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

**ORDINANCE # 537**

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Related to Land Use Planning; amending the Lincoln County Code (LCC) Chapter One and declaring an emergency

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WHEREAS, the United States Congress established the National Flood Insurance Program (NFIP) with the passage of the National Flood Insurance Act of 1968, and;

WHEREAS, the NFIP is a Federal program allowing participating communities to enable property owners to purchase insurance as a protection against flood losses in exchange for State and community floodplain management, and;

WHEREAS, the NFIP is administered by the Federal Emergency Management Agency (FEMA), and;

WHEREAS, FEMA sets standards for local governments participating in the NFIP, including requirements for local floodplain development ordinances, and;

WHEREAS, the Department of Land Conservation and Development (DLCD) is designated as Oregon’s NFIP coordinating agency and assists local governments with implementation of the federal standards, and;

WHEREAS, in 2016 the National Marine Fisheries Service (NMFS) in consultation with FEMA on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority, issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area, and;

WHEREAS, as a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act (ESA) in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS), and;

1           WHEREAS, Lincoln County adopted the State of Oregon’s Model Flood Hazard  
2 Management (FHM) criteria and standards for development of land within mapped zones  
3 identified as Special Flood Hazard Areas (SFHAs) through Ordinance #510, adopted on October  
4 16th, 2019, made effective October 18, 2019, amending Section 1.1115, repealed sections 1.1395  
5 and 1.1810(6) and (7), incorporated new sections 1.2005 through 1.2275, into the Lincoln  
6 County Code (LCC), and revised Lincoln County’s SFHA maps, at the direction of FEMA and  
7 DLCD, and;

8           WHEREAS, Lincoln County has been directed by FEMA in a letter dated July 15, 2024,  
9 from Willie G. Nunn, Regional Administrator, Region 10 FEMA, to implement development  
10 standards and criteria within the SFHA to address the requirements of the BiOp, and;

11           WHEREAS, in the aforementioned letter, FEMA provided three options for meeting this  
12 requirement, described by FEMA as Pre-implementation Compliance Measures (PICMs), which  
13 are: 1) prohibit all development within the SFHA; 2) review all development proposed in the  
14 SFHA on a permit-by-permit basis for compliance with the ESA; or, 3) adopt development  
15 criteria and standards to be incorporated into Lincoln County’s FHM Code to comply with the  
16 ESA, and;

17           WHEREAS, the Lincoln County Board of Commissioners adopted Resolution 24-23-  
18 10A, Regarding the Adoption of Pre-implementation Compliance Measures to Comply with  
19 FEMA Floodplain Rules, on October 23, 2024, to comply with FEMA’s requirement to select a  
20 PICM before December 1, 2024, and;

21           WHEREAS, the Board, through the aforementioned resolution, has chosen to adopt an  
22 ordinance that will incorporate FEMA’s and DLCD’s model standards and criteria into Lincoln  
23 County’s FHM Code to comply with the requirements of the BiOp, and;

24           WHEREAS, after evaluating changes to the code to comply with NMFS’s and FEMA’s  
25 provisions regarding areas of Special Flood Hazard, specifically Element 2 of the Final  
26 Biological Opinion, published by the US Department of Commerce, National Oceanic and  
27 Marine Administration, National Marine Fisheries Service, and;

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1           WHEREAS, notice of hearing on this Ordinance was published in the Lincoln Leader on  
2 November 13, 2024, at least ten days before the hearing on this Ordinance, and;

3           WHEREAS, after holding a public hearing on December 4, 2024 at which testimony was  
4 taken regarding the Ordinance, and the hearing being duly opened and closed by the Chair of the  
5 Board, and after all due discussion and consideration;

6  
7           **NOW, THEREFORE, THE LINCOLN COUNTY BOARD OF COMMISSIONERS**  
8 **ORDAINS AS FOLLOWS:**

9  
10 **SECTION 1: AMENDMENT TO LCC CHAPTER ONE**

11 LCC Chapter One is amended as follows: Exhibit A.

12  
13 **SECTION 2: SEVERANCE CLAUSE**

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

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**SECTION 3: EMERGENCY CLAUSE**

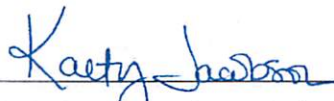
This Ordinance being necessary for the immediate preservation of the public health and safety, an emergency is declared to exist, and this Ordinance shall take effect upon its passage.

DATED this 18th day of December 2024.

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Casey Miller, Chair

  
\_\_\_\_\_  
Clair Hall, Commissioner

  
\_\_\_\_\_  
Kaety Jacobson, Commissioner

ATTESTED TO:

  
\_\_\_\_\_  
Kathleen Kellay, Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kristin Yuille, County Counsel

1.1115 Definitions

As used in this Chapter:

(1) "Access" means the way or means by which pedestrians or vehicles enter and leave property.

(2) "Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of a property and located on the same lot as the main use.

(3)(a) "Accessory home occupation" means an occupation or business conducted within a residence and meeting the following criteria:

(A) No persons other than residents of the dwelling are employed;

(B) No more than 5 persons are employed;

(C) The occupation or business is conducted entirely within the residence or residential accessory structure;

(D) No more than 600 square feet of floor area is devoted to the business or occupation;

(E) There is no outward appearance of the occupation or business other than an accessory sign permitted by LCC 1.1405(3)(e)(A);

(F) Client or customer visits are limited to no more than 5 per day;

(G) Only incidental on-site retail sales are conducted;

(H) There is no outside storage of equipment, goods or commodities associated with the occupation or business; and

(I) Shipping or delivery of products or supplies is limited to small parcel services provided by United States Postal Service, United Parcel Service, FedEx, or other similar services customarily providing delivery to residential addresses.

(b) Accessory home occupations are accessory to any permitted residential use and are not subject to conditional use review.

(4) "Alley" means a minor way for secondary access to properties which abut other streets.

(5) "Agricultural land" means land of predominantly Class I, II, III and IV soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Also, lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

(6) "Appeal" means, with respect to the Flood Hazard Management Section (FHM Section), a request for review of the interpretation of any provision of this FHM Section, or a request for a variance.

(7) "Areas of shallow flooding" means a designated Zone AO, AH, AR/AO, AR/AH or VO on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(8) "Areas of special flood hazard" means land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99 AR, V, VO, V1-30, VE. "Special Flood Hazard Area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

(9) "Automobile wrecking yard" means any property used for the dismantling or wrecking of used motor vehicles, machinery, or trailers, or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers, or their parts.

