

HILLSIDE ORDINANCE (10.929 – 10.933)

10.929 Purpose; Applicability.

Sections 10.929 to 10.933 establish procedural requirements for development on Slopes in excess of fifteen percent (15%) to decrease soil erosion and protect public safety. Sections 10.929 to 10.933 apply in addition to all other requirements set forth by ordinance. In the case of conflict between Sections 10.929 to 10.933 and other requirements set forth by ordinance, Sections 10.929 to 10.933 shall govern.

[Added, Sec. 1, Ord. No. 2009-193, Aug. 20, 2009, effective Oct. 15, 2009.]

10.930 Definitions.

When used in Sections 10.929 to 10.933, the following terms shall have the meanings herein ascribed:

Slope. The natural earth's surface expressed as a ratio of the change, i.e. the delta (Δ) in horizontal (H) distance to the change (Δ) in vertical (V) distance. Slopes are expressed as a percentage. Slope refers to a given rise in elevation over a given run in distance, multiplied by 100, i.e. $(\Delta V \div \Delta H) \times 100 = \text{Slope}$. For example, a 40-foot rise in elevation over a distance of 100 feet is a 40% Slope, i.e. $(40' \div 100') \times 100 = 40\% \text{ Slope}$.

Slope Analysis. A topographical contour map to scale of the lot or parcel which depicts the slope, and which satisfies the following requirements:

- (1) Contours are depicted at no greater than ten-foot (10') intervals and the map differentiates between areas of a lot or parcel with Slopes of: (a) between fifteen percent (15%) and thirty-five percent (35%); and (b) Slopes greater than thirty-five percent (35%).
- (2) Slopes shall, as near as practical, be measured perpendicular to the map's contour lines.
- (3) Land or natural features comprising less than two hundred (200) horizontal square feet with Slopes greater than of fifteen percent (15%) shall not be included in the Slope Analysis.
- (4) Man-made features including, but not limited to, ditches, canals, existing retaining walls, and existing buildings, which necessarily will be relocated, placed underground, or otherwise removed as part of future urban development, shall not be included in the Slope Analysis.
- (5) Portions of lots or parcels which are undevelopable, including (but not limited to) jurisdictional wetlands and riparian setback areas, shall not be included in the Slope Analysis.

[Added, Sec. 2, Ord. No. 2009-193, Aug. 20, 2009, effective Oct. 15, 2009.]

10.931 General Standards.

A. Application of Provisions.

- (1) Sections 10.929 to 10.933 apply to any proposed development containing an area of at least one-thousand (1,000) square feet with Slopes in excess of fifteen percent (15%), if the Slope Analysis demonstrates that development, including streets, will occur on those portions of the proposed development area with Slopes in excess of fifteen percent (15%).
- (2) Sections 10.929 to 10.933 shall not apply to any proposed development containing an

area of less than one-thousand (1,000) square feet with Slopes in excess of fifteen percent (15%), or if the Slope Analysis demonstrates that development on that proposed development area, including streets, will not occur on Slopes in excess of fifteen percent (15%).

(3) Class 'C' applications (except for zone changes) shall comply with Sections 10.929 to 10.933; building permit applications shall comply with Sections 10.929 to 10.931.

B. Requirement for Slope Analysis.

For parcels containing Slopes greater than fifteen percent (15%), as shown on the 2009 City of Medford Slope Map, a copy of which is maintained on file in the Planning Department, a Slope Analysis is required to be submitted with:

- (1) Class "C" applications (except for zone changes); and,
- (2) Building permit applications, if a Slope Analysis of the parcel was not previously submitted with a development application.

The Slope Analysis shall be reviewed by the City Director of Public Works or designee.

C. Pre-Existing Approvals of Development on Slopes of Fifteen Percent (15%) or Greater.

(1) Unexpired Class 'C' Approvals. Unexpired Class 'C' approvals granted prior to enactment of Sections 10.929 to 10.933 ("Pre-Existing Approvals") shall not be subject to Sections 10.929 to 10.933. Subsequent Class 'C' applications related to a Pre-Existing Approval and filed after enactment of Sections 10.929 to 10.933 shall be subject to Sections 10.929 to 10.933, provided that the application of Sections 10.929 to 10.933 to the subsequent Class 'C' application does not result in an irreconcilable conflict with the Pre-Existing Approval. For purposes of this Section, an irreconcilable conflict includes, but is not limited to, the following:

- (i) the creation of unbuildable lots; or,
- (ii) the reduction in density for the subject phase of five percent (5%) or more.

(2) Previously Submitted Development Applications. Development applications submitted prior to enactment of Sections 10.929 to 10.933 shall be governed by the *Land Development Code* in effect on the date of submission of the development application.

D. Excavation and Grading Permits.

Issuance of an Excavation and Grading permit shall be required prior to any excavation or grading, except for the types of excavation or grading exempted in Appendix J of the 2007 *Oregon Structural Specialty Code*, a copy of which is maintained on file in the Planning Department. The permit application shall be reviewed and approved by the City Building Official or designee. An application for an Excavation and Grading Permit shall be subject to the requirements set forth in Sections 10.727 and 10.728.

