Ordinance No. 459 amending Section 2-1-1F of the Sun Valley City Code to clarify the qualifications for appointment of members to the Planning and Zoning Commission.

**BACKGROUND:** As identified in the attached December 21, 2012 Memorandum to Michael Parda, Interim Executive Assistant to the Mayor, an interpretation issue with existing City Code Section 2-1-1F recently came to light.

City Code Section 2-1-1F currently states:

*F. No member of the commission shall, during the term of office, serve on the city council or any other elected or appointed government position in Blaine County.*

A narrow interpretation of this provision could be that serving on a Cemetery District Board rises to the level of being elected or appointed to a government position, which is prohibited. The full intent of this code provision is unclear and, if strictly interpreted, lacks any expressed flexibility. The range of what should be considered a government position is not specified. Staff is working to clarify this interpretation issue with recommended wording in a draft Ordinance No. 459 that amends City Code.

**ANALYSIS:** Draft Ordinance No. 459, attached as part of **Exhibit "CC-1"**, specifies the amendments to the City Code, and states the reasons and purposes for adoption. For the recommended amendments in Section 1 of the draft Ordinance, any text deletions are in strikeout form and text additions are underlined. Text not in strikeout/underline format shall remain unchanged in the City Code.

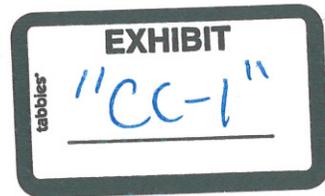
In a continuous effort to review City Code and eliminate conflicts or ambiguities when found, it is recommended that Code Section 2-1-1F be amended to clarify and add some degree of flexibility while retaining control and oversight.

**RECOMMENDATION:** Before public comment is received, the City Council should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony in a public hearing, consider attached draft Ordinance No. 459 and suggest revisions as may be necessary.

**The Community Development Director recommends the City Council consider a motion to waive three readings of Ordinance No. 459 and then adopt a motion to approve Ordinance No. 459. If three readings are not waived by the Council, a motion should be adopted for first reading of Ordinance No. 459, reading by title only.**

**LIST OF ATTACHED EXHIBITS:**

Exhibit "CC-1"                      December 21, 2012 Memorandum to Michael Parda, Interim Executive Assistant to the Mayor, including proposed City of Sun Valley Ordinance No.459, City Code Amendment for Planning and Zoning Commission Qualifications and Appointments.



CITY OF SUN VALLEY  
MEMORANDUM

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TO: Michael Parda, Interim Executive Assistant to the Mayor

CC: Ken Herich, Planning & Zoning Commission Chairman  
Adam King, City Attorney

FROM: *MH* Mark Hofman, Community Development Director

SUBJECT: City Code Section 2-1-1F

DATE: December 21, 2012

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As we preliminarily discussed in our meeting on December 20, 2012, an interpretation issue with City Code Section 2-1-1F recently came to light. Current Planning and Zoning Commission member John O'Connor also sits on the Board of the Ketchum Cemetery District.

City Code Section 2-1-1F currently states:

- F. No member of the commission shall, during the term of office, serve on the city council or any other elected or appointed government position in Blaine County.*

A narrow interpretation of this provision could be that serving on the Cemetery District Board rises to the level of being elected or appointed to a government position, which is prohibited. The full intent of this code provision is unclear and, if strictly interpreted, lacks any expressed flexibility. The range of what should be considered a government position is not specified.

This code interpretation issue bears no relation to John's participation or performance on the Planning and Zoning Commission, for he is a valuable member of the Commission that serves the citizens of the City of Sun Valley extraordinarily well. Moreover, qualified people willing to serve boards, districts, committees and the like are difficult to find in this small community and broad participation should be encouraged when appropriate.

In a continuous effort to review city code and eliminate conflicts or ambiguities when found, it is recommended that Code Section 2-1-1F be amended to clarify and add some degree of flexibility while retaining control and oversight. Commission Chairman Ken Herich discussed the issue with John O'Connor and a draft ordinance was prepared with suggested amendments that could be publicly noticed and considered by the Mayor and City Council at the regular meeting on January 3, 2013.

**ATTACHMENT**

Draft Ordinance No. 459, amending City Code Section 2-1-1F

(DRAFT) ORDINANCE NO. 459

CITY CODE AMENDMENT FOR PLANNING AND ZONING COMMISSION  
QUALIFICATIONS AND APPOINTMENTS

AN ORDINANCE OF THE CITY OF SUN VALLEY, BLAINE COUNTY, IDAHO, AMENDING THE CITY OF SUN VALLEY MUNICIPAL CODE BY REVISING TITLE 2, CHAPTER 1, SECTION 1 (CITY CODE SECTION 2-1-1F), TO CLARIFY THE TERMS PROHIBITING PLANNING AND ZONING COMMISSION APPOINTEES FROM SERVING ON THE CITY COUNCIL OR ANY OTHER ELECTED OR APPOINTED GOVERNMENT POSITION IN BLAINE COUNTY; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the *Comprehensive Plan* states in Chapter II, Section C, that "The ability to resolve regional issues depends on cooperative partnerships that foster both rational growth and sustained prosperity in the broader community..." and "...To that end, the City must develop productive, working relationships with its many regional partners to address issues that directly affect the future of the Wood River Valley."; and

