

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 461**

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6 **Relating to land use planning; amending LCC 1.1115 and 1.1395; and declaring an**
7 **emergency.**
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9 WHEREAS the Federal Emergency Management Agency (FEMA) has made
10 adjustments to the flood hazard studies (the Flood Insurance Study or FIS) and maps (the Flood
11 Insurance Rate Map or FIRM) for Lincoln County and issued final determinations related to
12 those studies and maps. The new FIS and FIRM replace the currently effective study and maps
13 issued in 1980. The primary purpose of the updates is to put maps in a digitized form. No new
14 flood studies were conducted and no flood hazard boundaries were changed. Adoption of the
15 new FIS and FIRM is required to maintain the County's participation in the National Flood
16 Insurance Program; and

17 WHEREAS the County prepared amendments to the Lincoln County Code, Chapter 1,
18 Land Use Planning (LCC) and specifically amendments to LCC 1.1395 to update flood hazard
19 area development standards to conform to state and federal requirements; and

20 WHEREAS the amendments were reviewed at a public hearing after notice as required
21 by law by the Lincoln County Planning Commission on September 28, 2009, and the Planning
22 Commission unanimously recommended adoption of the amendments to the Lincoln County
23 Code, Chapter 1, Land Use Planning; and

24 WHEREAS after notice as required by the County Code, the Board of Commissioners
25 held a hearing on November 25, 2009 on the recommended changes to the Lincoln County
26 Code Chapter 1, Land Use Planning. At the conclusion of the hearing the Board unanimously
27 agreed to move forward with adoption of the ordinance; therefore,

28 The Lincoln County Board of Commissioners ordains as follows:

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 **SECTION 1.** LCC 1.1115 is amended to read:

2 1.1115 Definitions

3 As used in this Chapter:

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* * *
(numbers (1) through (54) remain the same)
* * *

9 **(55) "Manufactured dwelling" has the meaning given that term in ORS 446.003.**

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* * *
(renumber existing subsections (55) through (96) to (56) through (97))
* * *

14 **SECTION 2.** LCC 1.1395 is amended to read:

15 1.1395 Flood Hazard Overlay Zone

16 (1) Purposes:

17 The purposes of the Flood Hazard Zone are to promote the public health, safety and
18 general welfare, and to minimize public and private losses due to flood conditions in specific
19 areas, all in accordance with LCDC Statewide Planning Goal 7 and Lincoln County
20 Comprehensive Plan Natural Hazard Policies. The regulation of uses within this zone is
21 intended to:

- 22 (a) Protect human life and health;
- 23 (b) Protect property and structures;
- 24 (c) Minimize public costs for flood control projects;
- 25 (d) Minimize public costs of rescue and relief efforts associated with flooding;
- 26 (e) Minimize business interruptions due to flooding;
- 27 (f) Minimize damage to public facilities and utilities including water and gas mains,
28 electric, telephone and sewer lines, streets and bridges located in flood hazard areas;
- 29 (g) Maintain a stable tax base by providing for appropriate use and development of
30 areas of flood hazard;
- 31 (h) Make the designation of property subject to flood hazards a matter of public record;
- 32 and
- 33 (i) Qualify Lincoln County for participation in the National Flood Insurance Program.

34 (2) Area Affected:

35 The provisions of this section shall apply to all areas [*within the 100-year flood*
36 *boundary*] of special flood hazard [*as*] **identified by the Federal Insurance Administration**
37 **in a scientific and engineering report entitled "The Flood Insurance Study for Lincoln**
38 **County and Incorporated Areas" dated December 18, 2009, with accompanying** [*on the*
39 *Flood Boundary and Floodway Maps and the*] Flood Insurance Rate Maps (FIRM). [*as*

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1 published by the Federal Emergency Management Agency (FEMA).] **“The Flood Insurance**
2 **Study for Lincoln County and Incorporated Areas”** and the accompanying FIRM dated
3 **December 18, 2009** are hereby adopted by reference and made a part of this section.
4 [These maps may be periodically revised or modified by FEMA in accordance with prescribed
5 procedures pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (PL 92-234).
6 These changes are technical in nature and are made in order to reflect new or revised data on
7 base flood elevations, ground elevations, flood control structures or other factors. In order to
8 employ the best available information and maintain compliance with Federal Flood Insurance
9 Program regulations, Lincoln County shall utilize any such revisions or modifications upon
10 their effective date.]

11 (3) Uses:

12 In areas subject to the provisions of this section, all uses permitted under the provisions
13 of the underlying zone may be permitted, subject to the additional requirements and limitations
14 of this section. Notwithstanding the provisions of the underlying zone, the nonpermanent
15 placement of a recreational vehicle on an individual lot between April 15 and October 15,
16 **subject to the provisions of subsection (13) of this section**, shall be permitted as an outright
17 use in areas subject to the provisions of this section.