(10) "Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year.

(11) "Base Flood Elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

(12) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides

(13) "Bed and breakfast inn" means a structure designed for and occupied as a single-family residence in which no more than two sleeping rooms are provided on a daily or weekly basis for the use of no more than a total of six travelers or transients at any one time for a charge or fee paid, or to be paid, for the rental or use of these facilities.

(14) "Block" means an area of land within a subdivision which may be bounded on all sides by streets, railroad rights-of-way, unsubdivided land, water courses, or any combination thereof.

(15) "Boathouse" means a facility attached to a floating device for the purpose of sheltering a boat or boats and generally enclosed on the sides and top.

(16) "Board" means the Lincoln County Board of Commissioners.

(17) "Breakaway walls" means a wall that is not part of the structural support of the building and is intended though its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(18) "Build" means to create by assembling basic elements, such as foundations, floors, walls, roofs, plumbing and wiring systems, by following step-by-step construction procedures.

(19) "Building" means a structure built or assembled for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(20) "Coastal high hazard area" means an area of special flood hazard extending from the offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

(21) "Clinic" means a building utilized by persons licensed by the State of Oregon to treat or analyze medical or surgical needs of humans or animals.

(22) "Commission" means the Lincoln County Planning Commission.

(23) "Common property" means a lot or lots, together with the improvements thereon, the use and enjoyment of which are shared by owners and occupants of individual building sites in a Planned Unit Subdivision or standard subdivision.

(24) "Community center" means a facility owned and operated by a governmental agency or a non-profit community organization, provided that the primary purpose of the facility is for recreation, social welfare, community improvement, or public assembly, and further provided that no permanent commercial eating or drinking facilities shall be operated on the premises.

(25) "Comprehensive Plan" means the adopted comprehensive plan for Lincoln County as defined in ORS 197.015(4).

(26) "Comprehensive Plan Inventory" means written and mapped information which comprises the factual base for the Lincoln County Comprehensive Plan and which is adopted by resolution of the Board.

(27) "County" means the County of Lincoln, State of Oregon.

(28) "Cross section" means a profile of the ground surface perpendicular to the center line of a stream or tidal estuary.

(29) "Development" means, as it relates to the Flood Hazard Management Section, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(30) "Director" means the Lincoln County Planning Director or the director's duly authorized representatives.

(31) "Dock" means a floating moorage facility constructed perpendicular or parallel to the shoreline, or a fixed facility designed or designated for the loading or unloading of trucks or railroad cars.

(32) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation and only one cooking area.

(a) A "single family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise one dwelling unit, including but not limited to factory built dwellings, mobile homes and site built dwellings.

(b) A "two family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise two dwelling units including but not limited to factory built dwellings, mobile homes and site built dwellings.

(c) A "multi-family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise three or more dwelling units, including, but not limited to, factory built dwellings, mobile homes and site built dwellings.

(33) "Easement" means a right of usage of real property granted for a specific purpose by an owner to specific persons, firms, corporations, or the public.

(34) "Factory built dwelling" means a dwelling unit built substantially or entirely at a place other than the residential site, meeting County and State building code requirements, and including, but not limited to, prefabricated or modular homes, but excluding mobile homes.

(35) "Family" means an individual or two or more persons related by blood or marriage or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together in a dwelling unit.

(36) "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultural Christmas trees as defined in ORS chapter 215.

(37) "Fence" (sight obscuring) consists of either a continuous fence, wall, evergreen planting, or combination thereof, constructed or planted so as to effectively screen a particular use from view.

**(38) "Fill" as used in LCC 1.2005 through 1.2320 means placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered "development."**

**(39) "Fish accessible space" means the volumetric space available to fish to access.**

**(40) "Fish egress-able space" means the volumetric space available to fish to exit or leave from.**

[(38)](41) "Flag lot" means a lot, the major portion of which has access to a public road by means narrow strip of land called the "staff."

[(39)](42) "Flood or Flooding" means

(a) a general and temporary condition of partial or complete inundation of normally dry areas from:

(A) The overflow of inland or tidal waters.

(B) The unusual and rapid accumulation of runoff of surface waters from any source.

(C) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(B) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining cause by the waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(A) of this definition.

[(40)] (43) "Flood evaluation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

[(41)] (44) "Flood Insurance Rate Map (FIRM)" means the official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

[(42)] (45) "Flood Insurance Study (FIS)" See "Flood elevation study".

[(43)] (46) "Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

[(44)] (47) "Floodway" means channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway".

[(45)] (48) "Floor area" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including:

(a) Attic space providing headroom of less than seven feet.

(b) Basement, if the floor above is less than six feet above grade.

(c) Uncovered steps or fire escapes.

(d) Private garages, carports, or porches.

(e) Accessory water towers or cooling towers.

(f) Accessory off-street parking or loading spaces.

[(46)] (49) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term only includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

**(50) “Green infrastructure” means the use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface**

[(47)] **(51)** "Ground level grade" means the average elevation of the finished ground elevation at the centers of all walls of a building.

[(48)] **(52)** "Habitable floor" means any floor usable for working, sleeping, eating, cooking, recreation, or other living purpose.

**(53) “Habitat restoration activities” means activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).**

**(54) “Hazard Trees” means standing dead, dying, or diseased trees, or trees with structural defects that makes such trees likely to fail in whole or in part, and that present a potential hazard to structures, utilities, or people.**

[(49)] **(55)** "Health Department" means the County Health Officer and the County Health Officer's duly designated representatives.

[(50)] **(56)** "Height of building" means the vertical distance from grade to the highest point of a roof.

[(51)] **(57)** “Highest adjacent grade” means the highest natural elevation of the ground surface prior to the construction next to the proposed walls of a structure.

[(52)] **(58)** “Historic Structure” means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(A) By an approved state program as determined by the Secretary of the Interior or

(B) Directly by the Secretary of the Interior in states without approved programs.

[(53)] **(59)** "Home occupation" means an occupation or profession carried on within a dwelling, or a residential accessory structure, by a resident of the dwelling, where such occupation or profession is secondary to the main use of the property as a residence and which is not an accessory home occupation.

[(54)] **(60)** "Home owner's association" means an incorporated, non-profit corporation to operate under recorded land agreement through which:

(a) Each lot owner in a Planned Unit Subdivision or other described land area is automatically a member; and

(b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

[(55)] **(61)** "Hospital" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.

