

1                                   **BEFORE THE BOARD OF COMMISSIONERS**  
2                                   **FOR LINCOLN COUNTY, OREGON**

3   **ORDINANCE # 502**

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6                   Relating to Emergency Services, Amending LCC Chapter 7 by Adding a New Section, and  
7                   Declaring an Emergency.  
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10           Findings:

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12           WHEREAS, it is essential that Lincoln County do all that it reasonably can to prepare for  
13 emergencies that its residents and visitors will face in the future; and

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15           WHEREAS, adoption of this Ordinance is a positive step in that direction because it  
16 provides authority and procedures to minimize injury to persons and property, and helps preserve  
17 civil authority and promotes efficient and effective responses in the event of a manmade or  
18 natural emergency; and

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20           WHEREAS, in conjunction with the adoption of this Ordinance, the Lincoln County  
21 Board of Commissioners has also adopted this date a revised and updated Lincoln County  
22 Operations Plan which will further enable Lincoln County to prepare for, and respond to, a  
23 disaster; and

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25           WHEREAS, the Board is mindful that ORS 294.481 allows the Board, in the event of an  
26 emergency, to: 1) adopt an ordinance or resolution authorizing the County to receive grants or  
27 borrow moneys not included in the budget of the County, and 2) to make appropriations for  
28 estimated expenditures out of any source of available funds, including unappropriated fund  
29 balances, by ordinance or resolution as specified by the statute; and

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31           WHEREAS, the Board is also aware that another important authority available to it is  
32 found in ORS 401.335, which allows it to acquire, temporarily or by purchase, lease or  
33 otherwise, sites required for installation of temporary housing units for disaster victims, and to  
34 enter into arrangements necessary to prepare or equip such sites to utilize the housing units; and

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36           WHEREAS, the Board has significant powers under authority granted to it under ORS  
37 201.035, and in the event of an emergency, additional specified authority under ORS Chapter  
38 401;

39           Therefore, the Lincoln County Board of Commissioners ordains as follows:

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2           **SECTION 1.**

3           Sections 7.205 to 7.235 as listed in Section 2 below are added to and made a part of LCC  
4 Chapter 7, as indicated.

5           **SECTION 2.**

6           **EMERGENCY SERVICES**

7           **7.205 Purpose**

8           The purpose of Sections 7.205 to 7.235 (hereinafter, “this section”) is to provide authority  
9 and procedures to minimize injury to persons and property, to preserve the established civil  
10 authority and to promote an efficient and effective response if a natural or manmade event poses  
11 an imminent danger to the health, safety and welfare to the residents and visitors of the county.  
12 This section shall be broadly construed to further this purpose.  
13

14           **7.210 Declaration of Emergency**

15           (1) The Board of County Commissioners (hereinafter, “the Board”) may declare a state of  
16 emergency in the unincorporated area of the county or any part thereof, or in incorporated areas  
17 if allowed by law, if the Board determines that such area is suffering or is in imminent danger of  
18 suffering a natural or manmade event that may cause injury or death to persons, or damage to, or  
19 the destruction of property, or that disrupts the provision of important government and public  
20 services. An event may include, but is not limited to, the following:

21           (a) A civil disturbance, riot or act of terrorism;

22           (b) A disaster such as a flood, windstorm, snow or ice storm, earthquake, volcanic  
23 eruption or related activity, fire, explosion or infestation;

24           (c) The declaration of a national emergency or state emergency;

25           (d) Any major disruption of community services such as transportation, power supply,  
26 water supply, sanitation or communications;

27           (e) A health hazard, whether natural or manmade;

28           (f) Spills or releases of hazardous materials or environmental contaminants;

29           (2) The declaration shall be in writing and shall specify:

30           (a) The nature of the emergency;

31           (b) The geographic boundaries of the area where the emergency exists, as well as the  
32 portion of the affected area lying within County boundaries with sufficient specificity to  
33 reasonably inform affected persons;

34           (c) An estimate of the number of individuals at risk, injured or killed;

35           (d) A description of the actual or likely damage caused by the emergency;

36           (e) The type of assistance or resources required to respond to the emergency;

37           (f) The effective date and time, and anticipated duration of the emergency. In no event  
38 shall a declaration extend beyond 14 calendar days unless extended by a further declaration;

1 (g) To the extent reasonably known at the time, the specific actions or measures  
2 authorized to be taken under the declaration of emergency. This shall not limit modifications or  
3 additional measures unless expressly stated in the declaration.

4 (3) Notwithstanding that the declaration must be in writing, if the exigencies of the  
5 situation make it impractical to secure an original signature or original document, the declaration  
6 or any other document provided for in this section may be evidenced by a fax or electronic copy,  
7 by documenting an oral declaration or such other steps as are reasonable under the  
8 circumstances, provided that an original signed declaration or other document shall be obtained  
9 or provided at the earliest practical opportunity.

### 11 **7.215 Succession**

12 (1) If for any reason a quorum of the Board is unable to convene after reasonable efforts  
13 have been made in light of the circumstances, the following persons are delegated authority to  
14 declare an emergency and to exercise all of the authority of the Board in accordance with the  
15 terms of this ordinance. Authority shall vest in the order set forth below, and may be exercised  
16 only if, after reasonable efforts have been made in light of the circumstances, the preceding  
17 official is unavailable or unable to make a decision. Reasonable efforts shall be made to first  
18 consult with the Sheriff if the threat of lawlessness is the primary basis for considering a  
19 declaration.