18 (4) Permits:

19 (a) No structure or [*mobile home*] **manufactured dwelling** shall be erected, located,
20 altered, improved or enlarged, and no other new development, including but not limited to
21 grading, mining, excavation and filling, shall occur on lands within [*the 100-year flood*
22 *boundary*] **any area of special flood hazard** unless a Floodplain Development Permit
23 specifically authorizing the proposal has been obtained from Lincoln County.

24 (b) Application, review and appeals for Floodplain Development Permits shall be
25 initiated and conducted in the manner provided for in LCC 1.1210, and shall also include
26 evaluation to determine that all necessary permits have been obtained from all federal, state, and
27 local governmental agencies from which prior approval is required.

28 (5) County Records:

29 (a) The Director shall obtain and maintain on file the actual elevation (in relation to
30 [NGVD] NAVD 88) of the lowest floor, including basement, of all new or substantially
31 improved structures in areas subject to the provisions of this section. In zones V and V1-30 the
32 actual elevation of the lowest horizontal structural member, excluding pilings or columns, shall
33 be obtained and maintained on file.

34 (b) For all new or substantially improved floodproofed structures in areas subject to the
35 provisions of this section, the Director shall obtain and maintain on file the actual elevation[,]
36 (in relation to [NGVD] NAVD 88)[,] of the flood proofing, and shall also maintain the flood
37 proofing certifications required pursuant to subparagraph (C) of paragraph (c) of subsection (6)
38 of this section.

39 (c) Notwithstanding paragraphs (a) and (b) of this subsection, there shall be no
40 requirement to obtain and maintain on file the actual elevation of the lowest floor, or of flood

1 proofing measures, for new or substantially improved structures in areas where specific base
2 flood elevations are not known.

3 (6) Development Standards for FIRM Zones A, [A1-30] AE and A-0:

4 The following standards shall apply to all new construction, substantial improvement or
5 other development in areas within FIRM Zones A, [A1-30] AE and A-0:

6 (a) All new construction and substantial improvement, **including manufactured**
7 **dwelling**s, shall be anchored to prevent flotation, collapse, and lateral movement of the
8 structure, and shall be constructed with flood resistant materials, utilizing methods and practices
9 to minimize flood damage.

10 (b) All new and substantially improved residential structures[, *including mobile homes*
11 *and recreational vehicles placed on a site for more than 180 consecutive days,*] shall have the
12 lowest floor, including the basement, elevated to at least one foot above the base flood
13 elevation. **All new and substantially improved manufactured dwellings shall have the**
14 **lowest floor, including the basement, elevated to at least eighteen (18) inches above the**
15 **base flood elevation.** In FIRM Zone A-0, the base flood elevation shall be defined as 12 inches
16 above the highest adjacent grade. Except as otherwise provided in paragraph (c) of subsection
17 (5) of this section, elevation of the lowest floor shall be documented with a survey certified by a
18 State of Oregon Registered Professional Engineer or **Professional Land Surveyor**. For
19 purposes of this section, an unfinished garage **used solely for parking or storage**, either
20 attached or detached, may be considered a nonresidential structure.

21 (c) New construction and substantial improvement of any commercial, industrial or
22 other nonresidential structure shall either have the lowest floor, including basement, elevated at
23 least one foot above the base flood elevation, with proper documentation as set forth in
24 paragraph (b) of this subsection or, together with attendant utility and sanitary facilities, shall:

25 (A) Be floodproofed so that below the base flood level the structure is watertight with
26 walls substantially impermeable to the passage of water. In FIRM zone A-0, base flood
27 elevation is defined as 12 inches above the highest adjacent grade; and

28 (B) Have structural components capable of withstanding hydrostatic and hydrodynamic
29 loads, effects of buoyancy, flood depths pressures, velocities and other factors associated with
30 the base flood; and

31 (C) Be certified by a registered professional engineer or architect that the standards of
32 this subsection are satisfied.

33 (d) Notwithstanding the provisions of paragraph (c) of this subsection, nonresidential
34 structures utilizing flood proofing methods which permit the entry of floodwaters may be
35 authorized, provided the following requirements are met:

36 (A) The structure and uses therein shall be of types which have a low flood damage
37 potential, such as **unfinished garages and pole buildings used solely for parking and storage,**
38 and unfinished storage buildings;

39 (B) The contents and interior finish materials of the structure shall be of types which are
40 neither hazardous nor vulnerable to loss under conditions of flooding;

1 (C) The structure shall have structural components capable of withstanding hydrostatic
2 and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other
3 factors associated with the base flood;

4 (D) The structure shall be designed to allow for the automatic entry and exit of
5 floodwaters in accordance with paragraph (g) of this subsection; and

6 (E) The owner shall be provided notice by the Planning Division that placement of a
7 structure below the base flood level will result in increased premium rates for flood insurance
8 up to amounts as high as \$25.00 per \$100.00 of insurance coverage.

