



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/8/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 006-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, December 21, 2009

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

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

Cc: Debra Martzahn, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist

<paa> YA

2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Lincoln City Local file number: ZOA 2009-05
Date of Adoption: Nov. 9, 2009 Date Mailed: Nov. 30, 2009
Date original Notice of Proposed Amendment was mailed to DLCD: September 2, 2009

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Amendments to Title 15 (Buildings and Construction), Chapter 15.16 Flood Damage Prevention, of the Lincoln City Municipal Code. The purpose of the proposed amendments is to enable adoption of the 2009 Flood Insurance Rate Maps (FIRM), as well as reorganization and updates to the chapter according to FEMA recommendations. The proposed amendments are required by federal law and are not believed to be land use regulations, as they do not implement the City of Lincoln City Comprehensive Plan; however, notice and public hearing were provided in the event these amendments are determined to be land use regulations.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Fine-tuning and reformatting to follow guidelines of the model ordinance; no substantive amendments.

Plan Map Changed from: n/a to: _____

Zone Map Changed from: n/a to: _____

Location: city wide Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was and Exception Adopted? YES NO

DLCD File No.: 006-09 (17810) [15868]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Debra Martzahn Phone: (541)996-1228 Extension: _____

Address: PO Box 50 City: Lincoln City

Zip Code + 4: 97367- Email Address: dmartzahn@lincolncity.org

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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ORDINANCE NO. 2009-17

AN ORDINANCE OF THE CITY OF LINCOLN CITY REPEALING MUNICIPAL CODE CHAPTER 15.16 AND ADOPTING A REPLACEMENT CHAPTER 15.16, FLOOD DAMAGE PREVENTION

RECITALS

- A. The Federal Emergency Management Agency FEMA has revised the flood insurance rate maps (FIRMs) for Lincoln City, which are a part of the map set for Lincoln County, and for which, FEMA held a duly-noticed public hearing.
- B. To maintain its good standing in the National Flood Insurance Program, Lincoln City must amend Municipal Code Chapter 15.16, Flood Damage Prevention, to adopt the new FIRMs by December 18, 2009.
- C. To comply with requirements of FEMA and the Department of Land Conservation and Development, various sections of Chapter 15.16 must be amended.
- D. Chapter 15.16 can benefit from reorganization and improvement to facilitate its enforcement.
- E. On October 20, 2009, the Lincoln City Planning Commission held a public hearing to consider the proposed amendments to Chapter 15.16, as shown in "Exhibit A", and voted unanimously to recommend adoption of the amendments.

NOW, THEREFORE, THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Ordinance Adopted. Chapter 15.16 of the Municipal Code is hereby repealed and replaced with the text in Exhibit A, attached hereto and incorporated herein as if fully set forth.


Section 2. Findings Adopted. This ordinance is not a land use regulation under ORS 197.015(10) and does not change the zoning of any property pursuant to Title 17, Lincoln City Municipal Code. In an abundance of caution, the city nevertheless provided notice of amendment under ORS 227.186 and in addition, adopts the legislative findings in "Exhibit B", attached hereto and incorporated herein as if fully set forth, in support of the conclusion this ordinance also complies with the statewide planning goals, Lincoln City's Comprehensive Plan, and Lincoln City Municipal Code Title 17.

Section 3. Delegation of Authority to Correct Errors. The City Council delegates to the City Recorder the authority to make any required ordinance corrections due to scrivener's errors, including, but not limited to cross-references, and to make such changes prior to codifying this ordinance.

1 **Section 4. Severance.** If any portion of this ordinance is determined invalid by a court of
2 competent jurisdiction, with all appeal rights exhausted or the time for appeal having expired,
3 then the invalid portion shall be severed from this ordinance and the remainder shall continue
4 in full force and effect.

5
6 **Section 5. Effective date.** Ordinance No. 2009-17 shall take effect on December 9, 2009.
7

8
9 **PASSED AND ADOPTED** by the City Council of the City of Lincoln City on this 9th day of
10 November, 2009.

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15 LORI HOLLINGSWORTH, MAYOR
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19 ATTEST:

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22 CATHY STEERE, CITY RECORDER
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Ordinance 2009-17

Exhibit A

CHAPTER 15.16 FLOOD DAMAGE PREVENTION

15.16.100 Purpose, Applicability, Authority, Findings.

- 15.16.110 Purpose.
- 15.16.115 Applicability.
- 15.16.120 Statutory authorization.
- 15.16.125 Findings of fact.
- 15.16.130 Methods of reducing flood losses.

15.16.200 Definitions.

15.16.300 General Provisions.

- 15.16.310 Basis for establishing areas of special flood hazard and floodways.
- 15.16.315 Compliance with chapter required.
- 15.16.320 Abrogation and greater restrictions.
- 15.16.325 Interpretation.
- 15.16.330 Warning and disclaimer of liability.
- 15.16.335 Severability.

15.16.400 Administration

- 15.16.410 Establishment of development permit.
- 15.16.415 Designation of local floodplain administrator.
- 15.16.420 Local floodplain administrator – Duties generally.
- 15.16.425 Permit review.
- 15.16.430 Use of other base flood data.
- 15.16.435 Information to be obtained and maintained.
- 15.16.440 Alteration of watercourses.
- 15.16.445 Interpretation of FIRM boundaries.
- 15.16.450 Appeals and Variances.
- 15.16.455 Conditions for variances.

15.16.500 Provisions for Flood Hazard Reduction.

- 15.16.510 Generally.
- 15.16.515 Anchoring.
- 15.16.520 Construction materials and methods.
- 15.16.525 Utilities.
- 15.16.530 Subdivision proposals.
- 15.16.535 Review of building permits.
- 15.16.540 Specific standards.
- 15.16.545 Residential construction.
- 15.16.550 Nonresidential construction.

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- 1 15.16.555 Manufactured homes.
2 15.16.560 Recreational Vehicles.
3 15.16.565 Critical Facility.
4 15.16.570 Below-grade Crawl Spaces.
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6 15.16.600 Regulations by Location.
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8 15.16.610 Encroachments.
9 15.16.615 Floodways.
10 15.16.620 Standards for shallow flooding areas (AO zones).
11 15.16.625 Coastal high hazard areas.
12

13 **15.16.100 Purpose, Applicability, Authority, Findings.**

14 **15.16.110 Purpose.**

15 It is the purpose of this chapter to promote the public health, safety and
16 general welfare, and to minimize public and private losses due to flood
17 conditions in specific areas by provisions designed to:

- 18 A. Protect human life and health;
19 B. Minimize expenditure of public money and costly flood control projects;
20 C. Minimize the need for rescue and relief efforts associated with flooding
21 and generally undertaken at the expense of the general public;
22 D. Minimize prolonged business interruptions;
23 E. Minimize damage to public facilities and utilities, such as water and gas
24 mains; electric, telephone and sewer lines; and streets and bridges located
25 in areas of special flood hazard;
26 F. Help maintain a stable tax base by providing for the sound use and
27 development of areas of special flood hazard, so as to minimize future flood
28 blight areas;
29 G. Ensure that potential buyers are notified that property is in an area of
30 special flood hazard; and
31 H. Ensure that those who occupy the areas of special flood hazard
32 assume responsibility for their actions. (Ord. 87-5 § 1.1-3)

