



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol St NE Ste 150

Salem, OR 97301-2540

Phone: (503) 373-0050

Main Fax: (503) 378-6033

Director's Office Fax: (503) 378-5518

Measure 49 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

October 6, 2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Angela Houck, Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment
DLCD File Number 003-10



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, October 20, 2010

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

cc: Robert Wheeldon, Linn County
Jon Jinings, DLCD Community Services Specialist
Ed Moore, DLCD Regional Representative
Christine Shirley, FEMA Specialist

<paa> YA





FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

SEP 30 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Linn County**

Local file number: **BC10-0003**

Date of Adoption: **September 22, 2010**

Date Mailed: **September 29, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

~~Accept~~ ^{AMEND} the floodplain element of the comprehensive plan to adopt new FEMA maps.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 003-10 (18386) [16353]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD, FEMA

Local Contact: **Robert Wheeldon**

Phone: **(541) 967-3816** Extension: **2075**

Address: **PO Box 100**

Fax Number: **541-926-2060**

City: **Albany**

Zip: **97321**

E-mail Address: **rwheeldon@co.linn.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light **green paper if available**.
3. Send this Form 2 and **One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD** of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-206 www.co.linn.or.us

NOTICE OF FINAL DECISION Comprehensive Plan Amendment

Planning File No. BC10-0003

Ordinance No. 2010-313

Applicant Linn County

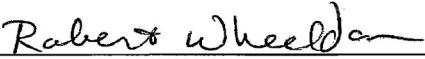
Proposal Amendments to the Linn County Comprehensive Plan (Plan) text in LCC Chapter 903, Natural Resources Element Code, to adopt the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Linn County, Oregon and Incorporated areas, dated September 29, 2010 as the official data source for determining if a property is within a flood hazard area.

Board of Commissioners Action

On September 22, 2010 the Linn County Board of Commissioners adopted Ordinance No. 2010-313 amending LCC 903 as proposed.

If you wish to appeal this decision, an appeal must be filed with the Land Use Board of Appeals (LUBA) within 21 days from the date this notice is mailed. Appeals to LUBA must be filed in accordance with ORS 197.830. If you have any questions about this process, contact LUBA in Salem at (503) 373-1265.

Ordinance No. 2010-313 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse. That office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the resolution is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.



Robert Wheeldon
Director

9/28/10

Date

cc: Dana & Debbie Swenson; Brad Smith; Wilhelm Loeffler; Marjorie Smith; Shirley Garland; Fred Fowler; Marjorie House; Roxie Putman; Merrill Terdin; Margie Davis; Grace Lawson; Angelica Rehkugler; Margie & Joel Simmons; Jan Lowther; Helen Fery; Linda Stussy; Georgia Van Parks; Jeff Peters; Building Official; DLCD

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY

**IN THE MATTER OF AMENDING THE
NATURAL RESOURCES ELEMENT
ORDINANCE CODIFIED IN THE LINN
COUNTY LAND USE CODE AT
CHAPTER 903, AND DECLARING AN
EMERGENCY**

**ORDINANCE NO. 2010-313
(Adoption)**

WHEREAS, Pursuant to ORS 215, the Linn County Board of Commissioners (Board) advertised notice that it would consider proposed amendments to the Natural Resources Element Ordinance codified at Linn County Code Chapter 903 at 9:45 am on August 25 and at 9:45 am on September 22, 2010; and

WHEREAS, At 9:45 am on August 25 and at 9:45 am on September 22, 2010, the Board conducted regularly scheduled and duly advertized public hearing on each date and considered the recommendations of the Linn County Planning Commission and the proposals of staff concerning the amendments to the Natural Resources Element Code; and

WHEREAS, The Board having read the proposed ordinance amendments and having received and considered oral and written public testimony, if any, presented prior to and at the hearing(s); and, now, therefore, be it

Ordained by the Linn County Board of Commissioners, That:

Section 1. **Amendments.** LCC Chapter 903 (Natural Resources Code) be amended as shown in Exhibit I (attached hereto and incorporated herein); redline shows material to be added and ~~strikeout~~ shows material to be deleted.

Section 2. **Separability.** Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.



1 Section 3. **Emergency.** To protect the health, safety, and welfare of the citizens of Linn
2 County this ordinance shall take effect upon adoption.





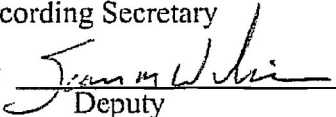
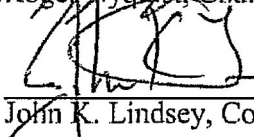
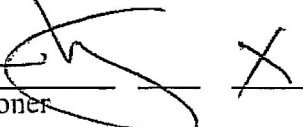


3 Section 5. **Use of Section Titles and Numbers.** Section titles and section numbers not part of
4 local law. Section titles and section numbers appearing in this ordinance are references for user
5 convenience and may be changed pursuant to LCC Chapter 120.