9 (e) All [*mobile homes and recreational vehicles placed for greater than 180 consecutive*
10 *days*] **manufactured dwellings** shall [*he*] be placed on a permanent foundation and shall be
11 anchored to resist flotation, collapse and lateral movement by providing tie downs and
12 anchoring as specified in [*OAR 814-23-065*] **the Oregon Manufactured Dwelling and Park**
13 **Specialty Code.**

14 (f) Electrical, heating, ventilation, plumbing and air conditioning equipment and other
15 service facilities shall be designed or located so as to prevent water from entering or
16 accumulating within components during conditions of flooding.

17 (g) For all new construction and substantial improvements that are elevated, fully
18 enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be
19 designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the
20 entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a
21 registered professional engineer or architect, or must meet or exceed the following minimum
22 criteria: A minimum of two openings having a total net area of not less than one square inch for
23 every square foot of enclosed area subject to flooding shall be provided. The bottom of all
24 openings shall be no higher than one foot above grade. Openings may be equipped with screens,
25 louvers, or other coverings or devices, provided that they permit the automatic entry and exit of
26 floodwaters. Fully enclosed areas below the lowest floor of elevated buildings are usable solely
27 for the parking of vehicles, building access, or storage in an area other than a basement.

28 (h) For structures on slopes within FIRM Zone A-0, adequate drainage paths around the
29 structures to guide floodwaters around and away from proposed structures are required.

30 (i) All subdivision proposals shall be designed to minimize flood damage, shall provide
31 adequate drainage, and shall have public utilities and facilities constructed to minimize flood
32 damage.

33 (j) [*Land*] **New construction or substantial improvement** may be exempted from the
34 requirements of this subsection upon review and approval by the Director of an acceptable
35 elevation survey, certified by a State of Oregon Registered Professional Engineer or
36 **Professional Land Surveyor**, which demonstrates that the [*subject land*] **lowest grade adjacent**
37 **to the proposed structure** is [*at least one foot*] above the base flood level.

38 (7) Development Standards for FIRM Zones V and [*V1-30*] **VE:**

39 The following standards shall apply to all new construction, substantial improvement,
40 and other development in areas within FIRM zones V and [*V1-30*] **VE:**

41 (a) All buildings or structures shall be located landward of the mean high tide line.

1 (b) All new or substantially improved structures shall be elevated on pilings or columns
2 so that the bottom of the lowest horizontal structural member of the lowest floor, excluding
3 pilings or columns, is elevated to [*or*] **at least one foot** above the base flood level. Elevation of
4 the lowest horizontal member shall be certified by a registered professional engineer or
5 **professional** land surveyor.

6 (c) Pile or column foundations and structures attached thereto shall be anchored to resist
7 flotation, collapse and lateral movement due to the effects of wind and water loads acting
8 simultaneously on all building components. Wind and water loading values shall each have a
9 one percent chance of being equaled or exceeded in any given year (100 year mean recurrence
10 interval).

11 (d) A registered professional engineer or architect shall develop or review the structural
12 design, specifications and plans for the construction, and shall certify that the design and
13 methods of construction to be used are in accordance with accepted standards of practice for
14 meeting the provisions of paragraphs (b) and (c) of this subsection.

15 (e) All space below the lowest floor shall be either free of obstruction to the free flow of
16 water or constructed with nonsupporting breakaway walls, open wood lattice work or insect
17 screening intended to collapse under wind and water loads without causing collapse,
18 displacement or other structural damage to the elevated portion of the building or supporting
19 foundation system. For purposes of this section, breakaway walls shall have a design safe
20 loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of
21 breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot
22 may be permitted only if a registered engineer or architect certifies that the designs proposed
23 meet the following conditions:

24 (A) Breakaway wall collapse shall result from a water load less than that which would
25 occur during the base flood; and

26 (B) The elevated portion of the building and supporting foundation system shall not be
27 subject to collapse, displacement or other structural damage due to the effects of wind and water
28 loads acting simultaneously on all building components, both structural and nonstructural.
29 Maximum wind and water loading values to be used in this determination shall each have a one
30 percent chance of being equaled or exceeded in any given year (100 year mean recurrence
31 interval).

32 (f) All space below the lowest floor shall be usable solely for parking of vehicles,
33 building access or storage.

34 (g) No fill shall be used for structural support.

35 (h) Sand dunes shall not be altered so as to increase potential flood damage.