33 **15.16.115 Applicability.**

34 This chapter shall apply to all areas of special flood hazards and all areas
35 of shallow flooding within the jurisdiction of the city. (Ord. 87-5 § 3.1)

36 **15.16.120 Statutory authorization.**

37 The Legislature of the state has, in ORS 221.410, delegated the
38 responsibility to local governmental units to adopt regulations designed to
39 promote the public health, safety and general welfare of its citizenry. (Ord.
40 87-5 § 1.1-1)

41 **15.16.125 Findings of fact.**

1 A. The flood hazard areas of the city are subject to periodic inundation
2 which results in loss of life and property, health and safety hazards,
3 disruption of commerce and governmental services, extraordinary public
4 expenditures for flood protection and relief, and impairment of the tax base,
5 all of which adversely affect the public health, safety and general welfare.
6 B. These flood losses are caused by the cumulative effect of obstructions
7 in areas of special flood hazards, which increase flood heights and velocities
8 and, when inadequately anchored, damage uses in other areas. Uses that
9 are inadequately floodproofed, elevated or otherwise protected from flood
10 damage also contribute to the flood loss. (Ord. 87-5 § 1.1-2)

11 **15.16.130 Methods of reducing flood losses.**

12 In order to accomplish its purposes, this chapter includes methods and
13 provisions for:

- 14 A. Restricting or prohibiting uses that are dangerous to health, safety
15 and property due to water or erosion hazards, or that result in damaging
16 increases in erosion or flood heights or velocities;
17 B. Requiring that uses vulnerable to floods, including facilities which
18 serve such uses, be protected against flood damage at the time of initial
19 construction;
20 C. Controlling the alteration of natural floodplains, stream channels and
21 natural protective barriers that help accommodate or channel floodwaters;
22 D. Controlling filling, grading, dredging and other development that may
23 increase flood damage; and
24 E. Preventing or regulating the construction of flood barriers which will
25 unnaturally divert floodwaters or that may increase flood hazards in other
26 areas. (Ord. 87-5 § 1.1-4)

27 **15.16.200 Definitions.**

28 Unless specifically defined in this section, words or phrases used in this
29 chapter shall be interpreted so as to give them the meaning they have in
30 common usage and to give this chapter its most reasonable application.

31 "Appeal" means a request for a review of the planning and community
32 development director's or designee's interpretation of any provision of this
33 chapter, or a request for a variance.

34 "Area of shallow flooding" means a designated AO or AH zone on the
35 Flood Insurance Rate Map (FIRM). The base flood depths range from one to
36 three feet; a clearly defined channel does not exist; the path of flooding is
37 unpredictable and indeterminate; and velocity flow may be evident. AO is
38 characterized as sheet flow and AH indicates ponding.

39 "Area of special flood hazard" means the land in the floodplain within a
40 community subject to a one percent or greater chance of flooding in any
41 given year. Designation on maps always includes the letters A or V.

42 "Base flood" means the flood having a one percent chance of being
43 equaled or exceeded in any given year, also referred to as the "100-year
44 flood." Designation on maps always includes the letters A or V.

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

3 "Below-grade crawl space" means an enclosed area below the base flood
4 elevation in which the interior grade is not more than two feet below the
5 lowest adjacent exterior grade, and the height, measured from the interior
6 grade of the crawlspace to the top of the crawlspace foundation, does not
7 exceed four (4) feet at any point.

8 "Breakaway walls" means any type of walls, whether solid or lattice, and
9 whether constructed of concrete, masonry, wood, metal, plastic or any other
10 suitable building materials, which are not part of the structural support of the
11 building and which are so designed as to break away, under abnormally high
12 tides or wave action, without damage to the structural integrity of the building
13 on which they are used or any buildings to which they might be carried by
14 floodwaters.

15 "Coastal high hazard area" means the area subject to high-velocity waters,
16 including, but not limited to, storm surge or tsunamis. The area is designated
17 on a FIRM as V1-30, V, and VE.

18 "Development" means any manmade change to improved real estate,
19 including, but not limited to, buildings or other structures, mining, dredging,
20 filling, grading, paving, storage of equipment and materials, excavation or
21 drilling operations located within the area of special flood hazard.

22 "Flood" or "flooding" means a general and temporary condition of partial or
23 complete inundation of normally dry land areas from:
24 1. The overflow of inland or tidal waters; and/or
25 2. The unusual and rapid accumulation of runoff of surface waters
26 from any source.

27 "Flood Insurance Rate Map" ("FIRM") means the official map on which the
28 Federal Insurance Administration has delineated both the areas of special
29 flood hazards and the risk premium zones applicable to the community.

30 "Flood insurance study" means the official report provided by the Federal
31 Insurance Administration that includes flood profiles, the Flood Boundary
32 and Floodway Map, and the water surface elevation of the base flood.

33 "Floodway" means the channel of a river or other watercourse and the
34 adjacent land areas that must be reserved in order to discharge the base
35 flood without cumulatively increasing the water surface elevation more than
36 one foot.

37 "Lowest floor" means the lowest floor of the lowest enclosed area
38 (including basement). An unfinished or flood-resistant enclosure, usable
39 solely for parking of vehicles, building access or storage, in an area other
40 than a basement area, is not considered a building's lowest floor; provided,
41 that such enclosure is not built so as to render the structure in violation of
42 the applicable nonelevation design requirements of this chapter found at
43 LCMC 15.16. 550.

44 "Manufactured home" means a structure, transportable in one or more
45 sections, which is built on a permanent chassis and is designed for use with
46 or without a permanent foundation when connected to the required utilities.

1 For floodplain management purposes, the term "manufactured home" also
2 includes park trailers, travel trailers and other similar vehicles placed on a
3 site for greater than 180 consecutive days. For insurance purposes, the term
4 "manufactured home" does not include park trailers, travel trailers and other
5 similar vehicles.

6 "Manufactured home park or subdivision" means a parcel (or contiguous
7 parcels) of land divided into two or more manufactured home lots for rent or
8 sale.

9 "Existing" manufactured home park or subdivision, a manufactured
10 home park subdivision for which the construction of facilities for
11 servicing the lots on which the manufactured homes are to be affixed
12 (including, at a minimum, the installation of utilities, the construction of
13 streets, and either final site grading or the pouring of concrete pads) is
14 completed before the effective date of the adopted floodplain
15 management regulations, is distinguished from a "new" manufactured
16 home park or subdivision, for which the construction of such facilities
17 is completed on or after the effective date of adopted floodplain
18 management regulations.

