NOTICE OF ADOPTED AMENDMENT

12/14/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Lincoln County Plan Amendment
DLCD File Number 003-09

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 28, 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: Jessica Bondy, Lincoln County
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist

<paa> YA
Jurisdiction: Lincoln County  
Date of Adoption: 12-2-09  
Date Mailed: 12-4-09  

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes  
Date: August 2009  

- Comprehensive Plan Text Amendment  
- Land Use Regulation Amendment  
- New Land Use Regulation  
- Other:  

Summarize the adopted amendment. Do not use technical terms. Do not write “See Attached”.
Amendment to Lincoln County Code Section 1.1395, Flood Hazard Overlay Zone. The purpose of these amendments is to incorporate the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) as set forth in the final flood hazard determination issued by FEMA on December 18, 2009, and make related changes to flood hazard area development standards.

Does the Adoption differ from proposal? No

Plan Map Changed from:  
Zone Map Changed from:  
Location:  
Acres Involved:

Specify Density: Previous:  
New:  

Applicable statewide planning goals:

Was an Exception Adopted? Yes  

If DLCD received a Notice of Proposed Amendment...  
45-days prior to first evidentiary hearing? Yes  
If no, do the statewide planning goals apply? Yes  
If no, did Emergency Circumstances require immediate adoption? Yes

DLCD File No. 003-09 (17760)
ADOPITION 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 Complete Copies (documents and maps) 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. Electronic Submittals: At least one hard copy must be sent by mail or in person, or by emailing larry.french@state.or.us.

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 now access these forms online at http://www.lcd.state.or.us/. Please print on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to larry.french@state.or.us - Attention: Plan Amendment Specialist.
BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

ORDINANCE #461

Relating to land use planning; amending LCC 1.1115 and 1.1395; and declaring an emergency.

WHEREAS the Federal Emergency Management Agency (FEMA) has made adjustments to the flood hazard studies (the Flood Insurance Study or FIS) and maps (the Flood Insurance Rate Map or FIRM) for Lincoln County and issued final determinations related to those studies and maps. The new FIS and FIRM replace the currently effective study and maps issued in 1980. The primary purpose of the updates is to put maps in a digitized form. No new flood studies were conducted and no flood hazard boundaries were changed. Adoption of the new FIS and FIRM is required to maintain the County’s participation in the National Flood Insurance Program; and

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

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

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

The Lincoln County Board of Commissioners ordains as follows:

Page 1 -- ORDINANCE #461

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.
SECTION 1. LCC 1.1115 is amended to read:

1.1115 Definitions

As used in this Chapter:

* * *

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

* * *

(55) “Manufactured dwelling” has the meaning given that term in ORS 446.003.

* * *

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

* * *

SECTION 2. LCC 1.1395 is amended to read:

1.1395 Flood Hazard Overlay Zone

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

(a) Protect human life and health;
(b) Protect property and structures;
(c) Minimize public costs for flood control projects;
(d) Minimize public costs of rescue and relief efforts associated with flooding;
(e) Minimize business interruptions due to flooding;
(f) Minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;
(g) Maintain a stable tax base by providing for appropriate use and development of areas of flood hazard;
(h) Make the designation of property subject to flood hazards a matter of public record;

and

(i) Qualify Lincoln County for participation in the National Flood Insurance Program.

(2) Area Affected:
The provisions of this section shall apply to all areas [within the 100-year flood boundary] of special flood hazard [as] identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Lincoln County and Incorporated Areas” dated December 18, 2009, with accompanying [on the Flood Boundary and Floodway Maps and the] Flood Insurance Rate Maps (FIRM). [as
published by the Federal Emergency Management Agency (FEMA).] “The Flood Insurance
Study for Lincoln County and Incorporated Areas” and the accompanying FIRM dated
December 18, 2009 are hereby adopted by reference and made a part of this section.

[These maps may be periodically revised or modified by FEMA in accordance with prescribed
procedures pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (PL 92-234).
These changes are technical in nature and are made in order to reflect new or revised data on
base flood elevations, ground elevations, flood control structures or other factors. In order to
employ the best available information and maintain compliance with Federal Flood Insurance
Program regulations, Lincoln County shall utilize any such revisions or modifications upon
their effective date.]

(3) Uses:
In areas subject to the provisions of this section, all uses permitted under the provisions
of the underlying zone may be permitted, subject to the additional requirements and limitations
of this section. 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 subsection (13) of this section, shall be permitted as an outright
use in areas subject to the provisions of this section.