**(62) "Hydraulically equivalent elevation" means a location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.**

**(63) "Hydrologically connected" means the interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.**

**(64) "Impervious surface" means a surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff.**

[(56)] **(65)** "Junk yard" means any property utilized for breaking up, dismantling, sorting, storing, distributing, buying, or selling of any scrap, waste material, junk, or used equipment or machinery of any nature.

[(57)] **(66)** "Kennel" means a lot or building which provides for the keeping of four or more dogs, cats, or animals, at least four months of age, where such animals are kept commercially for board, propagation, training, or sale.

[(58)] **(67)** "Livestock" means domestic animals and fowl of types customarily raised or kept on farms for profit or other purposes. This definition does not include household pets such as dogs and cats.

[(59)] **(68)** "Lodge" means a structure or group of related structures wherein transient eating or sleeping accommodations are provided in connection with outdoor recreation activities.

[(60)] **(69)** "Lot," as used in LCC 1.1101 through 1.1999, but excepting LCC 1.1371 to 1.1375, means an area of land with fixed boundaries, used or intended to be used by a single use and its accessory uses and not divided by any public road or alley. "Lot," as used in LCC 1.3210 through 1.3270, means a unit of land created by a division of land.

(a) A "corner lot" is a lot abutting on two or more streets, other than an alley, at their intersections.

(b) An "interior lot" is a lot other than a corner lot.

(c) A "lot area" is the total horizontal area within the lot lines of a lot exclusive of public roads.

(d) A "lot depth" is the average horizontal distance between the front lot line and the rear lot line.

(e) A "lot width" is the average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

[(61)] **(70)** "Lot line" is the property line bounding a lot.

(a) A "front lot line" is the property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley; or, in a

case where the lot does not front directly upon a public street, that lot line toward which most houses in the immediate area face.

(b) A "rear lot line" is a property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length, within the lot, parallel to and at a maximum distance from the front lot line.

(c) A "side lot line" is any property line not a front or rear lot line.

**(71) "Low impact development" means an approach to land development or redevelopment that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.**

[(62)] **(72)** "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building accessor storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Flood Hazard Management Section (FHM Section)

[(63)] **(73)** "Manufactured dwelling" with respect to the Flood Hazard Management Section (FHM Section) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home". "Manufactured dwelling" with respect to other aspects of this FHM Section has the meaning given that term in ORS 446.003.

[(64)] **(74)** "Manufactured dwelling park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

[(65)] *"Major partition" means a partition of land wherein one or more of the parcels created does not have direct frontage on an existing public road, excepting that partitions creating parcel, solely for the purpose of forest use, farm use or mining operations shall not be considered major partitions.]*

[(66)] **(75)** "Marina" means a commercial boat launch, moorage or similar facility which may include dry or wet boat storage, boat houses and related commercial activities.

[(67)] **(76)** "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which the Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**(77) "Mean Higher-High Water (MHHW)" means the average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.**

[(68)] *"Minor partition" means a partition of land wherein all of the parcels created have direct frontage on an existing public road or are created solely for the purpose of forest use, farm use, or mining operations.]*

[(69)] **(78)** "Mobile home" means a dwelling unit or units, designed for long-term occupancy; designed to be transported after fabrication on its own wheels; providing plumbing or

electrical connections for attachment to outside systems; and having a mobile home license or "X" number

(a) A "single wide mobile home" is a mobile home which is constructed and transported to its site as a single frame unit. A single wide may have extension or tilt out areas, but remains as a single frame unit after set-up.

(b) A "multi-wide mobile home" is a mobile home which is constructed and transported to its site as two or more frame units which are structurally connected on-site to form one or more dwelling units.

[(70)] (79) "Mobile home park" means a lot providing water, sewage disposal and electrical hook-ups for two (2) or more mobile homes occupied for living or sleeping purposes, regardless of whether a charge is made for such accommodations.

[(71)] (80) "New construction," with respect to the Flood Hazard Management Section means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by Lincoln County and includes any subsequent improvements to such structures.

**(81) "No net loss" as used in LCC 1.2005 through 1.2320 means a standard that requires that adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.**

[(72)] (82) "Nonconforming use" means the use of a structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the use zone in which it is located.

**(83) "Offsite" as used in LCC 1.2005 through 1.2320 means mitigation that occurs outside of the project area.**

**(84) "Onsite" as used in LCC 1.2005 through 1.2320 means mitigation that occurs within the project area.**

**(85) "Ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.**

[(73)] (86) "Outdoor recreation activity" includes fishing, camping, swimming, clam digging, hunting, boating, hiking, bicycling, horseback riding and similar outdoor activities engaged in for leisure and recreation.

[(74)] (87) "Outdoor recreation development" includes those public or private structural or other improvements customarily found in connection with outdoor recreation activities. Such improvements may include picnic parks or organizational camps as defined in ORS chapter 446, and similar types of facilities. Such development may also include recreation parks as defined in ORS Chapter 446, provided that only minimal levels of improvements are provided. Outdoor recreation development does not include high intensity recreational development such as marinas or recreational vehicle parks providing full hook-ups or commercial services. Outdoor recreation development does not include commercial amusement uses such as miniature golf courses, go-cart tracks and similar uses.

[(75)] (88) "Parcel" means a unit of land that is created by partitioning land.

[(76)] **(89)** "Parking space" means an off-street enclosed or unenclosed surfaced area of not less than 20 feet by eight feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, connected with a street or alley which affords ingress and egress for automobiles.

[(77)] **(90)** "Partition" means either an act of partitioning land or an area or tract of land partitioned as defined in this chapter.

[(78)] **(91)** "Partition land" means to divide an area or land into two or three parcels within a calendar year. "Partition land" does not include:

(a) A division or divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots;

(b) An adjustment of a property line by the relocation of a common boundary where an additional parcel is not created and where the existing unit of land reduced in size is not reduced below the minimum lot size established by the applicable use zone;

(c) The division of land resulting from the recording of a subdivision or condominium plat; or

(d) A sale or grant to a public agency or public body for state highway, county road, city street or other right-of-way purposes, if the road or right-of-way complies with the comprehensive plan and ORS 215.283(2)(p) through (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

[(79)] **(92)** "Performance agreement" means a bond executed by a surety company licensed in the State of Oregon, or other security acceptable to the Board, to insure the completion of the conditions of approval of any land use action.

[(80)] **(93)** "Person" means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

[(81)] **(94)** "Pier" means a fixed moorage facility constructed outward from the shoreline.