19 "Expansion to an existing manufactured home park or subdivision"
20 means the construction of facilities for servicing additional lots on
21 which the manufactured homes are to be affixed (including the
22 installation of utilities, the construction of streets, and either final site
23 grading or the pouring of concrete pads).

24 "Mean sea level" means the average height of the sea for all stages of the
25 tide.

26 "New construction" means structures for which the start of construction
27 commenced on or after the effective date of the ordinance codified in this
28 chapter and includes any subsequent improvements to a structure that
29 already meets the definition of "new construction."

30 "Permanent foundation" refers to a natural or manufactured support
31 system to which a structure is anchored or attached. A permanent
32 foundation is capable of resisting flood forces and may include posts, piles,
33 poured concrete or reinforced block walls, properly compacted fill or other
34 systems of comparable flood resistivity and strength.

35 "Recreational vehicles" means a vehicle which is:

36 (a) Built on a single chassis;
37 (b) 400 square feet or less when measured at the largest horizontal
38 projection;
39 (c) Designed to be self-propelled or permanently able to be towed by a
40 light duty truck; and
41 (d) Designed primarily not for use as a permanent dwelling, but as
42 temporary living quarters for recreational, camping, travel, or seasonal use.

43 "Special flood hazard" – see "Area of special flood hazard"
44

45 "Start of construction" includes substantial improvement, and means the date
46 the building permit was issued, provided the actual start of construction, repair,

1 reconstruction, placement or other improvement was within 180 days of the
2 permit date. The "actual start" means either the first placement of permanent
3 construction of a structure on a site, such as the pouring of slab or footings, the
4 installation of piles, the construction of columns, or any work beyond the stage
5 of excavation; or the placement of a manufactured home on a foundation.
6 Permanent construction does not include land preparation, such as clearing,
7 grading and filling; nor does it include the installation of streets and/or
8 walkways; nor does it include excavation for a basement, footings, piers or
9 foundation or the erection of temporary forms; nor does it include the
10 installation on the property of accessory buildings, such as garages or sheds,
11 not occupied as dwelling units or not part of the main structure. For a
12 substantial improvement, the actual start of construction means the first
13 alteration of any wall, ceiling, floor, or other structural part of a building,
14 whether or not that alteration affects the external dimensions of the building.

15 "Structure" means a walled and roofed building, including a gas or liquid
16 storage tank, that is principally above ground.

17 "Substantial damage" pertains to flood-related damage where the cost of
18 restoring the structure would equal or exceed 50 percent of the market value
19 of the structure before the damage occurred.

20 "Substantial improvement" means any repair, reconstruction or
21 improvement of a structure, the cost of which equals or exceeds 50 percent
22 of the market value of the structure either (1) before the improvement or
23 repair is started, or (2) if the structure has been damaged and is being
24 restored, before the damage occurred. For the purpose of this definition,
25 "substantial improvement" is considered to occur when the first alteration of
26 any wall, ceiling, floor or other structural part of the building commences,
27 whether or not that alteration affects the external dimensions of the
28 structure. The term does not, however, include either (1) any project for
29 improvement of a structure to comply with existing state or local health,
30 sanitary or safety code specifications which are solely necessary to assure
31 safe living conditions, or (2) any alteration of a structure listed on the
32 National Register of Historic Places or a state inventory of historic places.

33 "Variance" means a grant of relief from the requirements of this chapter,
34 which permits construction in a manner that would otherwise be prohibited
35 by this chapter. (Ord. 98-9 §§ 1, 2; Ord. 91-6 §§ 1, 2; Ord. 87-5 § 2.0)

36 **15.16.300 General Provisions.**

37 **15.16.310 Basis for establishing areas of special flood hazard and**
38 **floodways.**

39 The areas of special flood hazard identified by the Federal Insurance
40 Administration in a scientific and engineering report entitled "The Flood
41 Insurance Study for Lincoln County, dated December 18, 2009, with
42 accompanying Flood Insurance Rate Maps, are adopted by reference and
43 declared to be a part of this ordinance. The Flood Insurance Study is on file
44 at the planning and community development department at city hall. The

1 best available information for flood hazard area identification, as outlined in
2 Section 15.16.430, shall be the basis for regulation until a new FIRM is
3 issued that incorporates the data utilized under section 15.16.430. (Ord. 98-
4 9 § 3; Ord. 94-21 § 1; Ord. 87-5 § 3.2)

5
6 **15.16.315 Compliance with chapter required.**

7 No structure or land shall hereafter be constructed, located, extended,
8 converted or altered without full compliance with the terms of this chapter
9 and other applicable regulations. (Ord. 87-5 § 3.3)

10 **15.16.320 Abrogation and greater restrictions.**

11 This chapter is not intended to repeal, abrogate or impair any existing
12 easements, covenants or deed restrictions. However, where this chapter and
13 another ordinance, easement, covenant or deed restriction conflict or
14 overlap, whichever imposes the more stringent restrictions shall prevail.
15 (Ord. 87-5 § 3.4)

16 **15.16.325 Interpretation.**

17 In the interpretation and application of this chapter, all provisions shall be:
18 A. Considered as minimum requirements;
19 B. Liberally construed in favor of the governing body; and
20 C. Deemed neither to limit nor repeal any other powers granted under
21 state statutes. (Ord. 87-5 § 3.5)

22 **15.16.330 Warning and disclaimer of liability.**

23 The degree of flood protection required by this chapter is considered
24 reasonable for regulatory purposes and is based on scientific and
25 engineering considerations. Larger floods can and will occur on rare
26 occasions. Flood heights may be increased by manmade or natural causes.
27 This chapter does not imply that land outside the areas of special flood
28 hazards or uses permitted within such areas will be free from flooding or
29 flood damages. This chapter shall not create liability on the part of the city,
30 any officer or employee thereof, or the Federal Insurance Administration, for
31 any flood damages that result from reliance on this chapter or any
32 administrative decision lawfully made thereunder. (Ord. 87-5 § 3.6)

33 **15.16.335 Severability.**

34 If any provision of this chapter is held to be invalid or unconstitutional by a
35 court of competent jurisdiction, the invalid provision shall be severed and the
36 remaining valid provisions shall continue in full force and effect.
37

38 **15.16.400 Administration.**

39 **15.16.410 Establishment of development permit for flood hazard zones.**

40 All construction or development within any area of special flood hazard
41 established in LCMC 15.16.310 requires a permit to be obtained in advance
42 of the project. The permit shall be for all structures, including mobile homes,

1 as defined in LCMC 15.16.200, and for all other development, including fill
2 and other activities, also as defined in LCMC 15.16.200. Application for a
3 development permit shall be made on forms furnished by the planning and
4 community development director or designee and may include, but not be
5 limited to: plans in duplicate drawn to scale showing the nature, location,
6 dimensions and elevations of the area in question; existing or proposed
7 structures, fill, storage of materials, and drainage facilities. Specifically, the
8 following information is required:

