

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1075

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions Related to the Adoption and Implementation of the Linnton Hillside Recommended Plan in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On April 20, 2006, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1073.
- f. Since the adoption of Ordinance 1073, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.

- h. The City Council adopted the land use code, plan and map amendments, set out in Section 1 below and attached as Exhibits 1 through 8. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 through 8, effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Effective / Hearing Date
1	Ordinance adopting and implementing the Linnton Hillside Recommended Plan amending the Comprehensive Plan, Zoning Maps and Title 33. (PDX Ord. #180095)	5/26/06
2	Exhibit A – Linnton Hillside Study Proposed Regulations	4/6/ 2006
3	Exhibit B – Linnton Hillside Study Recommended Plan	2/16/2006
4	Exhibit C – Linnton Hillside Existing Conditions Report	June 2005
5	Exhibit C-1 – BES Sanitary Sewer Modeling	5/19/2005
6	Exhibit C-2 – BES Stormwater Modeling	7/7/2005
7	Exhibit D – Findings Report	3/3/2006
8	Exhibit E – Regulatory Impact Report	3/3/2006

Section 2. In accordance with ORS 215.427(3), the changes resulting from Section 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County’s land use regulations in effect as of the date the subdivision application is first submitted.

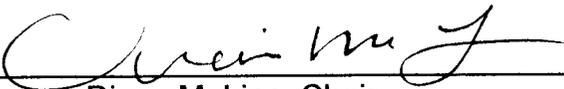
Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION: June 1, 2006



BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy
Sandra N. Duffy, Assistant County Attorney

EXHIBIT LIST FOR ORDINANCE

1. Ordinance adopting and implementing the Linnton Hillside Recommended Plan amending the Comprehensive Plan, Zoning Maps and Title 33. (**PDX Ord. #180095**)
2. Exhibit A – Linnton Hillside Study Proposed Regulations
3. Exhibit B – Linnton Hillside Study Recommended Plan
4. Exhibit C – Linnton Hillside Existing Conditions Report
5. Exhibit C-1 – BES Sanitary Sewer Modeling
6. Exhibit C-2 – BES Stormwater Modeling
7. Exhibit D – Findings Report
8. Exhibit E – Regulatory Impact Report

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

ORDINANCE No. 180095 As Amended

Adopt and implement the Linnton Hillside Recommended Plan (Ordinance; amend Comprehensive Plan and Zoning Map; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

1. Portland's *Comprehensive Plan* was adopted on October 16, 1980, acknowledged for compliance with Statewide Planning Goals on May 3, 1981, and again on January 25, 2000, and updated as a result of periodic review in June 1988, January 1991, March 1991, September 1992, and May 1995.
2. Oregon Revised Statute (ORS) 197.628 requires cities and counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up-to-date and in compliance with Statewide Planning Goals and State laws. Portland is also required to coordinate its review and update of the *Comprehensive Plan* and land use regulations with State plans and programs.
3. Portland *Comprehensive Plan* Goal 3, Neighborhoods, calls for preserving and reinforcing the stability, diversity, residential quality, and economic vitality of the City's neighborhoods, while allowing for increased density.
4. Portland *Comprehensive Plan* Goal 8, Environment, calls for maintaining and improving the quality of Portland's air, water, and land resources.
5. Portland *Comprehensive Plan* Goal 10, Plan Review and Administration, states that the *Comprehensive Plan* will undergo periodic review to ensure that it remains an up-to-date and workable framework for land use development.
6. Portland *Comprehensive Plan* Policy 10.2, Comprehensive Plan Map Review, establishes a community and neighborhood planning process for the review and update of the Portland Comprehensive Plan Map.
7. Portland *Comprehensive Plan* Policy 11 A calls for providing a timely, orderly, and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.
8. Information used for the formulation of the amendments of the *Linnton Hillside Recommended Plan* was based on Portland land use, transportation, public sanitary sewer and water systems, and natural land hazard inventories, as well as stormwater and sanitary sewer system modeling analysis, public comments from workshop and open house events, and other meetings, presentations and events.
9. The Bureau of Planning developed the *Linnton Hillside Recommended Plan* with participation from interested neighborhood and business associations, property owners, business persons, and citizens with cooperation from other City bureaus and government agencies, Metro, and Multnomah County.