[(82)] **(95)** "Planned Unit Subdivision" means a land in which the individual building sites may be reduced in size but are compensated by area used in common for recreational or other open space purposes. Planned Unit Subdivisions involving dwelling or commercial units may incorporate detached, semi-detached, attached, single-story, or multi-storied units or any combination of the aforementioned. Such projects may also involve religious, cultural, recreational and commercial uses and purposes.

[(83)] **(96)** "Planning Division" means the Lincoln County Planning Director and the director's duly designated representatives.

[(84)] **(97)** "Plat" and "replat" mean a final diagram, drawing, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

[(85)] **(98)** "Professional office" means an office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors, or persons engaged in similar occupations.

**(99) "Qualified professional" as used in LCC 1.2005 through 1.2320 means an appropriate subject matter expert qualified by education, training, and experience to provide**

analysis, expert opinion, and conclusions regarding compliance with the requirements of LCC 1.2280 through 1.2320.

**(100) “Reach” means a section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.**

[(86)] **(101) "Recreational vehicle" and "R.V." mean a vehicle which is:**

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed or propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[(87)] **(102) "Recreational vehicle park" means a park intended, designed or utilized for temporary occupancy by recreational vehicles or other similar portable devices, and accompanied by other accessory uses as needed.**

[(88)] **(103) "Reserve strip" means a strip of land usually one foot in width, across the end of a street or alley which shall be under the ownership of the County to [insure] ensure street extensions where needed.**

[(89)] **(104) "Right-of-way" means a strip of land within which is located a passageway, as conveyed for a specific purpose.**

**(105) “Riparian” means of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.**

**(106) “Riparian buffer zone (RBZ)” as used in LCC 1.2005 through 1.2320 means an area, the outer boundary of which is measured from the ordinary high water mark of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach, to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.**

**(107) “Riparian buffer zone fringe” as used in LCC 1.2005 through 1.2320 means the portion of the special flood hazard area that is outside of the RBZ and floodway.**

[(90)] **(108) "Road" and "street" mean a public or private way created to provide vehicular access to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide access to such land in conjunction with its use for forestry, mining, or agricultural purposes.**

- (a) A "public road" is a road dedicated for public use.
- (b) A "private road" is a road created by easement.
- (c) An "arterial highway" and "major highway" are streets designed to carry traffic from one community to another, to carry traffic to and from major traffic generators and to carry through traffic.

(d) A "collector street" and "secondary street" are streets designed to carry traffic between minor streets and the arterial system, to function as primary traffic carriers within a neighborhood, to carry traffic to local traffic generators, and in commercial and industrial areas, provide access to commercial and industrial properties.

(e) A "minor street" is a street designed to provide access to abutting residential property with only incidental service to through traffic.

(f) A "cul-de-sac" and "dead end street" are minor streets with only one outlet which provides a vehicular turn-around.

[(91)] **(109)** "Sign" has the meaning provided in LCC 1.1405.

**(110) "Silviculture" means the art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.**

[(92)] **(111)** "Skirt" means a durable all-weather material having a finished exterior surface surrounding a mobile home and effectively screening the under-carriage from view.

[(93)] **(112)** "Solid waste" has the meaning given that term in LCC 2.1005(14).

[(94)] **(113)** "Solid waste disposal site" has the meaning given that term in LCC 2.1005(5).

[(95)] *"Step-backwater analysis" an engineering analysis developed by the Army Corps of Engineers to evaluate hydrostatic and hydrodynamic forces and titled HEC-2 Water Surface Profiles, Generalized Computer Profile.]*

[(96)] **(114)** "Special Flood Hazard Area" See "Area of special flood hazard" for this definition.

[(97)] **(115)** "Start of Construction", with respect to the Flood Hazard Management Section, includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a dwelling, whether or not that alteration affects the external dimensions of a building.

[(98)] **(116)** "Street" has the same meaning as "road."

[(99)] **(117)** "Structural alteration" means any change to the supporting members of a building including foundations, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

[(100)] **(118)** "Structure" means something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure. A "structure," for floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

[(101)] **(119)** "Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of a year.

[(102)] (120) "Subdivision" means an area or tract of land divided into four or more lots within a calendar year.

[(103)] (121) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[(104)] (122) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official which are the minimum necessary to assure safe living condition;

[(105)] (123) "Tentative plan" means a diagram including any writings showing the general design of a proposed partition, together with other information the proposed partition may require.

[(106)] (124) "Transfer station" means a fixed or mobile facility, normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and disposal site, including, but not limited to a large hopper, railroad gondola or barge.

**(125) "Undeveloped Space" as used in LCC 1.2005 through 1.2320 means the volume of flood capacity and fish-accessible/egress-able habitat from the existing ground up to the base flood elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.**

[(107)] (126) "Use" means the purpose for which a structure is designed, arranged or intended or for which land is maintained or occupied.

[(108)] (127) "Variance", with respect to the Flood Hazard Management Section, means a grant of relief by Lincoln County from the terms of a flood plain management regulation.

[(109)] (128) "Violation", with respect to the Flood Hazard Management Section (FHM Section), means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the FHM Section is presumed to be in violation until such time as that documentation is provided.

[(110)] (129) "Wharf" means a fixed moorage parallel to the shoreline continuously thereto.

[(111)] (130) "Yard" means an open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this ordinance.

(a) A "front yard" is a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.

(b) A "rear yard" is a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line, or the mean higher high water line or ordinary high water line when applicable, to the nearest part of a building.

(c) A "side yard" is a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of a building.

(d) A "street side yard" is a yard on a corner lot that is adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building. [1985 o.231 §1; 1997 o.369 §1; 2006 o.438 §1; 2009 o.461 §1]

## FLOOD HAZARD MANAGEMENT

### TITLE, STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

#### 1.2005 Title/ Definitions

This portion of Chapter One of the Lincoln County Code (LCC) shall be called the “Flood Hazard Management Section” and shall be generally referred to hereafter as the FHM Section. Definitions of terms used within the FHM Section shall be found in LCC 1.1115, the definition section for Chapter One of the LCC, and those definitions and related FHM provisions within the Code shall be considered part of the FHM Section.

#### 1.2010 Statutory Authorization

The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

#### 1.2015 Findings of Fact

(1) The flood hazard areas of Lincoln County **preserve the natural and beneficial values provided by floodplains, and** are subject to periodic inundation which may 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.