9 A. Elevation, in relation to mean sea level, of the lowest floor (including
10 basement) of all structures;

11 B. Elevation, in relation to mean sea level, to which any structure has
12 been floodproofed;

13 C. Certification by a registered professional engineer or architect that the
14 floodproofing methods for any nonresidential structure meet the
15 floodproofing criteria in LCMC 15.16. 550; and

16 D. Description of the extent to which any watercourse will be altered or
17 relocated as a result of proposed development. (Ord. 98-9 § 4; Ord. 87-5 §
18 4.1)

19 **15.16.415 Designation of local floodplain administrator.**

20 The planning and community development director is appointed to
21 administer and implement this chapter by granting or denying development
22 permit applications in accordance with its provisions. (Ord. 98-9 § 5; Ord. 87-
23 5 § 4.2)

24 **15.16.420 Local floodplain administrator – Duties generally.**

25 The duties of the local floodplain administrator shall include, but not be
26 limited to, those set forth in LCMC 15.16.425 through 15.16.445. (Ord. 98-9 §
27 6; Ord. 87-5 § 4.3)

28 **15.16.425 Permit review.**

29 The local floodplain administrator shall review all development permits to
30 determine:

31 A. that the permit requirements of this chapter have been satisfied;

32 B. that all necessary permits have been obtained from those federal, state
33 or local governmental agencies from which prior approval is required;

34 C. whether the proposed development is located in the floodway. If
35 located in the floodway, the local floodplain administrator shall ensure that
36 the encroachment provisions of LCMC 15.16.610, Floodways are met. (Ord.
37 98-9 § 7; Ord. 87-5 § 4.3-1)

38 **15.16.430 Use of other base flood data.**

39 When base flood elevation data has not been provided in accordance with
40 LCMC 15.16.310, the local floodplain administrator shall obtain, review and
41 reasonably utilize any base flood elevation and floodway data available from
42 a federal, state or other source in order to administer LCMC 15.16.500
43 through 15.16.625. (Ord. 98-9 § 8; Ord. 87-5 § 4.3-2)

1 **15.16.435 Information to be obtained and maintained.**

2 Where base flood elevation data is provided through the flood insurance
3 study, FIRM, or required as in LCMC 15.16.430, the local floodplain
4 administrator is responsible for obtaining and maintaining the following
5 information for public inspection:

- 6 A. the actual, as built elevation (in relation to mean sea level) of the
7 lowest floor, including basement and below-grade crawlspaces, of all
8 new or substantially improved structures;
- 9 B. whether the structure contains a basement;
- 10 C. the floodproofing certifications required in LCMC 15.16.410(C) and the
11 actual elevation in relation to mean sea level to which the structure
12 was floodproofed;
- 13 D. all other records pertaining to the provisions of this chapter. (Ord. 98-9
14 § 9; Ord. 87-5 § 4.3-3)

15 **15.16.440 Alteration of watercourses.**

16 The local floodplain administrator shall:

- 17 A. Notify adjacent communities and the Oregon Department of Land
18 Conservation and Development prior to any alteration or relocation of a
19 watercourse, and submit evidence of such notification to the Federal
20 Insurance Administration;
- 21 B. Require that maintenance be provided within the altered or relocated
22 portion of such watercourse so that the flood-carrying capacity is not
23 diminished. (Ord. 98-9 § 10; Ord. 87-5 § 4.3-4)

24 **15.16.445 Interpretation of FIRM boundaries.**

25 The local floodplain administrator shall make interpretations, where
26 needed, as to exact location of the boundaries of the areas of special flood
27 hazards (for example, where there appears to be a conflict between a
28 mapped boundary and actual field conditions). The person contesting the
29 location of the boundary shall have a reasonable opportunity to appeal the
30 interpretation, as provided in LCMC 15.16.450. (Ord. 98-9 § 11; Ord. 87-5 §
31 4.3-5)

32 **15.16.450 Appeal board.**

- 33 A. The city planning commission, as established by the city, shall hear and
34 decide appeals and requests for variances from the requirements of this
35 chapter.
- 36 B. The city planning commission shall hear and decide appeals when it is
37 alleged there is an error in any requirement, decision or determination made
38 by the local floodplain administrator in the enforcement or administration of
39 this chapter.
- 40 C. Those aggrieved by the decision of the city planning commission, or
41 any taxpayer, may appeal such decision as provided by law.

1 D. In passing upon such applications, the city planning commission shall
2 consider all technical evaluations, all relevant factors, standards specified in
3 other sections of this chapter, and:
4 1. The danger that materials may be swept onto other lands to the
5 injury of others;
6 2. The danger to life and property due to flooding or erosion damage;
7 3. The susceptibility of the proposed facility and its contents to flood
8 damage and the effect of such damage on the individual owner;
9 4. The importance of the services provided by the proposed facility to
10 the community;
11 5. The necessity to the facility of a waterfront location, where
12 applicable;
13 6. The availability of alternative locations for the proposed use which
14 are not subject to flooding or erosion damage;
15 7. The compatibility of the proposed use with existing and anticipated
16 development;
17 8. The relationship of the proposed use to the comprehensive plan
18 and floodplain management program for that area;
19 9. The safety of access to the property in times of flood for ordinary
20 and emergency vehicles;
21 10. The expected heights, velocity, duration, rate of rise and
22 sediment transport of the floodwaters and the effects of wave action, if
23 applicable, expected at the site; and
24 11. The costs of providing governmental services during and after
25 flood conditions, including maintenance and repair of public utilities and
26 facilities such as sewer, gas, electrical and water systems and streets and
27 bridges.
28 E. Upon consideration of the factors of subsection (D) of this section and
29 the purposes of this chapter, the city planning commission may deny or
30 approve applications for appeals or grant variances, attaching such
31 conditions to the granting of variances as it deems necessary to further the
32 purposes of this chapter. In addition to conditions attached to approval of a
33 specific application, conditions in LCMC 15.16.455 apply.
34 F. The local floodplain administrator shall maintain the records of all
35 appeal actions and report any variances to the Federal Insurance
36 Administration upon request. (Ord. 98-9 §§ 12, 13; Ord. 87-5 § 4.4-1)

37 **15.16.455 Conditions for variances.**

38 A. Generally, the only condition under which a variance from the elevation
39 standard may be issued is for new construction and substantial
40 improvements to be erected on a lot of one-half acre or less in size,
41 contiguous to and surrounded by lots with existing structures constructed
42 below the base flood level, providing the items set forth in LCMC
43 15.16.450(D) have been fully considered. As the lot size increases, the
44 technical justification required for issuing the variance increases.