6 Section 4. **Codification.** Following adoption, this ordinance shall be codified pursuant to
7 LCC Chapter 120.

8 Section 5. **Effective date.** To protect the health, safety, and welfare of the citizens of Linn
9 County this ordinance shall take effect on September 22, 2010.

10 Public readings September 22, 2010.
11 Adopted and passed September 22, 2010.
12 Effective September 22, 2010.
13 Signed September 22, 2010.

13 BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

		VOTING FOR AGAINST	
16	Steve Druckenmiller, County Clerk		
17	Recording Secretary		
18	By  Deputy		
19			
20		John K. Lindsey, Commissioner	
21		William C. Tucker, Commissioner	

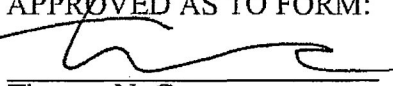
23 APPROVED AS TO FORM:
24 
25 Thomas N. Corr
26 County Attorney for Linn County



Exhibit 1 to Resolution & Order 2010-311
LCC 903 – Natural Resources Code

ated in the discussion on water quality and natural hazards background report.

(B) The areas known to be subject to natural hazards in Linn County have been inventoried and mapped. This inventory was completed by using maps and other data from various agencies including the Army Corps of Engineers, the Department of Geology and Mineral Industries, USDA Soil Conservation Service, and the Linn District of the State Forestry Department. This hazard inventory is seldom specific enough to be used as an indicator of potential hazards affecting a specific development site. Linn County needs to obtain more detailed information from the appropriate state and local agencies when considering specific future development proposals in these generalized hazard areas, in order to be better able to evaluate the degree of risk associated with the potential hazard affecting the property. The degree of risk will determine the carrying capacity of the land. In areas of high risk, the density of development must be considerably lower.

[Adopted 80-335 eff 9/2/80; amd 01-627 §1 eff 11/20/01]

903.230 Flood hazards

(A) The floodplain has often been an attractive site to locate various activities due to topography, fertile soils, and proximity to a source of water supply and transportation. The majority of the rural and urban centers in Linn County have developed on and near the floodplain. The floodplain is subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare. These flood losses are worsened ~~caused~~ by the cumulative effect of obstructions in flood prone areas which increase flood heights and velocities, and when development is not adequately ~~inadequately~~ flood proofed, elevated, or otherwise protected from flood damage ~~also contribute to the flood loss.~~

(B) On January 23, 1974 the Linn County Board of Commissioners voted to become a

participant in the National Flood Insurance Program. Under major provisions of this program Linn County must:

(1) Review building permit applications for construction in the flood hazard area to determine whether the proposed building sites will be reasonably safe from flooding.

(2) Require that proposed new construction or substantial improvement of existing buildings (including mobile homes) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure.

(3) Require the use of construction methods and practices that will minimize flood damage and the use of construction materials and utility equipment that are resistant to flood damage.

(4) Review subdivision proposals and other proposed new developments to make sure they are consistent with the need to minimize flood damage. This includes requiring new public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize or eliminate flood damage and requiring adequate drainage to reduce the exposure of the development of flood hazard.

(5) Require any new or replacement water system or sanitary sewage system to be designed to minimize or eliminate adverse affects during floods.

(6) Require that a new or replacement on-site waste disposal system be located so as to avoid impairment or contamination from flooding.

(C) Flash floods are among the more destructive natural hazards affecting eastern Linn County. Future development in identified flash flood hazard areas should be strictly regulated to assure that no development is allowed in the flash flood channels and that bridge abutments and similar structures do not significantly alter stream flow.

[Adopted 80-335 eff 9/2/80]

903.240 Mass movement

Mass movement is another hazard which may limit the density of development in some areas of

Linn County. Man-induced causes of mass movement are the result of improper land use or lack of proper engineering. In a slide prone area, development can cause foundation instability which can eventually lead to mass wasting of the land. Man-induced causes of failure on steep slopes include undercutting steep slopes, placing of excessive fill, indiscriminate blasting, improper handling of runoff, or improper placement of fill. Areas of mass movement topography have been identified by the Department of Geology and Mineral Industries (DOGAMI).

[Adopted 80-335 eff 9/2/80; and 01-627 §1 eff 11/20/01]

903.243 Ponding and high ground water tables

Much of the western portion of Linn County is subject to ponding and high ground water. Areas of critical ponding are generally unacceptable for dense development. The reduction of permeable surface infiltration arising from paving and other aspects of urbanization can increase runoff and lead to an increase in localized ponding total flooding.

[Adopted 80-335 eff 9/2/80]

903.245 Fire hazards

(A) Structural developments located in forested areas outside of a rural fire district are without adequate fire protection. Forest fires which start outside a developed area may burn into the area. In nearly all cases a fuel break around the development is a good fire protection measure. Fuel concentrations close to structures are unsafe. The Linn District of the State Forestry Department can aid in the identification of potentially unsafe subdivision by reviewing and commenting on future development proposals.

(B) Linn County must continue to use the best hazard information available when identifying areas of the county that are subject to natural or geologic hazards. This information should be used to update the background reports and policies.