(2) These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

#### 1.2020 Statement of Purpose

It is the purpose of this FHM Section to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Preserve natural and beneficial floodplain functions;**
- ~~[(3)]~~ **(4)** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- ~~[(4)]~~ **(5)** Minimize prolonged business interruptions;
- ~~[(5)]~~ **(6)** Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- ~~[(6)]~~ **(7)** Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- ~~[(7)]~~ **(8)** Notify potential buyers that the property is in a special flood hazard area;
- ~~[(8)]~~ **(9)** Notify those who occupy special flood hazard areas that they assume responsibility for their actions; and

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[(9)] **(10)** Participate in **the National Flood Insurance Program** and maintain eligibility for flood insurance and disaster relief.

1.2025 Methods of Reducing Flood Losses

In order to accomplish its purposes, this FHM Section includes methods and provisions for:

- (1) Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; *[and]*
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other area; **and**
- (6) Employing a standard of “no net loss” of natural and beneficial floodplain functions.**

GENERAL PROVISIONS

1.2030 Lands to Which This FHM Section Applies

This FHM Section shall apply to all special flood hazard areas within the jurisdiction of Lincoln County.

1.2035 Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Lincoln County, Oregon”, dated October 18, 2019, with accompanying Flood Insurance Rate Maps (FIRMs) as listed on pages 3 and 4 of the FIS, which are incorporated by reference, are hereby adopted and declared to be a part of this ordinance, and are further described as:

41041C0020E, 41041C0025D\*, 41041C0040E, 41041C0045E, 41041C0065E, 41041C0070E, 41041C100D\*, 41041C0107E, 41041C0109E, 41041C0116E, 41041C0117E, 41041C0120E, 41041C0125D\*, 41041C0126E, 41041C0130E, 41041C0135E, 41041C0136E, 41041C0140E, 41041C0145E, 41041C0175E, 41041C0200D\*, 41041C0225D\*, 41041C0229E, 41041C0233E, 41041C0235E, 41041C0237E, 41041C0239E, 41041C0241E, 41041C0245E, 41041C0250D\*, 41041C0275E, 41041C0300E, 41041C0325E, 41041C0350D\*, 41041C0352E, 41041C0354E, 41041C0360E, 41041C0362E, 41041C0364E, 41041C0366E, 41041C0367D\*, 41041C0368E, 41041C0369E, 41041C0375D\*, 41041C0380E, 41041C0381E, 41041C0383E, 41041C0385E, 41041C0389E, 41041C0390E, 41041C0393E, 41041C0395E, 41041C0420E, 41041C0425E, 41041C0450E, 41041C0475E, 41041C0500D\*, 41041C0502E, 41041C0504E, 41041C0505D\*, 41041C0506E, 41041C0507E, 41041C0508E, 41041C0509E, 41041C0515E, 41041C0520E, 41041C0527E, 41041C0531E, 41041C0550E, 41041C0575E, 41041C0600E, 41041C0625E, 41041C0650D\*, 41041C0655E, 41041C0660E, 41041C0662E, 41041C0665E, 41041C0666E, 41041C0670E, 41041C0690E, 41041C0695E, 41041C0700E, 41041C0715E,

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41041C0720E, 41041C0725D\*, 41041C0740E, 41041C0750D\*, 41041C0775D\*, 41041C0800D\*, 41041C0801E, 41041C0802E, 41041C0803E, 41041C0804D\*, 41041C0811E, 41041C0815E, 41041C0825E, 41041C0850E, 41041C0875E, 41041C0880E.

The FIS and FIRM panels are on file at the Lincoln County Planning and Development Department, which is located at 210 SW Second Street, Newport, Oregon, at the time of the adoption of this FHM Section.

#### 1.2040 Coordination with State of Oregon Specialty Codes

Pursuant to the requirement established in ORS 455 that Lincoln County administers and enforces the State of Oregon Specialty Codes, Lincoln County does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this FHM Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

### COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

#### 1.2045 Compliance

All development within special flood hazard areas is subject to the terms of this FHM Section and required to comply with its provisions and all other applicable regulations.

#### 1.2050 Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this FHM Section and other applicable regulations. Violations of the provisions of this FHM Section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation of the LCC with penalties [*upon conviction*] as outlined in Chapter 10 of the LCC. Nothing contained herein shall prevent Lincoln County from taking such other lawful action as is necessary to prevent or remedy any violation, **and any property or owner in noncompliance shall not be entitled to nor granted any other permit under the LCC, Chapter 1, for property in violation of this section during any period of noncompliance, except any permit that, as determined by the Division, is necessary to remedy a violation of this section.**

### ABROGATION AND SEVERABILITY

#### 1.2055 Abrogation

This FHM Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this FHM Section and another ordinance, LCC Section, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### 1.2060 Severability

This FHM Section and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the FHM Section is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this FHM Section.

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#### 1.2065 Interpretation

In the interpretation and application of this FHM Section, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

### WARNING AND DISCLAIMER OF LIABILITY

#### 1.2070 Warning

The degree of flood protection required by this FHM Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This FHM Section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

#### 1.2075 Disclaimer of Liability

This FHM Section shall not create liability on the part of Lincoln County, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### ADMINISTRATION

#### 1.2080 Designation of the Floodplain Administrator

The Lincoln County Planning and Development Director and his/her designee is hereby appointed to administer, implement, and enforce this FHM Section by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

### DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

#### 1.2085 Permit Review

The duties of the floodplain administrator, or his/her designee, shall include, but not be limited to:

Review all development permits to determine that:

- (1) The permit requirements of this FHM Section have been satisfied;
- (2) All other required local, state, and federal permits have been obtained and approved;
- (3) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this FHM Section in section 1.2235 are met;
- (4) Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available, then ensure compliance with the provisions of sections 1.2185;

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(5) Provide to building officials the Base Flood Elevation (BFE), along with relevant minimum elevations above the BFE as required by this FHM Section, applicable to any building requiring a development permit;

(6) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section 1.1115;

(7) Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 1.2145; *[and]*

(8) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation; **and**

**(9) Review all development permits to determine if the proposed development activity complies with “no net loss” requirements of FHM Sections 1.2280 through 1.2320.**

#### 1.2090 Information to be Obtained and Maintained

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

(1) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section 1.2185;

(2) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 1.2235, 1.2260(6), 1.2085(2) are adhered to;

(3) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement);

(4) Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection;

(5) Maintain all Elevation Certificates (EC) submitted to Lincoln County);

(6) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this FHM Section and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 1.2185;

(7) Maintain all floodproofing certificates required under this FHM Section;

(8) Record and maintain all variance actions, including justification for their issuance;

(9) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section 1.2235;

(10) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section 1.2110; *[and]*

(11) Maintain for public inspection all records pertaining to the provisions of this FHM Section; **and**

**(12) Obtain and maintain documentation of how the no net loss requirements of FHM Sections 1.2280 through 1.2320 have been met.**

## REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

### 1.2095 Community Boundary Alterations

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

### 1.2100 Watercourse Alterations

Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- (1) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
- (2) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 1.2105. Ensure compliance with all applicable requirements in sections 1.2105 and 1.2145.