1 B. Variances may be issued for the reconstruction, rehabilitation or
2 restoration of structures listed on the National Register of Historic Places or
3 the State Inventory of Historic Places, without regard to the procedures set
4 forth in this section.
5 C. Variances shall not be issued within a designated floodway if any
6 increase in flood levels during the base flood discharge would result.
7 D. Variances shall only be issued upon a determination that the variance
8 is the minimum necessary, considering the flood hazard, to afford relief.
9 E. Variances shall only be issued upon:
10 1. A showing of good and sufficient cause;
11 2. A determination that failure to grant the variance would result in
12 exceptional hardship to the applicant;
13 3. A determination that the granting of a variance will not result in
14 increased flood heights, additional threats to public safety, extraordinary
15 public expense, create nuisances, cause fraud on or victimization of the
16 public as identified in LCMC 15.16.450(D), or conflict with existing local laws
17 and ordinances.
18 F. Variances as interpreted in the National Flood Insurance Program are
19 based on the general zoning law principle that they pertain to a physical
20 piece of property; they are not personal in nature and do not pertain to the
21 structure, its inhabitants, economic or financial circumstances. They
22 primarily address small lots in densely populated residential neighborhoods.
23 As such, variances from the flood elevations should be quite rare.
24 G. Variances may be issued for nonresidential buildings in very limited
25 circumstances to allow a lesser degree of floodproofing than watertight or
26 dry floodproofing, where it can be determined that such action will have low
27 damage potential, complies with all other variance criteria except subsection
28 (A) of this section, and otherwise complies with the general standards set
29 forth in LCMC 15.16.515, Anchoring; 15.16.520, Construction Materials and
30 Methods, and 15.16.525, Utilities.
31 H. Any applicant to whom a variance is granted shall be given written
32 notice that the structure will be permitted to be built with a lowest floor
33 elevation below the base flood elevation and that the cost of flood insurance
34 will be commensurate with the increased risk resulting from the reduced
35 lowest floor elevation. (Ord. 87-5 § 4.4-2)

36 **15.16.500 Provisions for flood hazard reduction.**

37
38 **15.16.510 Generally.** In all areas of special flood hazards, the standards set
39 forth in this section are required. (Ord. 87-5 § 5.1)
40
41

- 1 **15.16.515 Anchoring.**
2 A. All new construction and substantial improvements shall be anchored to
3 prevent flotation, collapse or lateral movement of the structure.
4 B. All manufactured homes must likewise be anchored to prevent flotation,
5 collapse or lateral movement, and shall be installed using methods and
6 practices that minimize flood damage. Anchoring methods may include, but
7 are not limited to, use of over-the-top or frame ties to ground anchors
8 (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas"
9 guidebook for additional techniques), (Ord. 87-5 § 5.1-1)
- 10 **15.16.520 Construction materials and methods.**
11 A. All new construction and substantial improvements shall be constructed
12 with materials and utility equipment resistant to flood damage.
13 B. All new construction and substantial improvements shall be constructed
14 using methods and practices that minimize flood damage.
15 C. Electrical, heating, ventilation, plumbing and air conditioning equipment
16 and other service facilities shall be designed and/or otherwise elevated or
17 located so as to prevent water from entering or accumulating within the
18 components during conditions of flooding. (Ord. 87-5 § 5.1-2)
- 19 **15.16.525 Utilities.**
20 A. All new and replacement water supply systems shall be designed to
21 minimize or eliminate infiltration of floodwaters into the system.
22 B. New and replacement sanitary sewage systems shall be designed to
23 minimize or eliminate infiltration of floodwaters into the systems and
24 discharge from the systems into floodwaters.
25 C. On-site waste disposal systems shall be located to avoid impairment to
26 them or contamination from them during flooding. (Ord. 87-5 § 5.1-3)
- 27 **15.16.530 Subdivision proposals.**
28 A. All subdivision proposals shall be consistent with the need to minimize
29 flood damage.
30 B. All subdivision proposals shall have public utilities and facilities such as
31 sewer, gas, electrical and water systems located and so constructed as to
32 minimize flood damage.
33 C. All subdivision proposals shall have adequate drainage provided to
34 reduce exposure to flood damage.
35 D. For subdivision proposals and other proposed developments that
36 contain at least 50 lots or five acres, if base flood elevation data has not
37 been provided or is not available from another authoritative source, the
38 applicant shall be responsible for generating it. (Ord. 87-5 § 5.1-4)
- 39
40 **15.16.535 Review of building permits.**
41 Where elevation data is not available either through the flood insurance
42 study or from another authoritative source (LCMC 15.16.430), the city shall
43 review applications for building permits to ensure that proposed construction

1 will be reasonably safe from flooding. The test of reasonableness is a local
2 judgment and includes use of historical data, high water marks, photographs
3 of past flooding, etc., where available. Failure to elevate at least two feet
4 above grade in these zones may result in higher insurance rates. (Ord. 87-5
5 § 5.1-5)

6 **15.16.540 Specific standards.**

7 The provisions set forth in the following four sections (Residential
8 construction, Non-residential construction, Manufactured homes and
9 Recreational vehicles) are required in all areas of special flood hazards
10 where base flood elevation data has been provided as set forth in LCMC
11 15.16.310, Basis For Establishing The Areas of Special Flood Hazard
12 (Zones A1-30, AH, and AE), or 15.16.430, Use of other Flood Data (In A and
13 V Zones). (Ord. 87-5 § 5.2)

14 **15.16.545 Residential construction.**

15 A. New construction and substantial improvement of any residential
16 structure shall have the lowest floor, including basement, one foot or more
17 above base flood elevation.

18 B. Fully enclosed areas below the lowest floor that are subject to flooding
19 are prohibited, or shall be designed to automatically equalize hydrostatic
20 flood forces on exterior walls by allowing for the entry and exit of
21 floodwaters. Designs for meeting this requirement must either be certified by
22 a registered professional engineer or architect or must meet or exceed the
23 following minimum criteria:

24 1. A minimum of two openings having a total net area of not less than
25 one square inch for every square foot of enclosed area subject to flooding
26 shall be provided.

27 2. The bottom of all openings shall be no higher than one foot above
28 grade.

29 3. Openings may be equipped with screens, louvers or other
30 coverings or devices; provided, that they permit the automatic entry and exit
31 of floodwaters. (Ord. 98-9 § 14; Ord. 87-5 § 5.2-1)

32 **15.16.550 Nonresidential construction.**

33 New construction and substantial improvement of any commercial,
34 industrial or other nonresidential structure shall either have the lowest floor,
35 including basement, one foot or more above the base flood elevation; or,
36 together with attendant utility and sanitary facilities, shall:

37 A. Be floodproofed so that below the base flood level the structure is
38 watertight with walls substantially impermeable to the passage of water;

39 B. Have structural components capable of resisting hydrostatic and
40 hydrodynamic loads and effects of buoyancy;

41 C. Be certified by a registered professional engineer or architect that the
42 design and methods of construction are in accordance with accepted
43 standards of practice for meeting provisions of this section based on their
44 development and/or review of the structural design, specifications and plans.