**WHEREAS**, City Code Section 2-1-1 creates a planning and zoning commission consisting of members to be appointed by the Mayor and confirmed by a majority vote of the City Council; and

**WHEREAS**, City Code Subsections B through F of Section 2-1-1 set forth terms, qualifications, appointments, vacancies and other regulatory criteria for members of the Planning and Zoning Commission; and

**WHEREAS**, a too narrow interpretation of a provision prohibiting members of the Planning and Zoning Commission from serving on boards, districts, committees and other non-governmental positions in Blaine County during their term of office is not beneficial to the citizens of the City of Sun Valley; and

**WHEREAS**, qualified people willing to serve boards, districts, committees and the like are difficult to find in this small community and broad participation should be encouraged when appropriate; and

**WHEREAS**, some degree of flexibility is desired while retaining control and oversight for the Mayor and City Council; and

**WHEREAS**, the amendments to Section 2-1-1F of the City Code are not Development Code amendments and do not require, under Idaho Code, a review and recommendation of the Planning and Zoning Commission to the Sun Valley City Council prior to City action on the Ordinance; and

**WHEREAS**, the City Council of the City of Sun Valley held a properly noticed public hearing in accordance with Idaho and City Codes on January 3, 2013 to take public testimony, discussed the reasons and purpose for taking action on the amendment to the City Code, and considered draft Ordinance No. 459.

**NOW, THEREFORE; THE MAYOR AND THE CITY COUNCIL OF THE CITY OF SUN VALLEY, IDAHO, DO ORDAIN AS FOLLOWS:**

**SECTION 1. CITY CODE AMENDMENT-** For the reasons and purposes contained above, the City of Sun Valley makes the following amendments to the text of Section 2-1-1F of the City Code. The entire current code section is provided for context though the amendments are specific to Subsection F. The specific text deletions are in strikeout form and all text additions are underlined. Text below not in strikeout/underline format shall remain unchanged in the City Code.

**2-1-1: COMMISSION CREATED; TERMS; QUALIFICATIONS; APPOINTMENTS; VACANCIES:**

A. *There is hereby created and established a planning and zoning commission of the city consisting of members to be appointed by the mayor and confirmed by a majority vote of the city council. The number of members on the commission shall be as established by the bylaws adopted by the city council. (Ord. 359, 10-21-2004)*

B. *Except as provided herein, each member must have resided in the county for at least two (2) years prior to his appointment and shall be a resident of the city at the time of appointment and throughout the duration of the term on the commission.*

*1. For purposes of this chapter "resident" shall be determined by considering the location of the member's principal or primary home or place of abode of a person.*

*a. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income tax purposes, residence of parents, spouse, and children, if any, leaseholds, situs or personal and real property, and motor vehicle registration.*

*b. A resident member shall not be considered to have gained residence in any city of this state into which he comes for temporary purposes only without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.*

*c. A resident member who has left his home and gone to another area outside the city, for a temporary purpose only shall not be considered to have lost his residency.*

*d. If a member moves outside the city, with the intentions of making it his permanent home, he shall be considered to have lost his residency in the city.*

C. *The term of office shall be four (4) years; provided, however, that any member may be removed from the commission for cause, or not for cause, prior to the expiration of his term of office by a majority vote of the city council.*

- D. *Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as stated in subsection A of this section.*
- E. *Members shall be appointed without respect to political affiliation and may receive compensation and reimbursement for mileage and expenses as may be established from time to time by resolution of the city council.*
- F. *Absent prior approval by the Mayor and City Council, nNo member of the commission shall, during the term of office, serve on the city council or any other elected or appointed government position in Blaine County.*

**SECTION 2. SAVINGS AND SEVERABILITY-** If any section, subsection, paragraph, subparagraph, item, provision, regulation, sentence, clause, or phrase is declared by a Court of competent jurisdiction to be invalid, such actions shall not affect the validity of this ordinance as a whole or any part thereof other than the part declared invalid.

**SECTION 3. CODIFICATION-** The City Clerk is instructed pursuant to Section 1-1-3, Amendments, of the City of Sun Valley Municipal Code to immediately forward this Ordinance No. 459 to the codifier and the said ordinance material shall be prepared for insertion in its proper place in each copy of this Code.

**SECTION 4. REPEALER CLAUSE-** All City of Sun Valley Ordinances or parts thereof which are in conflict herewith are hereby repealed.

**SECTION 5. EFFECTIVE DATE-** This Ordinance shall be in full force and effect from and after its approval, passage, and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF SUN VALLEY, IDAHO, AND APPROVED BY THE MAYOR OF THE CITY OF SUN VALLEY on this 3rd day of January, 2013.

EFFECTIVE DATE OF PUBLICATION: January 9, 2013.

APPROVED:

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Dewayne Briscoe, Mayor  
City of Sun Valley

ATTEST:

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Hannah Stauts, City Clerk  
City of Sun Valley