[Adopted 80-335 eff 9/2/80]

903.250 Goal for natural and geologic hazards

To protect lives and properties from geologic and natural hazards.

[Adopted 80-335 eff 9/2/80]

903.260 Policies for natural and geologic hazards

(A) The policies for areas subject to natural and geologic hazards are set forth in subsection (B) of this section.

(B) *Policies.*

(1) Linn County shall use the best information available to identify areas subject to flooding, mass movement, and severe ponding, and areas outside rural fire district boundaries. The Federal Emergency Management Agency (FEMA) *Flood Insurance Study Rate Maps for Linn County, Oregon and Incorporated Areas (unincorporated areas)*, dated effective date: September 29, 2010 +1986 and subsequent amendments by that agency shall be the official data source for determining if a property is within a flood hazard area.

(2) *Bulletin 84, Environmental Geology of Western Linn County, Oregon* and subsequent amendments shall be the official source for determining if a property is located within a mass movement area. If a property is within the identified hazard area, the Department shall require an applicant to provide a report from a qualified professional that states the property is not subject to mass movement or that the site can be safely developed using specific construction and site preparation methods.

(3) Linn County shall review development in areas known to be subject to natural disasters and geologic hazards. The degree of risk associated with the hazard present shall determine the allowed density of future development.

(4) Subdivision plats submitted to Linn County for approval shall indicate specific areas potentially subject to natural or geologic hazards.

(5) Linn County shall communicate with the Army Corps of Engineers, USDA Natural Resource Conservation Service, the Linn District of the State Forestry Department, and other fed-

eral or state agencies in efforts to protect the citizens of Linn County from natural disasters and geologic hazards in areas potentially subject to development which could intensify adverse conditions in areas subject to geologic or natural hazards.

(6) Open space uses such as agriculture, forestry, and recreation shall be permitted in identified flood hazard areas.

(7) Linn County shall continue to regulate fill and excavation activities in Linn County in order to protect lives and properties from the potential adverse affects of foundation instability.

(8) Linn County shall encourage fire protection service appropriate to the level of development in all areas of the county. Future subdivisions and planned unit developments located outside a rural fire district shall be required to be annexed to a rural fire district or contract for fire protection in order to protect the lives and property of the area.

(9) Linn County shall cooperate and communicate with the Linn District of the State Forestry Department regarding future development within the Linn Fire Patrol District.

(10) Linn County recognizes the potential for forest fire when rural residential areas abut forested areas. Preventive measures should be taken by the rural resident to minimize the fire hazard potential.

(11) If a development is proposed in an area known to have geologic or natural hazards, the county may require the applicant to submit a report which details the extent of the hazard. The county, before approving the proposal, must find that presence of a hazard will not be detrimental to the development .

[Adopted 80-335 eff 9/2/80; amd 99-190 eff 5/19/99; amd 01-627 §1 eff 11/20/01]

903.280 Policy implementation for natural and geologic hazards

(A) The policy set forth in LCC 903.260 (B) (1) shall be implemented by the following:

(1) The Linn County Planning and Building Department shall continue to implement

the rules and regulations established for the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency (FEMA) and shall continue to implement the Oregon Structural Specialty Code (OSSC) ~~Uniform Building Code~~ and the Oregon Residential Specialty Code (ORSC). ~~Chapter on "Flood Proofing."~~ All development within the identified flood hazard areas shall also comply with LCC Chapter 870 (Floodplain Management Code).

(B) The policy set forth in LCC 903.260 (B) (65) shall be implemented by the following:

(1) Linn County Development Code shall permit open space uses such as agriculture, forestry, and recreation in identified flood hazard areas.

(C) The policy set forth in LCC 903.260 (B) (76) shall be implemented by the following:

(1) The Linn County Planning and Building Department shall continue to regulate fill and excavation activities in Linn County by implementing the Building Code (LCC Chapters 810 (Specialty Codes), 820 (Dangerous Building Codes), 850 (Fill and Excavation Code) and 870 (Floodplain Management Code)).

(D) The policy set forth in LCC 903.260 (B) (109) shall be implemented by the following:

(1) The Land Development Code (LCC Chapters 920 to 938) shall establish planning regulations which shall require space for adequate fuel breaks within each lot by regulating lot size, location, and setback of structures.

[Adopted 80-335 eff 9/2/80; amd 99-190 eff 5/19/99; amd 01-627 §1 eff 11/20/01]

IV. OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

903.300 Subchapter title

This Subchapter, LCC 903.300 to 903.999, shall be known and may be cited as the "Linn County Open Spaces, Scenic and Historic Areas, and Natural Resources Code" or simply as the "Open Spaces, Scenic and Historic Areas, and Natural Resources Code."

[Adopted 99-190 eff 5/19/99]

Linn County Planning & Bldg
PO Box 100
Albany, OR 97321

PRESORTED
FIRST CLASS



Hasler

016H26518203
\$00.632
09/29/2010
Mailed From 97302
US POSTAGE

ATTN: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capital Street NE, Suite 150
Salem, OR 97301-2540

C-CD8M1 97301