1 Such certifications shall be provided to the official as set forth in LCMC
2 15.16.435(B);

3 D. Nonresidential structures that are elevated, not floodproofed, must
4 meet the same standards for space below the lowest floor as described in
5 LCMC 15.16.545(B), Residential Construction; and

6 E. Applicants floodproofing nonresidential buildings shall be notified that
7 flood insurance premiums will be based on rates that are one foot (1') below
8 the floodproofed level (e.g., a building constructed to the base flood level will
9 be rated as one foot (1') below that level). (Ord. 98-9 § 15; Ord. 87-5 § 5.2-2)

10 **15.16.555 Manufactured homes.**

11 A. All manufactured homes to be placed or substantially improved

12 (i) Outside of a manufactured home park or subdivision,

13 (ii) In a new manufactured home park or subdivision,

14 (iii) In an expansion to an existing manufactured home park or
15 subdivision, or

16 (iv) In an existing manufactured home park or subdivision on which
17 a manufactured home has incurred "substantial damage" as the
18 result of a flood;

19 shall be elevated on a permanent foundation such that the lowest floor
20 of the manufactured home is a minimum 18 inches (1 ½') above the
21 base flood elevation and securely anchored to an adequately
22 anchored system in accordance with the provisions of LCMC
23 15.16.515(B). (Ord. 98-9 § 16; Ord. 87-5 § 5.2-3)

24 B. Manufactured homes to be placed, or substantially improved, on sites in
25 an existing manufactured home park or subdivision within Zones A1-30, AH,
26 and AE on the community's FIRM that are not subject to the provisions in
27 paragraph A above, shall be elevated so that either:

28 1. The finished floor of the manufactured home is elevated to a minimum
29 of 18 inches (1 ½') above the base flood elevation; or

30 2. The manufactured home chassis is supported by reinforced piers,
31 or other foundation elements of at least equivalent strength, that are no
32 less than 36 inches (3') in height above grade and securely anchored to
33 an adequately designed foundation system to resist flotation, collapse,
34 and lateral movement.

35 3. Manufactured homes in floodways are regulated by Section
36 15.16.615

37 **15.16.560 Recreational Vehicles.**

38 Recreational vehicles placed on sites are required to either:

39 A. Be on the site for fewer than 180 consecutive days;

40 B. Be fully licensed and ready for highway use, on its wheels or jacking
41 system, attached to the site only by quick disconnect type utilities and
42 security devices, with no permanently attached additions; or

43 C. Meet the elevation, anchoring and other requirements for manufactured
44 homes in Section 15.16.555, Manufactured Homes.

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15.16.565 Critical Facilities.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (i.e., 100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA, if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet (3') above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility also should be protected to the height utilized above. Flood-proofing and sealing must ensure that toxic substances will not be displaced by or released into floodwaters. Access routes to all critical facilities shall be elevated to or above the level of the base flood elevation to the extent possible.

15.16.570 Below-grade crawl spaces.

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. Note: FEMA will add an additional charge to the basic flood insurance policy premium for below-grade crawlspace.

A. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy usually can be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

B. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

C. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

1 D. Any building utility systems within the crawlspace must be elevated
2 above BFE or designed so that floodwaters cannot enter or accumulate
3 within the system components during flood conditions. Ductwork, in
4 particular, must either be placed above the BFE or sealed from floodwaters.
5

6 E. The interior grade of a crawlspace below the BFE must not be more than
7 two (2) feet below the lowest adjacent exterior grade.
8

9 F. The height of the below-grade crawlspace, measured from the interior
10 grade of the crawlspace to the top of the crawlspace foundation wall must
11 not exceed four (4) feet at any point. The height limitation is the maximum
12 allowable unsupported wall height according to the engineering analyses
13 and building code requirements for flood hazard areas.
14

15 G. An adequate drainage system must be in place to remove floodwaters
16 from the interior area of the crawlspace within a reasonable time after a
17 flood event. The type of drainage system will vary because of the site
18 gradient and other drainage characteristics, such as soil types. Possible
19 options include natural drainage through porous, well-drained soils and
20 drainage systems such as perforated pipes, drainage tiles or gravel or
21 crushed stone drainage by gravity or mechanical means.
22

23 H. The velocity of floodwaters at the site should not exceed five (5) feet per
24 second for any crawlspace. For velocities in excess of five (5) feet per
25 second, other foundation types should be used.
26

27 **15.16.600 Regulations by Location.**
28

29 **15.16.610 Before the Regulatory Floodway.**

30 In areas where a regulatory floodway has not been designated, no new
31 construction, substantial improvements, or other development (including fill)
32 shall be permitted within Zones A1-30 and AE on the community's FIRM,
33 unless it is demonstrated that the cumulative effect of the proposed
34 development, when combined with all other existing and anticipated
35 development, will not increase the water surface elevation of the base flood
36 more than one foot (1') at any point within the community.

37 **15.16.615 Floodways.**

38 Floodways designated in Section 15.16.310 are located within areas of
39 special flood hazard. Since a floodway is an extremely hazardous area due
40 to the velocity of floodwaters which carry debris, potential projectiles, and
41 erosion potential, the following provisions apply to floodways:

- 1 A. Encroachments, including fill, new construction, substantial
2 improvements, and other development except as provided in paragraph (C),
3 are prohibited unless certification by a registered professional engineer or
4 architect is provided, demonstrating through hydrologic and hydraulic
5 analyses performed in accordance with standard engineering practice that
6 encroachments will not result in any increase in flood levels during the
7 occurrence of the base flood discharge.
- 8 B. If the certification required by subsection (A) of this section is provided,
9 then all new construction and substantial improvements shall comply with all
10 applicable flood hazard reduction provisions set out in the following sections:
11 LCMC 15.16.500, Provisions for flood hazard reductions, through 15.16.625,
12 Coastal high hazard areas (V zones) (Ord. 94-21 § 2)
- 13 C. Projects for stream habitat restoration may be permitted in the floodway,
14 provided:
15
- 16 (i) The project qualifies for a Department of the Army, Portland District
17 *Regional General Permit for Stream Habitat Restoration* (NWP-2007-
18 1023); and
 - 19 (ii) A qualified professional (a Registered Professional Engineer; or staff of
20 NRCS; the county; or fisheries, natural resources, or water resources
21 agencies) has provided a feasibility analysis and certification that the
22 project was designed to keep any rise in 100-year flood levels as close to
23 zero as practically possible given the goals of the project; and
 - 24 (iii) No structures would be impacted by a potential rise in flood elevation;
25 and
 - 26 (iv) An agreement to monitor the project, correct problems, and ensure
27 that flood carrying capacity remains unchanged is included as part of
28 the local approval.
- 29
- 30 D. New installation of manufactured dwellings in floodways is prohibited
31 (as in the 2002 Oregon Manufactured Dwelling and Park Specialty Code).
32 Manufactured dwellings may only be located in floodways according to one
33 of the following conditions:
34
- 35 1. If the manufactured dwelling already exists in the floodway, the
36 placement was permitted at the time of the original installation; and the
37 continued use is not a threat to life, health, property, or the general
38 welfare of the public; or
 - 39 2. A new manufactured dwelling is replacing an existing manufactured
40 dwelling whose original placement was permitted at the time of
41 installation, the replacement home will not be a threat to life, health,
42 property, or the general welfare of the public, and it meets the following
43 criteria:
44
- 45