### 1.2105 Requirement to Submit New Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process. In Lincoln County the property owner shall be responsible for preparing all technical data to support the LOMR application and paying any processing or application fees associated with the LOMR.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- (1) Proposed floodway encroachments that increase the base flood elevation; and
- (2) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant

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demonstrates that the project will or has met the requirements of this FHM Section and all applicable state and federal laws.

An applicant shall Notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

#### 1.2110 Substantial Improvement and Substantial Damage Assessments and Determinations

Conduct Substantial Improvement (SI) (as defined in section 1.1115) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 1.2090. Conduct Substantial Damage (SD) (as defined in section 1.1115) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 1.2035 are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

### ESTABLISHMENT OF DEVELOPMENT PERMIT

#### 1.2115 Floodplain Development Permit Required

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 1.2035. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 1.1115, including fill and other development activities.

#### 1.2117 Procedure for Review of Flood Plain Development Permit

**(1) Applications for Floodplain Development Permits that seek authorization of development that, in accordance with section 1.2315, is exempt from the no net loss and other standards of sections 1.2280 through 1.2320, shall be reviewed in accordance with the Type 1 procedure set forth in LCC 1.1210(1).**

**(2) Applications for Floodplain Development Permits that seek authorization for development that is subject to the no net loss and other requirements of sections 1.2280 through 1.2320 shall be reviewed in accordance with the Type 2 procedure set forth in LCC 1.1210(2).**

#### 1.2120 Application for Development Permit

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 1.2090;

(2) In coastal flood zones (V zones and coastal A zones), the proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement;

(3) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;

(4) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in section 1.2215;

(5) Description of the extent to which any watercourse will be altered or relocated;

(6) Base Flood Elevation data for subdivision proposals or other development when required per sections 1.2085 and 1.2180;

(7) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure; *[and]*

(8) The amount and location of any fill or excavation activities proposed; **and**

**(9) For development subject to the no net loss standards of FHM subsections 1.2280 through 1.2320, documentation prepared by a qualified professional that demonstrates compliance with subsections 1.2280 through 1.2320.**

#### 1.2125 Variance Procedure

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

#### 1.2130 Conditions for Variances

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 1.2130(3) and (5), and, 1.2135. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

(5) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section 1.2130(2) through 1.2130(6) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**(7) A variance shall not be issued unless it is demonstrated that the proposed development will result in no net loss of floodplain functions in the SFHA in compliance with sections 1.2280 through 1.2320.**

#### 1.2135 Variance Notification

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 1.2090.

### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 1.2140 General Standards

In all special flood hazard areas, the following standards found in sections 1.2140 through [1.2275] **1.2320** shall be adhered to:

#### 1.2145 Alteration Of Watercourses

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 1.2100 and 1.2105.

#### 1.2150 Anchoring

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All manufactured dwellings shall be anchored per section 1.2220.

1.2155 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

UTILITIES AND EQUIPMENT

1.2160 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

1.2170 Electrical, Mechanical, Plumbing, and Other Equipment

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

- (1) If replaced as part of a substantial improvement shall meet all the requirements of this section.
- (2) Not be mounted on or penetrate through breakaway walls.

1.2175 Tanks

- (1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- (2) Above-ground tanks shall be installed one foot above the base flood level, or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
- (3) In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.

1.2180 Subdivision Proposals and Other Proposed Developments

- (1) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and *[subdivisions]* **planned developments**) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and *[bracketed and italicized]* for deletions.

- (2) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and [*subdivisions*] **planned developments**) shall:
- (a) Be consistent with the need to minimize flood damage.
  - (b) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
  - (c) Have adequate drainage provided to reduce exposure to flood hazards.
  - (d) Comply with the standards for no net loss of floodplain functions set forth in sections 1.2280 through 1.2320.**

#### 1.2185 Use of Other Base Flood Data

When Base Flood Elevation data has not been provided in accordance with section 1.2035, the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer the sections under 1.2140 through **1.2320** [*1.2275*]. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 1.2180.

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation [*proposals in compliance with Oregon Specialty Codes, with the exception of development proposals located within a riverine unnumbered A Zone*]. Development proposals located within a riverine unnumbered A Zone shall **demonstrate they are to** be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, [*and*] photographs of past flooding, where available, and the Environmental Hazard Inventory, Coastal Lincoln County, RNKR and Associates, 1977. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

#### 1.2190 Structures Located in Multiple or Partial Flood Zones

In coordination with the State of Oregon Specialty Codes:

- (1) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- (2) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

#### 1.2192 Specific Standards for Riverine (Including All Non-Coastal) Flood Zones

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 1.2140 through 1.2275 **and the no net loss standards of sections 1.2280 through 1.2320** of this FHM Section.

#### 1.2195 Flood Openings

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and [*bracketed and italicized*] for deletions.

- (1) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exist of floodwaters;
- (2) Be used solely for parking, storage, or building access;
- (3) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  - (a) A minimum of two openings;
  - (b) The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;
  - (c) The bottom of all openings shall be no higher than one foot above grade;
  - (d) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and
  - (e) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

#### 1.2200 Garages

- (1) Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
  - (a) If located within a floodway the proposed garage must comply with the requirements of section 1.2235;
  - (b) The floors are at or above grade on not less than one side;
  - (c) The garage is used solely for parking, building access, and/or storage;
  - (d) The garage is constructed with flood openings in compliance with section 1.2195 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;
  - (e) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  - (f) The garage is constructed in compliance with the standards in section 1.2140 through 1.2275; and
  - (g) The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- (2) Detached garages must be constructed in compliance with the standards for appurtenant structures in section 1.2230 or nonresidential structures in section 1.2215 depending on the square footage of the garage.

1.2203 For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section 1.2140 through 1.2275 **and the no net loss standards of sections 1.2280 through 1.2320** the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and *[bracketed and italicized]* for deletions.

#### 1.2205 Before Regulatory Floodway

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. **When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards of subsection 1.2280.**

#### 1.2210 Residential Construction

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above the Base Flood Elevation (BFE).

(2) Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 1.2195.