36 (8) Floodway Requirements:

37 In areas identified as floodway on the [*Flood Boundary and Floodway Maps*] **FIRM**,
38 the following restrictions, in addition to the requirements of subsection (6) of this section shall
39 apply:

40 (a) No development shall be permitted that would result in any increase in base flood
41 levels. Encroachment is prohibited, including fill, new construction, substantial improvement

1 and other development, unless [*a detailed step backwater analysis, certified*] certification by a
2 Registered Professional Engineer [,] is provided which demonstrates **through hydrologic and**
3 **hydraulic analyses performed in accordance with standard engineering practice** that the
4 proposed encroachment will cause no measurable increase in flood levels (water surface
5 elevations) during a base flood discharge.

6 (b) Pursuant to Section 3-2.4.2 of the Oregon Manufactured Dwelling and Parks
7 Specialty Code as enacted by OAR 918-500-020, new installation of manufactured
8 dwellings is prohibited except where such installation is replacing an existing, lawfully
9 placed manufactured dwelling and the installation complies with all other applicable
10 provisions of this section.

11 (9) Procedure When Base Flood Elevation Data is Not Available:

12 (a) For the purposes of administering the provisions of this section in areas where
13 detailed base flood elevation data has not been provided by FEMA, the Director shall obtain,
14 review and utilize any base flood elevation and floodway data available from federal, state and
15 local sources, and may exercise local judgment based on historical data.

16 (b) In areas where detailed base flood elevation data has not been provided by FEMA,
17 all proposals for subdivisions or other new developments greater than 50 lots or five acres,
18 whichever is less, shall provide detailed base flood elevation data and floodway data.

19 (10) Watercourse Relocation:

20 (a) Prior to approving any relocation or substantial alteration of a watercourse, the
21 Director shall provide mailed notice of the proposal to adjoining communities and to the
22 Department of Land Conservation and Development Floodplain Coordinator. Copies of such
23 notice shall also be provided to the Federal Insurance Administration.

24 (b) No relocation or substantial alteration of a watercourse shall be permitted unless a
25 detailed hydraulic analysis, certified by a Registered Professional Engineer, is provided which
26 demonstrates that:

27 (A) The flood carrying capacity for the altered or relocated portion of the watercourse
28 will be maintained;

29 (B) The area subject to inundation by the base flood discharge will not be increased; and

30 (C) The alteration or relocation will cause no measurable increase in base flood levels.

31 (11) Utilities:

32 (a) All new and replacement water supply systems shall be designed to minimize or
33 eliminate infiltration of flood waters into the systems;

34 (b) New and replacement sanitary sewage systems shall be designed to minimize or
35 eliminate infiltration of flood waters into the systems, and discharge from the systems, into
36 flood waters; and

37 (c) On-site waste disposal systems shall be located to avoid impairment of the systems,
38 or contamination from the systems, during flooding.

39 (12) Review of Building Permits:

40 Where elevation data is not available, applications for building permits shall be
41 reviewed to ensure that proposed construction will be reasonably safe from flooding. The

1 review should include, but is not limited to, evaluation of historical data, high water marks, and
2 photographs of past flooding, where available. Failure to elevate at least two feet above grade
3 may result in higher flood insurance rates.

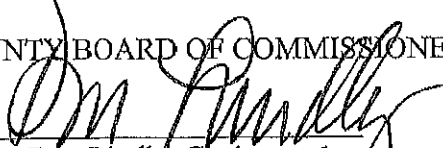
- 4 **(13) Recreational Vehicles:**
5 **A recreational vehicle placed in accordance with subsection (3) of this section shall:**
6 **(a) Be located on site fewer than 180 consecutive days;**
7 **(b) Be fully licensed for highway use;**
8 **(c) Be on its wheels or jacking system;**
9 **(d) Be attached to the site only by quick disconnect type utilities and security**
10 **devices; and**
11 **(e) Have no permanently attached additions.**
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13

14 **SECTION 3.**

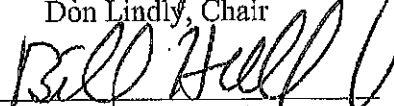
15 This Ordinance being necessary for the immediate preservation of the public peace,
16 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
17 passage.

DATED this 2nd day of December, 2009.

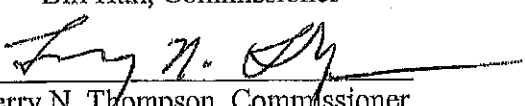
LINCOLN COUNTY BOARD OF COMMISSIONERS



Don Lindly, Chair

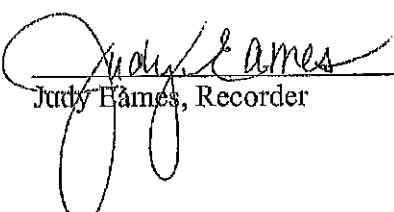


Bill Hall, Commissioner



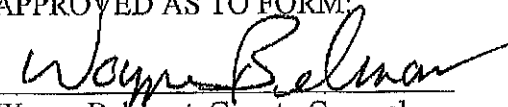
Terry N. Thompson, Commissioner

ATTESTED TO:



Judy James, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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