- 1 (i) As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be
2 demonstrated through hydrologic and hydraulic analyses performed in
3 accordance with standard engineering practices that the manufactured
4 dwelling and any accessory buildings, accessory structures, or any
5 property improvements (encroachments) will not result in any increase in
6 flood levels during the occurrence of the base flood discharge;
7 (ii) The replacement manufactured dwelling and any accessory buildings
8 or accessory structures (encroachments) shall have the finished floor
9 elevated a minimum of 18 inches (1 ½') above the BFE as identified on
10 the Flood Insurance Rate Map;
11 (iii) The replacement manufactured dwelling is placed and secured to a
12 foundation support system designed by an Oregon professional engineer
13 or architect and approved by the authority having jurisdiction;
14 (iv) The replacement manufactured dwelling, its foundation supports,
15 and any accessory buildings, accessory structures, or property
16 improvements (encroachments) do not displace water to the degree that
17 it causes a rise in the water level or diverts water in a manner that
18 causes erosion or damage to other properties;
19 (v) The location of a replacement manufactured dwelling is allowed by
20 the local planning department's ordinances; and
21 (vi) Any other requirements deemed necessary by the authority having
22 jurisdiction.
23

24 **15.16. 620 Standards for shallow flooding areas (AO zones).**

25 Shallow flooding areas appear on FIRMs as AO zones with depth
26 designations. The base flood depths in these zones range from one to three
27 feet (1' to 3') where a clearly defined channel does not exist, or where the
28 path of flooding is unpredictable and where velocity flow may be evident.
29 Such flooding is usually characterized as sheet flow. In these areas, the
30 following provisions apply:

31 A. New construction and substantial improvements of residential
32 structures within AO zones shall have the lowest floor, including basement,
33 elevated one foot (1') or more above the depth number specified on the
34 FIRM (at least two feet (2'), if no depth number is specified), as measured
35 from the highest grade adjacent to the building site.

36 B. New construction and substantial improvements of nonresidential
37 structures within AO zones shall either:

38 1. Have the lowest floor, including basement, elevated one foot (1')
39 or more above the depth number specified on the FIRM (at least two
40 feet (2') if no depth number is specified), as measured from the highest
41 grade adjacent to the building site; or

42
43 2. Together with attendant utility and sanitary facilities, be completely
44 floodproofed to or above that level so that any space below that level is
45 watertight with walls substantially impermeable to the passage of water
46 and with structural components having the capability of resisting

1 hydrostatic and hydrodynamic loads and effects of buoyancy. If this
2 method is used, compliance shall be certified by a registered
3 professional engineer or architect as in LCMC 15.16.550.
4 C. Adequate drainage paths shall be required around structures on slopes
5 to guide floodwaters around and away from proposed structures. (Ord. 98-9
6 §§ 17, 18; Ord. 87-5 § 5.4)

7 **15.16.625 Coastal high hazard areas.**

8 Coastal high hazard areas designated as V1-30, VE and/or V, established
9 in LCMC 15.16.310, Basis, have special flood hazards associated with high-
10 velocity waters from tidal surges and, therefore, in addition to meeting all
11 provisions of this chapter, the following provisions shall also apply:

12 A. All new construction and substantial improvements in zones VE (V if
13 base flood elevation data is available) shall be elevated on pilings and
14 foundations so that:

- 15 1. The bottom of the lowest horizontal structure member of the
16 lowest floor, excluding the pilings or columns, is elevated one foot or
17 more above the base flood level; and
- 18
19 2. The pile or column foundation and structure attached thereto is
20 anchored to resist flotation, collapse and lateral movement due to the
21 effects of wind and water loads acting simultaneously on all building
22 components. Wind and water loading values shall each have a one
23 percent chance of being equaled or exceeded in any given year (100-
24 year mean recurrence interval).

25
26 B. A registered professional engineer or architect shall develop or review
27 the structural design, specifications and plans for the construction and shall
28 certify that the design and methods of construction to be used are in
29 accordance with accepted standards of practice for meeting the provisions of
30 this section.

31 C. The elevation, in relation to mean sea level, of the lowest floor,
32 excluding pilings and columns, of all new and substantially improved
33 structures in zones V and VE shall be obtained; and it shall be ascertained
34 whether or not such structures contain a basement. The planning and
35 community development director shall maintain a record of all such
36 information.

37 D. All new construction shall be located landward of the reach of mean
38 high tide.

39 E. All new construction and substantial improvements shall have the
40 space below the lowest floor either free of obstruction or constructed with
41 nonsupporting breakaway walls, open wood latticework, or insect screening
42 intended to collapse under wind and water loads without causing collapse,
43 displacement or other structural damage to the elevated portion of the
44 building or supporting foundation system. For the purpose of this section, a
45 breakaway wall shall have a design safe loading resistance of not less than

1 10 and no more than 20 pounds per square foot. Use of breakaway walls
2 which exceed a design safe loading resistance of 20 pounds per square foot,
3 either by design or when so required by local or state codes, may be
4 permitted only if a registered professional engineer or architect certifies that
5 the designs proposed meet the following conditions:
6 1. Breakaway wall collapse shall result from a water load less than that
7 which would occur during the base flood; and
8 2. The elevated portion of the building and supporting foundation
9 system shall not be subject to collapse, displacement or other structural
10 damage due to the effects of wind and water loads acting
11 simultaneously on all building components (structural and
12 nonstructural). Maximum wind and water loading values to be used in
13 this determination shall each have a one percent chance of being
14 equaled or exceeded in any given year (100-year mean recurrence
15 interval).
16 F. If breakaway walls are utilized, such enclosed space shall be usable
17 solely for parking of vehicles, building access or storage. Such space shall
18 not be used for human habitation.
19 G. The use of fill for structural support of buildings is prohibited.
20 H. Manmade alteration of sand dunes which would increase potential flood
21 damage is prohibited. (Ord. 98-9 §§ 19 – 21; Ord. 87-5 § 5.5)
22 I. For construction of new essential structures and new special occupancy
23 structures, refer to ORS 455.446 and 447, which state that they may not be
24 constructed in the Tsunami Inundation Zone, which includes V, A, and
25 potentially other flood zones. If an exception is granted, the Coastal High
26 Hazard Area construction standards in the model ordinance shall apply to the
27 building of these new structures in the Tsunami Inundation Zone.
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Exhibit B

Note: The City Council has determined the amendments to Chapter 15.16 are not land use regulations under ORS 197.015(10)(2009) but adopts these legislative findings in support of the amendments.

A. Statewide Planning Goals

Goal 1: "Citizen Involvement" All proposed documents were accessible for public review and purchase, and city staff was available to provide assistance to interpret and explain the technical information. Local newspapers published required hearing notices. The amendments, therefore, are consistent with Goal 1.