#### 1.2215 Non-Residential Construction

(1) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall:

(a) Have the lowest floor, including basement, elevated to one (1) foot above the Base Flood Elevation (BFE) level;

Or, together with attendant utility and sanitary facilities,

(b) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(d) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 1.2090.

(2) Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 1.2195.

(3) Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below).

#### 1.2220 Manufactured Dwellings

(1) New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with section 1.2195;

(2) The bottom of the longitudinal chassis frame beam shall be elevated to one (1) foot above Base Flood Elevation (BFE);

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and *[bracketed and italicized]* for deletions.

(3) New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and

(4) Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

#### 1.2225 Recreational Vehicles

**Notwithstanding the provisions of the underlying zone, the nonpermanent placement of a recreational vehicle on an individual lot between April 15 and October 15, subject to the provisions of this subsection, shall be permitted as an outright use in the Special Flood Hazard Area.** Recreational vehicles placed on sites are required to:

- (1) Be on the site for fewer than 180 consecutive days,
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (3) Meet the requirements of section 1.2220, including the anchoring and elevation requirements for manufactured dwellings.

#### 1.2230 Appurtenant (Accessory) Structures

Relief from elevation or floodproofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

- (1) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section 1.2235;
- (2) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
- (3) In compliance with State of Oregon Specialty Codes, Appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;
- (4) The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- (5) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- (6) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 1.2195;
- (7) Appurtenant structures shall be located and constructed to have low damage potential;

(8) Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 1.2175; and

(9) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

#### 1.2235 Floodways

Located within the special flood hazard areas established in section 1.2035 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

(a) Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

(b) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled, **conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in sections 1.2280 through 1.2320.**

(2) If the requirements of section 1.2235(1) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of sections 1.2140 through **1.2320** [2275].

#### 1.2240 Standards for Shallow Flooding Areas

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.

For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

#### 1.2245 Standards for AH Zones

Development within AH Zones must comply with the standards in sections 1.2140, through 1.2250.

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#### 1.2250 Standards for AO Zones

In AO zones, the following provisions apply in addition to the requirement in section 1.2240:

(1) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum shall be one (1) foot above the specified depth number on the Flood Insurance Rate Maps (FIRM). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

(2) New construction and substantial improvements of non-nonresidential structures within AO zones shall either:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum at the specified depth number on the Flood Insurance Rate Maps (FIRMS); or

(b) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the specified depth number on the FIRM, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 1.2215(1)(d).

(3) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(a) Be on the site for fewer than 180 consecutive days; and

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Meet the requirements of 1.2225 above, including the elevation and anchoring requirements for manufactured dwellings.

(4) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 1.2230.

(5) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 1.2195.

#### 1.2255 Specific Standards for Coastal High Hazard Flood Zones

Located within special flood hazard areas established in section 1.2035 are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the area between the Limit of Moderate Wave Action (LimWA) and the Zone V boundary. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions of this FHM Section and the State of Oregon Specialty Codes, the following provisions shall apply in addition to the general standards provisions in section 1.2140 through 1.2190.

#### 1.2260 Development Standards for Coastal High Hazard Flood Zones

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and *[bracketed and italicized]* for deletions.

(1) All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) shall be elevated on pilings and columns such that:

(a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one (1) foot above the Base Flood Elevation (BFE) level; and

(b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those specified by the State of Oregon Specialty Codes.

(2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

(3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. The local floodplain administrator shall maintain a record of all such information in accordance with section 1.2090.

(4) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

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

(b) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation; and

(c) Walls intended to break away under flood loads shall have flood openings that meet or exceed the criteria for flood openings in section 1.2195.

(5) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum water loading values to be used in this determination shall be those associated with the base

flood. Maximum wind loading values used shall be those specified by the State of Oregon Specialty Codes.

(6) Prohibit the use of fill for structural support of buildings.

(7) All new construction shall be located landward of the reach of mean high tide.

(8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

(9) All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages shall comply with all the requirements of section 1.2260. Floodproofing of non-residential structures is prohibited.

#### 1.2265 Manufactured Dwelling Standards for Coastal High Hazard Zones

All manufactured dwellings to be placed or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall meet the following requirements:

(1) Comply with all of the standards within section 1.2255;

(2) The bottom of the longitudinal chassis frame beam shall be elevated to a minimum of one foot above the Base Flood Elevation (BFE); and

(3) Electrical crossover connections shall be a minimum of 12 inches above the BFE.

#### 1.2270 Recreational Vehicle Standards for Coastal High Hazard Zones

**Notwithstanding the provisions of the underlying zone, the nonpermanent placement of a recreational vehicle on an individual lot between April 15 and October 15, subject to the provisions of this subsection, shall be permitted as an outright use in the Special Flood Hazard Area.** Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall either:

(1) Be on the site for fewer than 180 consecutive days, and

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the permit requirements of sections 1.2080 through 1.2135 and the requirements for manufactured homes in section 1.2265.

#### 1.2275 Tank Standards for Coastal High Hazard Zones

Tanks shall meet the requirements of section 1.2175.

### PROVISIONS TO PRESERVE FLOODPLAIN FUNCTIONS

#### 1.2280 No Net Loss of Floodplain Functions

**The standards of subsections 1.2280 through 1.2320 are intended to preserve the three beneficial floodplain functions of flood storage, water quality and vegetation by preventing diminution or loss of these functions caused by development activities in the SFHA. Except for the exempt activities listed in section 1.2315, the standards of subsections 1.2280 through 1.2320 apply to all development in the SFHA.**

**(1) To protect the floodplain functions of flood storage, water quality and vegetation, the proxies of undeveloped space, pervious surface, and trees that are 6-inches**

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dbh or greater are established. Development in the SFHA may be authorized only if it is demonstrated that the proposed development, together with required mitigation, will result in no net loss within the SFHA of undeveloped space, pervious surface, and trees greater than 6-inches diameter dbh.

(2) No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then providing mitigation that replaces and/or otherwise compensates for, offsets, or rectifies the residual adverse effects to the three floodplain functions.

(3) Actions required to achieve no net loss of undeveloped space or pervious surface are preferred to occur prior to the loss, but, at a minimum, shall occur concurrent with the loss.

(4) Actions required to achieve no net loss must be provided, in order of priority:

(a) On the lot or parcel from which the floodplain functions were removed;

(b) Off-site, but within the same reach of the waterbody where the development is proposed; or

(c) In a location within the special flood hazard area that is hydrologically connected to the area of the proposed development. Applicants proposing off-site mitigation must demonstrate why higher priority locations are not feasible.