- 20 (a) Chair of the Board;
- 21 (b) Vice-Chair
- 22 (c) Remaining Commissioner;
- 23 (d) Sheriff;
- 24 (e) County Counsel;
- 25 (f) Administrative Lieutenant;
- 26 (g) Public Works Director;
- 27 (h) Public Health Director;
- 28 (i) Any Assistant County Counsel;
- 29 (j) Any other elected official;
- 30 (k) Any other department director.

31 (2) A declaration of emergency by an individual official shall be brought to a quorum of  
32 the Board and shall be subject to modification, rescission or ratification by the Board at the first  
33 reasonable opportunity in light of the circumstances. If the Board is not available, it shall be  
34 brought in the same manner to the preceding official in the line of authority as set forth above.

### 35 **7.220 Regulatory Authority**

36 (1) Upon a declaration of emergency taking effect, the Board, or if the Board is  
37 unavailable, the next available official in the line of authority provided for in LCC 7.215 shall be  
38 authorized to take such actions and issue such orders as are determined to be necessary and  
39 prudent to protect the public and property and to efficiently conduct activities that minimize or  
40 mitigate the effects of the emergency, including but not limited to:

1 (a) Establishing a curfew for the area subject to the declaration, including hours of  
2 operation for businesses and other establishments;

3 (b) Mandating the evacuation of residents and other individuals from structures and areas;

4 (c) Prohibiting or regulating the number of persons gathering or congregating on any  
5 public property or outdoor space within the area subject to the declaration;

6 (d) Closing or restricting the use of public roads and streets within or leading to or from  
7 the area subject to the declaration;

8 (e) Restricting or prohibiting the sale of products deemed dangerous, including but not  
9 limited to alcohol, flammable liquids and explosives;

10 (f) Declaring and ordering abatement of nuisances, including damaged structures;

11 (g) Waiving or modifying rules governing purchasing, execution of contracts, and  
12 authorizing expenditures;

13 (h) Suspending or modifying personnel rules;

14 (i) Imposing new fees, waiving or modifying fees;

15 (j) Prohibiting or restricting the possession of weapons to the extent permitted by law;

16 (k) Restricting or regulating commercial activity to the extent permitted by law.

17 (2) Reasonable efforts to obtain the advice and recommendation of the Sheriff and  
18 County Counsel or Assistant County Counsel shall be made prior to issuing an order directly  
19 related to law enforcement.

20 (3) Any challenge to actions authorized within this section shall be by writ of review -  
21 ORS 34.010 et seq.

22  
23 **7.225 Plans, Protocols and Rules**

24 (1) The Board may adopt emergency management plans, protocols or rules and enter into  
25 intergovernmental agreements that delegate authority to act to entities, persons or positions  
26 designated as responsible for emergency management and that otherwise provide for an effective  
27 response to emergencies.

28 (2) Unless otherwise specified, the Sheriff or his or her designee shall be responsible for  
29 implementing an order declaring an emergency, the actions authorized by the Board or an  
30 official pursuant to LCC 7.220 and the plans, protocols, rules or agreements provided for in this  
31 subsection.

32  
33 **7.230 Violations**

34 (1) Violation of any order, restriction or prohibition issued pursuant to this section shall  
35 be punishable in accordance with LCC Chapter 10. Nothing herein, however, shall be construed  
36 or applied so as to conflict with or preempt any offense established by statute, nor shall the  
37 penalty exceed the penalty set by statute for the same conduct.

38 (2) Acting in a manner that prevents or attempts to prevent the carrying out of any order,  
39 restriction or prohibition issued pursuant to this section shall be punished in accordance with  
40 LCC Chapter 10. Nothing herein, however, shall be construed or applied so as to conflict with or

1 preempt any offense established by statute, not shall the penalty exceed the penalty set by the  
2 statute for the same conduct.

3 (3) Nothing in this section preempts or in any way limits the authority of the County to  
4 seek other relief to address violations or to obtain compliance, including but not limited to an  
5 action for an injunction or damages.

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7 **7.235 Preemption**

8 Nothing herein shall be construed as limiting or preempting the authority of any public  
9 official to exercise authority and powers provided for by state statute.

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11 **SECTION 3: SEVERANCE CLAUSE**


12 If any section, subsection, provision, clause or paragraph of this Ordinance shall be  
13 adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid,  
14 such judgment shall not affect the validity of the remaining portions of this Ordinance, and it  
15 shall be expressly declared that every other section, subsection, provision, clause or paragraph of  
16 this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared  
17 to be unconstitutional or invalid, is valid.

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19 **SECTION 4: EMERGENCY CLAUSE**

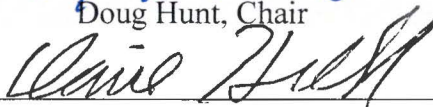
20 This Ordinance being necessary for the immediate preservation of the public health and  
21 safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

22 DATED this 15<sup>th</sup> day of August, 2018.

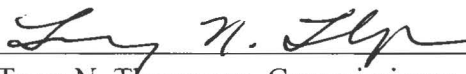
23 LINCOLN COUNTY BOARD OF COMMISSIONERS

24 

25 Doug Hunt, Chair

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27 Claire Hall, Commissioner

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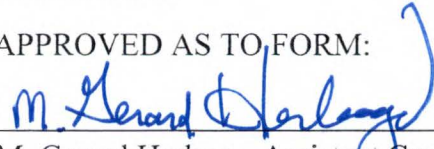
29 Terry N. Thompson, Commissioner

30 ATTESTED TO:

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32 Kristi Whitaker, Recorder

APPROVED AS TO FORM:

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M. Gerard Herbage, Assistant County  
Counsel