Goal 2: "Land Use Planning" This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The City Council of Lincoln City, after public hearings, adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, have reviewed them on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these proposed amendments, in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

Goal 3: "Agricultural Lands" The areas directly affected by the proposed amendments are located within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. Benefits of flood prevention, however, extend beyond the urban growth boundary, and may help to protect agricultural lands in the county. Therefore, the proposed amendments are consistent with Goal 3.

Goal 4: "Forest Lands" The areas affected by the proposed amendments are located within the City's urban growth boundary. The area is zoned for urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.

Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The areas affected by the proposed amendments are located within the city's urban growth boundary. Of the 14 areas of Lincoln City zoned open space, eight intersect designated floodplains. Many of the areas designated as significant aesthetic resources are flood-prone. The ordinance and its amendments will help to protect these special areas; therefore, the proposed amendments are consistent with Goal 5.

Goal 6: "Air, Water and Land Resources Quality" The proposed amendments to the flood prevention ordinance will serve to minimize destruction and water pollution associated with flooding. Therefore, the proposed amendments are consistent with Goal 6.

Goal 7: "Areas Subject to Natural Disasters and Hazards" Chapter 15.16 provides regulations to prevent loss from floods. The proposed amendments to the chapter refine the standards and the areas to which they apply. Therefore the proposed amendments are consistent with Goal 7.

Goal 8: "Recreational Needs" The proposed amendments may impact new development in recreational areas by requiring permits, special construction techniques or even geo-technical analysis. The flood prevention ordinance and amendments are important for ensuring sustainable developments within the recreational areas and also for avoiding negative consequences from developments on recreation lands and in adjoining flood areas. Therefore, the proposed amendments are consistent with Goal 8.

Goal 9: "Economic Development" By limiting the activities in flood-prone areas, proposed amendments may affect the availability of land for industrial and commercial development; however, the regulations allow for development of suitable land with appropriate mitigation measures. The regulations are aimed at preventing floods, and thus avoiding disruption of commerce. Therefore, the proposed amendments are consistent with Goal 9.

Goal 10: "Housing" The ordinance may add costs to developments within flood-prone areas. By requiring geo-technical analysis and/or specific construction techniques to minimize property loss from flooding, the ordinance safeguards existing housing and ensures that new housing will be safe and sound. The ordinance is a requirement of the National Flood Insurance Program, which provides flood insurance that might not be available or affordable to homeowners otherwise. Therefore, the proposed amendments are consistent with Goal 10.

Goal 11: "Public Facilities and Services" The flood prevention ordinance protects the city's investment in public infrastructure as well as private investment by minimizing flood potential. In case of flood, participation in the flood insurance program will allow FEMA to provide financial assistance to the community to protect and/or restore public infrastructure. Therefore, the proposed amendments are consistent with Goal 11.

Goal 12: "Transportation" The proposed amendments are consistent with the City's *Comprehensive Plan* and *Transportation Master Plan* because they will help protect the city's transportation infrastructure by reducing flooding. Therefore, the proposed amendments are consistent with Goal 12.

Goal 13: "Energy Conservation" Through responsible regulation of development, the flood prevention ordinance enhances energy conservation by reducing the need for costly flood-fighting efforts and repair/replacement of property that is lost to flooding. Therefore, the proposed amendments are consistent with Goal 13.

Goal 14: "Urbanization" The flood prevention ordinance may preclude development in some flood-prone areas within the urban growth boundary. In most cases, it offers options for alternative types of construction that are safe and responsible. The proposed amendments will not affect the transition of land uses from rural to urban any more than the existing ordinance. Therefore, the amendments are consistent with Goal 14.

Goal 15: "Willamette River Greenway" The affected areas are not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

Goal 16: "Estuarine Resources" The Siletz Bay Estuary is located primarily in Lincoln County south of the city's border. It is in a continuous AE (floodplain) zone (on the FIRMs) that also includes the portions of Siletz Bay and Schooner Creek within the city limits. By controlling development of flood-prone areas within the city, the flood prevention ordinance serves to protect the estuary. Therefore, the amendments are consistent with Goal 16.

Goal 17: "Coastal Shorelands" The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. Flood insurance rate maps (FIRMs) include "V" and "VE" coastal zones and the ordinance contains specific regulations for them. Therefore the proposed amendments are consistent with Goal 17.

Goal 18: "Beaches & Dunes" The ordinance and the proposed amendments are intended to prevent flooding that would have negative impact on beaches and dunes; therefore, they are consistent with Goal 18.

Goal 19: "Ocean Resources" The ordinance and the proposed amendments are intended to prevent flooding that would have negative impact on ocean resources; therefore, the proposed amendments are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, were adopted by the City Council of Lincoln City after public hearing and have been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal. FEMA provided opportunity for review of preliminary copies of the flood insurance rate maps (released in the spring), and addressed comments in preparation of the final maps.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with public notice and review of the proposed amendments by the Planning Commission (a citizen board), and the City Council (a citizen board) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facilities and services which compliment the area and serve as a framework for urban and rural development."

The flood prevention ordinance protects the city's investment in public infrastructure as well as private investment by minimizing flood potential. In case of flood, participation in the flood insurance program will allow FEMA to provide financial assistance to the community to protect and/or restore public infrastructure. The goal is satisfied.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The flood prevention ordinance may preclude development in some flood-prone areas. In most cases, however, it offers options for alternative types of construction that are safe and responsible. The proposed amendments will not affect the transition of land uses from rural to urban any more than the existing ordinance. This goal is satisfied.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The flood prevention ordinance was developed for this exact purpose. The amendment updates and improves the regulations, as prescribed by the Federal Emergency Management Administration (FEMA) and the Department of Land Conservation and Development. This goal is satisfied.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The ordinance may add costs to developments within flood-prone areas. By requiring geo-technical analysis and/or specific construction techniques to minimize property loss from flooding, however, the ordinance safeguards existing housing and ensures that new housing will be safe, sound and sustainable. The ordinance is a requirement of the National Flood Insurance Program, which provides flood insurance to homeowners that might not be available or affordable otherwise. Therefore, it is consistent with the housing goal.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The flood prevention ordinance enables owners of property in the floodplain to obtain flood insurance. The ordinance also ensures that new development will be sustainable and will not affect the value of other properties negatively. The proposed amendments, therefore, meet the goal.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The proposed amendments do not change any land uses already allowed or prohibited. The flood prevention ordinance is intended to ensure that new development is safe from flooding and does not create flooding issues for other properties, thus preserving value and aesthetic quality. This goal is satisfied.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The proposed amendments do not create any transportation impacts; therefore, this goal is satisfied.

(10) Energy Goal

"To conserve energy."

Through responsible regulation of development, the flood prevention ordinance enhances energy conservation by reducing flood-fighting efforts and the need to reconstruct/replace property that is lost to flooding. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The proposed amendments support responsible development that respects the environment, minimizes risk to persons and property loss due to flooding. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. Chapter 15.16 and the proposed amendments regulate development in the coastal shorelands area in support of this goal.

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