E. Standards for Streets, Private Access Drives and Other Vehicular Ways.

(1) Grading on Slopes in excess of fifteen percent (15%) for streets, private access drives, and other vehicular ways shall be designed to reduce the extent of cuts and fills necessary for installation of the roadways, curbs, gutters, planter strips, sidewalks and utilities. Landscaping and other design elements may be incorporated to accomplish this objective where the approving authority finds the proposed design elements will serve this end.

(2) For streets other than arterial or collector streets in areas with Slopes in excess of fifteen percent (15%), the approving authority may modify public street improvement standards to solve special hillside functional problems. Modifications may include:

- (a) Narrower streets;
- (b) Streets that provide access to the downhill side only;
- (c) Planter strip waivers;
- (d) Modification of surface drainage treatment standards;
- (e) Modification of sidewalk standards;
- (f) Allowing through-lots abutting any street classification if the approving authority approves streets that provide access to the downhill side only; or,
- (g) Placing utilities within the public right-of-way.

(3) Modifications to public street improvement standards shall comply with the following:

(a) Minimum curb-to-curb paved width for residential streets, with the exception of Residential Lanes, shall be no less than twenty-eight feet (28') if including parking on only one side of the street.

(b) When sidewalks are authorized to be provided on only one side of the street, they shall be provided on the side of the street where parking is provided.

(c) Street Slopes shall comply with standards in the 2004 American Association of State Highway Transportation Officials' manual, *A Policy on Geometric Design of Highways and Streets*, a copy of which is maintained on file in the Planning Department.

(4) To request modifications to street improvement standards, the applicant shall submit proposed findings addressing:

- (a) Why the modifications are needed; and,
- (b) How the proposed modifications are safe and function properly; and
- (c) How the proposed modifications minimize soil erosion and protect the natural character of the site.

(5) To approve modifications to street improvement standards, the approving authority shall, based on findings addressing 10.931(E)(4), conclude that:

- (a) The proposed modifications are needed; and,
- (b) The proposed modifications will be safe and function properly; and
- (c) The proposed modifications will minimize soil erosion and protect the natural character of the site.

F. Standards for Erosion Control.

All disturbed soil surfaces on Slopes in excess of fifteen percent (15%) shall be covered from November 1 to April 1. If planned impervious surfaces (i.e., streets, access drives, etc.) are not installed prior to November 1, a temporary treatment adequate to prevent erosion shall be installed on disturbed soil surfaces until the impervious surfaces are installed or April 1, whichever is sooner. Alternatively, for disturbed soil surfaces in areas in which impervious surfaces are not planned to be installed, a temporary treatment adequate to prevent erosion shall be installed on disturbed soil surfaces or such surfaces shall be replanted with plants and/or trees with erosion control characteristics that are listed in the August 2006 version of the Oregon State University Extension Service publication *Fire-Resistant Plants for Oregon Home Landscapes*, a copy of which is maintained on file in the Planning Department.

[Added, Sec. 3, Ord. No. 2009-193, Aug. 20, 2009, effective Oct. 15, 2009.]

10.932 Pre-Application Conference Requirement.

A pre-application conference is required for all Class 'C' applications, except for zone

changes, for development on Slopes of greater than thirty-five percent (35%). In addition to the items listed on the pre-application conference form, the following additional items shall be submitted: a Constraints Analysis required by Section 10.933; a Slope Analysis required by Section 10.931(B); and a conceptual site plan. A pre-application conference shall be conducted by the Planning Department within twenty-eight (28) business days of receipt of the pre-application conference form and additional materials required by this Section. The Planning Department shall notify the applicant of the recommendations regarding the development proposal within ten (10) business days following a pre-application conference.

[Added, Sec. 4, Ord. No. 2009-193, Aug. 20, 2009, effective Oct. 15, 2009.]

10.933 Constraints Analysis

Prior to submitting a Class ‘C’ application (except for zone changes), a Constraints Analysis identifying physical constraints and proposing mitigation measures shall have been submitted and deemed “complete” by the City Engineer or designee within ten (10) business days of submission. A “complete” Constraints Analysis is one that contains all items in Sections 10.933(A) (1)-(7) and 10.933(B) (1)-(4).

A. Geology and Soils Report.

A Geology and Soils Report shall be prepared by an Oregon licensed geologist or engineering geologist and shall include:

- (1) The purpose and scope of the investigation;
- (2) A description of the geological characteristics of the site;
- (3) A description of the nature, distribution, and strength of the existing soils on the site relative to their adequacy for the proposed development;
- (4) A determination of the suitability of the geology and soils on the site for the proposed development;
- (5) A determination of geological hazards that present a risk to life and property or adversely affect the use or stability of a public facility or utility;
- (6) A determination of grading procedures needed to assure minimal disturbance to the natural state of the soils on the site;
- (7) Conclusions and mitigation measures, if necessary.

B. Hydrology and Grading Report.

A Hydrology and Grading Report shall be prepared by an Oregon registered civil engineer and shall include:

- (1) A description of the hydrological conditions of the site;
- (2) A determination of the effect of the hydrologic conditions on the proposed development and adjoining lands;
- (3) A determination of hydrological and erosion hazards that present a risk to life and property or adversely affect the use or stability of a public facility or utility; and,
- (4) A grading plan as required by Sections 10.727 and 10.278, including proposed grades, and cuts and fills for streets.

[Added, Sec. 5, Ord. No. 2009-193, Aug. 20, 2009, effective Oct. 15, 2009.]