



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## 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

# 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: **Lincoln County**

Local file number: **1-TA-09**

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

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map 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:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

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

---

DLCD file No. \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts: Federal

Emergency Management Agency (FEMA); Oregon Emergency Management (OEM)

---

Local Contact: **Jessica Bondy**

Phone: (541) 265-4192 Extension:

Address: **210 SW 2<sup>nd</sup> Street**

Fax Number: **541-265-6945**

City: **Newport**

Zip: **97365**

E-mail Address: **jbondy@co.lincoln.or.us**

---

## **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 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](mailto: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](mailto:larry.french@state.or.us)** - **Attention: Plan Amendment Specialist**.



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

2           1.1115 Definitions

3           As used in this Chapter:

4

5

\* \* \*

6

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

7

\* \* \*

8

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

10

11

\* \* \*

12

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

13

\* \* \*

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

15           1.1395 Flood Hazard Overlay Zone

16           (1) Purposes:

17

The purposes of the Flood Hazard Zone are to promote the public health, safety and 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:

22

(a) Protect human life and health;

23

(b) Protect property and structures;

24

(c) Minimize public costs for flood control projects;

25

(d) Minimize public costs of rescue and relief efforts associated with flooding;

26

(e) Minimize business interruptions due to flooding;

27

(f) Minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;

29

(g) Maintain a stable tax base by providing for appropriate use and development of areas of flood hazard;

31

(h) Make the designation of property subject to flood hazards a matter of public record;

32

and

33

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

34

(2) Area Affected:

35

The provisions of this section shall apply to all areas [*within the 100-year flood 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*

Page 2 -- 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.

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

11 (3) Uses:

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

18 (4) Permits:

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

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

28 (5) County Records:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

36 (8) Floodway Requirements:

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

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

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

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

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

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

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

19 (10) Watercourse Relocation:

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

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

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

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

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

31 (11) Utilities:

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

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

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

39 (12) Review of Building Permits:

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

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

4 **(13) Recreational Vehicles:**

5 A recreational vehicle placed in accordance with subsection (3) of this section shall:

6 **(a) Be located on site fewer than 180 consecutive days;**

7 **(b) Be fully licensed for highway use;**

8 **(c) Be on its wheels or jacking system;**

9 **(d) Be attached to the site only by quick disconnect type utilities and security**  
10 **devices; and**

11 **(e) Have no permanently attached additions.**  
12  
13

14 **SECTION 3.**

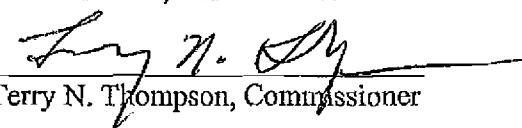
15 This Ordinance being necessary for the immediate preservation of the public peace,  
16 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its  
17 passage.

DATED this 2nd day of December, 2009.

LINCOLN COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Don Lindly, Chair

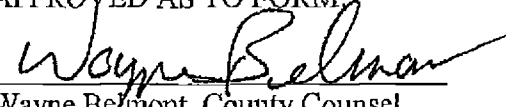
  
\_\_\_\_\_  
Bill Hall, Commissioner

  
\_\_\_\_\_  
Terry N. Thompson, Commissioner

ATTESTED TO:

  
\_\_\_\_\_  
Judy James, Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wayne Belmont, County Counsel

Page 8 -- 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.



UNITED STATES POSTAGE  
FIRST CLASS  
\$ 01.39  
02 1A  
000 461 5275  
DEC 04 2009  
MAILED FROM ZIP CODE 97365

Lincoln County Planning Department  
210 SW 2nd Street  
Newport, Or. 97365

Plan Amendment Specialist  
DLCD  
635 Capitol Street NE, Suite 150  
Salem, Or. 97301-2540