#### **1.2285 Undeveloped Space**

(1) Development shall not result in a net loss of fish-accessible and egress-able habitat and flood storage capacity created by undeveloped space within the special flood hazard area.

(2) To achieve no net loss, lost undeveloped space must be replaced with fish-accessible and egress-able space and compensatory flood storage volume based on the ratio in section 1.2320.

(3) Sites that serve to replace lost undeveloped space shall be:

(a) Hydrologically connected to the waterbody that is the flooding source; and

(b) Designed so that there is no increase in flood velocity;

#### **1.2290 Impervious Surfaces**

The creation of new impervious surfaces within the SFHA may only be permitted in compliance with the following requirements:

(1) Existing impervious surfaces are removed in the amount prescribed in subsection 1.2320 ; or

(2) Low impact development or green infrastructure methods are used to infiltrate and treat stormwater created by the new impervious surfaces, as documented by a qualified professional.

(3) If a qualified professional documents that the methods in subsections (1) and (2) above are not feasible, then stormwater management and treatment is required.

Stormwater management shall conform to the requirements of section 1.2295 and be designed to:

(a) Ensure no increase in peak volume or flow;

(b) Maximize infiltration; and

(c) Provide treatment of retained stormwater to minimize pollutant loading.

### **1.2295 Stormwater Management and Treatment**

Where stormwater retention is required in accordance with section 1.2290, the following requirements apply:

**(1) Stormwater management shall include:**

**(a) Water quality (pollution reduction) treatment for post construction stormwater runoff created by any net increase in impervious surfaces, unless the stormwater outfall discharges directly to the ocean; and**

**(b) Water quantity treatment (retention) unless the stormwater outfall discharges directly to the ocean.**

**(2) Required retention facilities shall:**

**(a) Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series);**

**(b) Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body;**

**(c) Be designed to not entrap fish and drain to the source of flooding; and**

**(d) Be certified as meeting these requirements by a Professional Engineer licensed in Oregon.**

**(3) Stormwater management and treatment practices for multi-ownership developments such subdivisions or planned developments shall have an enforceable operation and maintenance mechanism established by a recorded agreement that is legally binding on all owners and future owners.**

**(4) The maintenance and operation agreement required by subsection (3) shall:**

**(a) Authorize access to stormwater treatment facilities by the Floodplain Administrator for purposes of inspection;**

**(b) Require the maintenance of functionality of all elements of the stormwater management and treatment system, including vegetation and soil permeability;**

**(c) Require records of maintenance and repairs to the stormwater management and treatment system that shall be retained and made available for inspection by the Floodplain Administrator for a period of five years after completion of any maintenance or repair; and**

**(d) Be available on site at all times.**

### **1.2300 Trees**

**(1) Trees of 6 inches dbh or greater that are removed within the SFHA shall be replaced at the ratios specified in subsection 1.2320.**

**(2) Replacement trees may be seedlings or larger, shall be native species that would occur naturally in the Level III ecoregion from which trees are removed, and shall be planted within the SFHA.**

### **1.2310 Riparian Buffer Zone (RBZ)**

**(1) The Riparian Buffer Zone (RBZ) consists of the stream channel or water body, and that portion of the SFHA that is within 170 feet, measured horizontally, of:**

(a) the ordinary high water mark of all sides of a fresh waterbody (lake, pond, ephemeral, intermittent or perennial stream); and

(b) mean higher high water of a marine shoreline or tidally influenced portion of a river or stream.

(2) Except for functionally dependent uses and exempt activities set forth in subsection 1.2315, all development within the RBZ is subject to the no net loss requirements of sections 1.2280 through 1.2300, the mitigation ratios of subsection 1.2320, and additional beneficial gain requirements as follows:

(a) An area equivalent to 5% of the area of development within the RBZ shall be planted with native herbaceous and shrub and tree vegetation; and

(b) The area of planting required in subsection (a) shall be within the same reach as the area of development.

(3) Ancillary uses that are located within the RBZ and are associated with, but do not directly impact, functionally dependent uses (including manufacturing support facilities and restrooms) are subject to the beneficial gain requirements of subsection (2).

#### 1.2315 Exempt Activities

The following activities are not subject to the no net loss and other requirements of sections 1.2280 through 1.2300 and 1.2320. Activities listed in this subsection that meet the definition of development in LCC 1.1115 nonetheless require a Floodplain Development Permit in accordance with subsection 1.2115.

(1) Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the building footprint or expansion of the roof of the structure;

(2) Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, provided that the activity does not alter contours, use, or alter culverts, and does not include expansion of paved areas;

(3) Routine maintenance of landscaping that does not involve grading, excavation, or filling;

(4) Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration, provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;

(5) Routine silviculture practices (harvesting of trees), including hazardous fuel reduction and hazard tree removal as long as root balls are left in place;

(6) Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

(7) Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles, provided there is no net change in footprint;

(8) Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe, or the addition of protection on the face or toe with rock armor;

(9) Repair of an existing, functional bulkhead in the same location and footprint with the same materials, when the Ordinary High-Water Mark (OHWM) is still outside of the face of the bulkhead;

- (10) Habitat restoration activities;
- (11) Preemptive removal of documented susceptible trees to manage the spread of invasive species; and
- (12) Development that is covered under separate consultations under Section 4(d), Section 7 or Section 10 of the Endangered Species Act (ESA).

**1.2320 Mitigation Ratios and Multipliers**

LCC 1.2320 – Table 1

Basic Mitigate Ratios	Undeveloped Space (ft <sup>3</sup> )	Impervious Surface (ft <sup>2</sup> )	Trees (6" < dbh ≤ 20")	Trees (20" < dbh ≤ 39")	Trees (39" < dbh)
RBZ and Floodway	2:1*	1:1	3:1*	5:1	6:1
RBZ-Fringe	1.5:1*	1:1	2:1*	4:1	5:1
Mitigation Multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5 <sup>th</sup> field)	200%	200%	200%	200%	200%

**1. Ratios of this section with asterisks are indicated in the BiOp**

**2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled: For example, if a development would create 1,000 square feet of new impervious surface, then 1,000 square feet of new pervious surface would need to be created. However, if only 500 square feet can be created within the same reach, the remaining 500 square feet created within a different reach would need to be double the required amount because of the 200 percent multiplier. In other words, another 1,000 square feet of pervious surface would need to be created at the location in the different reach, in addition to the 500 square feet created within the same reach.**

NOTE: Ordinance #537 Amending Chapter 1 of the Lincoln County Code – Flood Hazard Management. Proposed changes in language are shown in **boldface** for additions and *[bracketed and italicized]* for deletions.