10. Public involvement and outreach activities included community workshops and consultation with citizen and technical advisory groups. Staff also attended Linnton Neighborhood Association meetings.
11. A Community Working Group, composed of neighborhood, business, industrial, and advocacy groups, community members and business owners, was created to consider existing conditions and possible implementation strategies for the Linnton Hillside Study. The group's role was to consider the diverse interests of the community and represent a range of perspectives on planning issues.
12. A technical advisory group (TAG) composed of representatives from public service providers, city agencies, and other governments and organizations participated in the creation and review of components and drafts of the *Linnton Hillside Recommended Plan* throughout its formulation.
13. *The Linnton Hillside Recommended Plan* provisions implement or are consistent with the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, the Portland Comprehensive Plan, the Northwest Hills Natural Areas Protection Plan, and the Northwest Hills Study, as explained in the *Linnton Hillside Recommended Plan Findings Report* attached as Exhibit D and incorporated as part of this ordinance. These rules, goals, policies, and plans, provide a basis for limiting development potential of the Linnton Hillside area.
14. The Notice of Proposed Action and copies of the *Linnton Hillside Recommended Plan* were mailed to the Oregon Department of Land Conservation and Development as required by ORS 197.610 on July 27, 2005.
15. Written notice of the September 13, 2005, Portland Planning Commission public hearing on the Linnton Hillside *Proposed Plan* was mailed to 517 interested parties on August 12, 2005, and 410 property owners in the Linnton neighborhood. Measure 56 notification of the September 13, 2005, Portland Planning Commission public hearing on the *Proposed Plan* was mailed to all property owners affected by changes to the base zone or allowed uses of property on August 19, 2005.
16. On September 13, 2005, the Portland Planning Commission held a public hearing on the Linnton Hillside *Proposed Plan*. The Planning Commission discussed the Plan at a public meeting on October 11, 2005, and recommended that City Council adopt the *Proposed Plan* with minor amendments.
17. Written notice of the March 15, 2006 City Council public hearing on the Linnton Hillside *Recommended Plan* was mailed to all properties in the study area, the legislative mailing list, the Planning Commission, and other interested individuals on February 21, 2006. Measure 56 notification of the March 15, 2006, City Council public hearing on the Linnton Hillside *Recommended Plan* was mailed on February 22, 2006, to new property owners affected by changes to the base zone or allowed uses of property. These property owners did not receive the initial Measure 56 notification.
18. Appendices A and B (attached as Exhibit C), and Section III, Subarea Context and Nonregulatory Options, of the *Linnton Hillside Recommended Plan* (attached as Exhibit

B), will serve as a guide to public and private decision-making and investment in the plan area.

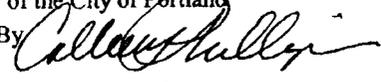
19. The recommendations acknowledge that the Linnton Hillside area is constrained by natural conditions and limited existing infrastructure, and are intended to protect the public health and safety by limiting the potential number of new housing units consistent with these constraints. The recommendations are consistent with Statewide Planning Goals, Metro's Functional Plan and the City's Comprehensive Plan for the reasons stated in the findings in Exhibit D.

NOW, THEREFORE, the Council directs:

- a. Exhibit D, *Linnton Hillside Recommended Plan Findings Report*, dated February 2006, which contains findings on applicable statewide planning goals, the Metro functional plan, the Portland *Comprehensive Plan*, the Northwest Hills Natural Area Protection Plan, and the Northwest Hills Study, is adopted as findings of fact.
- b. The Planning Commission *Linnton Hillside Recommended Plan*, dated February 16, 2006, and contained in the attached Exhibit B, is hereby adopted.
Exhibit B is amended, as proposed by staff in the Revised Substitute Exhibit A, dated April 6, 2006.
- c. The Portland *Comprehensive Plan* Map and the Zoning Map of the City of Portland are amended, as shown in Exhibit B.
- d. *Title 33, Planning and Zoning* of the Code of the City of Portland, Oregon, is amended as shown in Exhibit B.
- e. The commentary in Exhibit B is adopted as legislative intent and as further findings.
- f. Exhibit C, *Linnton Hillside Study Appendices*, which contain background material for the *Linnton Hillside Recommended Plan*, is adopted.
- g. Exhibit E, *Linnton Hillside Study Regulatory Impact Assessment*, February 2006, is adopted.

Passed by the Council, **APR 26 2006**

Mayor Tom Potter
M. Feuersanger
March 3, 2006

GARY BLACKMER,
Auditor of the City of Portland
By 
Deputy

Linnton Hillside Study Proposed Regulations

**Northwest Hills Plan District, Chapter 33.563
Linnton Hillside Subarea, Forest Park Subdistrict**

Changes made after the March 15, 2006, City Council hearing are highlighted.

The code language and commentary shown below replaces the language in the Linnton Hillside Recommended Plan (pp. 68-9).

Code Commentary

33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea.

The purpose of these regulations is to reduce potential density where possible while ensuring that small lots in single ownership remain buildable.

The proposed code is loosely based on existing regulations that apply in the West Portland Park subdivision in Southwest Portland (33.110.212.D). These regulations require larger lot areas—and thus lower density--than the base zone in certain circumstances. Natural conditions and physical infrastructure limits of West Portland Park are similar to those of the Linnton Hillside.

There is compelling evidence that limitations on potential density should be applied to the Linnton Hillside subarea. Specifically, topography in this subarea is steeper and fire/emergency access is more constrained than in other residential areas with development potential. Most striking is the presence of multiple development constraints and land hazards that, taken together, present a significant risk to human safety and health. These constraints are described in Section II of the Recommended Linnton Hillside Plan and the Linnton Hillside Study Existing Conditions report.