(4) Permits:
(a) No structure or manufactured dwelling shall he erected, located, altered, improved or enlarged, and no other new development, including but not limited to grading, mining, excavation and filling, shall occur on lands within any area of special flood hazard unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Lincoln County.

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

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

(b) For all new or substantially improved floodproofed structures in areas subject to the
provisions of this section, the Director shall obtain and maintain on file the actual elevation of
flood proofing, and shall also maintain the flood proofing certifications required pursuant to subparagraph (C) of paragraph (c) of subsection (6) of this section.

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

Page 3 -- ORDINANCE #461

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Office of Lincoln County Legal Counsel
225 West Olive Street, Room 110
Newport, Oregon 97365
(541) 265-4108
proofing measures, for new or substantially improved structures in areas where specific base flood elevations are not known.

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

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

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

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

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

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

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

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

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

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

(B) The contents and interior finish materials of the structure shall be of types which are neither hazardous nor vulnerable to loss under conditions of flooding;
(C) The structure shall have structural components capable of withstanding hydrostatic
and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other
factors associated with the base flood;

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

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

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

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

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

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

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

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

(7) Development Standards for FIRM Zones V and [V1-30] VE:
The following standards shall apply to all new construction, substantial improvement,
and other development in areas within FIRM zones V and [V1-30] VE:

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

Page 5 -- ORDINANCE #461

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omitted. New sections are in boldfaced type.
(b) All new or substantially improved structures shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings or columns, is elevated to [or] at least one foot above the base flood level. Elevation of the lowest horizontal member shall be certified by a registered professional engineer or professional land surveyor.

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

(d) 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 paragraphs (b) and (c) of this subsection.

(e) All space below the lowest floor shall be either free of obstruction to the free flow of water or constructed with nonsupporting 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 purposes of this section, breakaway walls 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 may be permitted only if a registered engineer or architect certifies that the designs proposed meet the following conditions:

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

(B) 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, both structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval).

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

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

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

(8) Floodway Requirements:

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

(a) No development shall be permitted that would result in any increase in base flood levels. Encroachment is prohibited, including fill, new construction, substantial improvement
and other development, unless [a detailed step backwater analysis, certified] certification by a
Registered Professional Engineer [,] is provided which demonstrates through hydrologic and
hydraulic analyses performed in accordance with standard engineering practice that the
proposed encroachment will cause no measurable increase in flood levels (water surface
elevations) during a base flood discharge.

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

(9) Procedure When Base Flood Elevation Data is Not Available:
(a) For the purposes of administering the provisions of this section in areas where
detailed base flood elevation data has not been provided by FEMA, the Director shall obtain,
review and utilize any base flood elevation and floodway data available from federal, state and
local sources, and may exercise local judgment based on historical data.
(b) In areas where detailed base flood elevation data has not been provided by FEMA,
all proposals for subdivisions or other new developments greater than 50 lots or five acres,
whichever is less, shall provide detailed base flood elevation data and floodway data.

(10) Watercourse Relocation:
(a) Prior to approving any relocation or substantial alteration of a watercourse, the
Director shall provide mailed notice of the proposal to adjoining communities and to the
Department of Land Conservation and Development Floodplain Coordinator. Copies of such
notice shall also be provided to the Federal Insurance Administration.
(b) No relocation or substantial alteration of a watercourse shall be permitted unless a
detailed hydraulic analysis, certified by a Registered Professional Engineer, is provided which
demonstrates that:
(A) The flood carrying capacity for the altered or relocated portion of the watercourse
will be maintained;
(B) The area subject to inundation by the base flood discharge will not be increased; and
(C) The alteration or relocation will cause no measurable increase in base flood levels.

(11) Utilities:
(a) All new and replacement water supply systems shall be designed to minimize or
eliminate infiltration of flood waters into the systems;
(b) 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; and
(c) On-site waste disposal systems shall be located to avoid impairment of the systems,
or contamination from the systems, during flooding.

(12) Review of Building Permits:
Where elevation data is not available, applications for building permits shall be
reviewed to ensure that proposed construction will be reasonably safe from flooding. The

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

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

SECTION 3.

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

DATED this 2nd day of December, 2009.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Don Lindley, Chair
Bill Hall, Commissioner
Terry N. Thompson, Commissioner

ATTESTED TO:

Judy Barnes, Recorder

APPROVED AS TO FORM:

Wayne Belmont, County Counsel