This section replaces the regulations of Section 33.110.212, When Primary Structures are Allowed. The regulations are organized by how much area is under a single ownership, regardless of lot lines.

Subsection A sets out the regulations for ownerships that are at least as large as the minimum areas set out in Table 563-1. For example, in the R10 zone, the minimum area is 10,000 square feet.

Subsection B sets out the regulations for ownerships that are not as large as the minimum areas set out in Table 563-1 but are at least as large as the size required for new lots created through a land division. Those sizes are set out in Table 610-2, shown below. For example, in the R10 zone, the minimum area is 6,000 square feet. These ownerships will be buildable only if they have been "stand alone" ownerships since the effective date of these regulations. In other words, the size of the ownership hasn't been reduced since that date.

Table 610-2 Lot Dimension Standards					
	RF	R20	R10	R7	R5
Minimum Lot Area	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.
Maximum Lot Area	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width	60 ft.[1]	60 ft.[1]	50 ft.[1]	40 ft.[1]	36 ft.[1]
Minimum Front Lot Line	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.

33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea.

The regulations of Section 33.110.212 do not apply in the Linnton Hillside Subarea. In this subarea, primary structures are allowed in residential zones as specified in this section. Adjustments to the standards of this section are prohibited. Primary structures are allowed on lots or combinations of lots that meet the requirements of this section, and on lots of record or combinations of lots of record that meet the requirements of this Section. The requirements are:

- A.** The lots or combinations of lots, or lots of record or combinations of lots of record:
 - 1. Are at least 36 feet wide, measured at the front setback line; and
 - 2. Meet the minimum area standard of Subsection G;

- B.** The lots or combinations of lots, or lots of record or combinations of lots of record:
 - 1. Are at least 36 feet wide, measured at the front setback line;
 - 2. Meet the minimum area standard of Table 610-2 or Chapter 33.611, but do not meet the minimum area standard of Subsection G; and
 - 3. **Have not abutted any lot or lot of record owned by the same family or business on March 15, 2006, or any time since that date;**

Code Commentary (Continued)

33.563.220 When Primary Structures Are Allowed (Continued)

Subsection C applies to ownerships that do not even meet the minimum for new lots. Again, in the R10 zone, that would be ownerships less than 6,000 square feet in area. These ownerships will be buildable only if they have been "stand alone" ownerships since July 26, 1979. In other words, the size of the ownership hasn't been reduced since that date.

Subsection D repeats a provision from the base zones that allows development on sites that met requirements but were reduced because of a government requirement for right-of-way.

Subsection E ensures that lots created through a land division after these regulations take effect will be buildable regardless of size—the land division that creates them will ensure that the density is no more than allowed by the zoning.

Subsection F ensures that ownerships are not reduced in a way that is contrary to the intent of these regulations.

33.563.225 Duplexes and Attached Houses in the Linnton Hillside Subarea.

This provision eliminates an existing development option that allows an additional housing unit on corner lots in the Linnton Hillside Subarea (Chapter 33.110.240.E, Alternative Development Options). This existing option is intended to allow increased density where the appearance and impact will be compatible with surrounding houses, and is permitted in single dwelling residential zones (R2.5, R5, R7, R10, and R20). It is recommended that this option not be available in the Linnton Hillside Subarea due to the development constraints.

- C.** The lots or combinations of lots, or lots of record or combinations of lots of record:
 1. Do not meet the minimum area standard of Table 610-2 or Chapter 33.611; and
 2. Have not abutted any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;
- D.** On lots, lots of record, and combinations of lots or lots of record that did meet the requirements of Subsections A, B, or C, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way;
- E.** On lots created after [the effective date of these regulations].
- F. Additional regulations.**
 1. The lots or combinations of lots, or lots of record or combinations of lots of record described in Subsection A may not be reduced in area below the standards of Table 563-1;
 2. The lots or combinations of lots, or lots of record or combinations of lots of record described in Subsections B and C may not be reduced in area;
 3. There are no minimum lot area or width standards for the lots or combinations of lots, or lots of record or combinations of lots of record described in Subsection C;
- G. Minimum area standards.** The minimum area standards are in Table 563-1.
 1. These minimum area standards apply only as specified in Subsections A and B, above. New lots proposed through a land division are subject to the regulations of Chapters 33.610 and 33.611, not the regulations of this subsection.

Table 563-1 Minimum Area Standards	
Zone	Minimum Area
RF	2 acres
R20	20,000 square feet
R10	10,000 square feet
R7	7,000 square feet
R5	5,000 square feet
R2.5	2,500 square feet

33.563.225 Duplexes and Attached Houses in the Linnton Hillside Subarea. In the Linnton Hillside subarea, duplexes and attached houses on corners as allowed by 33.110.240.E. are prohibited.