The Office of
CITY ADMINISTRATION

CITY OF LINCOLN CITY
CITY COUNCIL SPECIAL MEETING AGENDA

Monday, November 18, 2024, 6:00 p.m.
City Hall - Council Chambers
801 SW Highway 101- 3rd Floor
Lincoln City, OR 97367

Public comments can be submitted to publiccomment@lincolncity.org, by attending the City Council meeting, or by telephone. Public comments submitted by email will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online agenda packet. PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL.

Citizens requesting to give public comment via telephone must email publiccomment@lincolncity.org no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address, and the phone number the person intends to use for the meeting. Instructions will be sent to the person requesting prior to the meeting. Persons giving public comment via telephone will need to leave the microphone muted until the public comment portion of the meeting.

Public Comments for the City Council Meeting may be provided through the published notice located at: https://www.lincolncity.org/publicmeetings. Comments will be accepted until six hours before the start of the meeting and will require email verification.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting. To request information in an alternate format or other assistance, please contact the City's ADA Coordinator, Kevin Mattias, at 541-996-2121 or kmattias@lincolncity.org. Visit https://www.lincolncity.org/residents/ada-accessibility webpage to view how the City continues to remain in compliance with Title II of the Americans with Disabilities Act regarding City programs, services, processes, and facilities.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

Agenda materials for this meeting are available at www.lincolncity.org/publicmeetings. This meeting will be televised live on Channel 4, and rebroadcast on Channel 4 multiple times a day.

A. CALL TO ORDER
B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

D.1 Rusty Truck Change of Ownership- OLCC

D.2 October 28, 2024, City Council Meeting Minutes for Approval

D.3 Minutes of the 11/04/24 Joint City Council/CTSI Meeting

E. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

F. PRESENTATIONS

F.1 Lincoln County Transit Presentation
Tim Johnson, Lincoln County Administrator and Kenneth Lipp, Lincoln County Public Information Officer will be attending via zoom to provide an update regarding Lincoln County Transit System.

F.2 External Generators
Richard Townsend, Planning and Community Development Director, will be reporting back to Council regarding external generators for Mobile Food Units.

G. PUBLIC HEARING/ORDINANCES

G.1 Public Hearing - Ord. 2024-18 FEMA PICM

H. PUBLIC HEARING/PUBLIC COMMENTS

I. ORDINANCES

I.1 Ord. 2024-18 FEMA PICM
The rollout from FEMA is on an abbreviated timeline. Originally the message was that cities needed to select one of three options by December 1, 2024: (1) Adopt a model ordinance, (2) prohibit all development in the wetland, or (3) adopt a policy that implements the new regulations and apply it on a permit by permit basis. Since that time, FEMA has walked back the enforcement timeline. They will accept notice of the city's intent to select one of the options. In addition, FEMA has stated that it intends to change its model ordinance so much of the urgency in getting an ordinance adopted has lessened. At this time notice to DLCD is all that is required. Because this ordinance effect land use, the council will hold a legislative amendment hearing. The procedural posture will be to open the hearing, receive staff report and any public comment, and then leave open the hearing and continue to a later date to when FEMA provides the city with its model ordinance amendments.

J. RESOLUTIONS

J.1 LCWSA Resolution
The Lincoln County Water Systems Alliance (LCWSA or Alliance) is being created in order to establish a 50-year county-wide water supply and distribution system plan that incorporates local and regional integrated plans to provide long-term water security for the entire county and significant protections for the environment. Its success will require the participation of Lincoln County cities, water districts, the Confederated Tribes of the Siletz, the County of Lincoln County, and the support and involvement of conservation and water organizations. By signing this resolution, Lincoln City is committing to the goals of the alliance and committing some as yet undefined amount of staff time to the LCWSA.

K. SPECIAL ORDER OF BUSINESS

K.1 Reappointment to the Parks and Recreation Board-Vincent

K.2 NLF dispatch service contract

There have been ongoing communications between the fire district and the city regarding the costs associated with fire district operations and the effect of stagnant tax revenue that the URA has or will have in the future on fire district funding. At present, the city charges the district $30,417 payable in two annual installments to provide 911 dispatch services for the district. City staff think that the payments can be assumed in the city budget and that it is reasonable to provide dispatch services to the district free of charge. The city and the district may revisit this agreement in the future. If council agrees to discontinue charging the district for dispatch services, then the reason for the IGA no longer exist. Therefore, the IGA should be terminated.

K.3 Increase Meter Installation Contract Amount

This item is regarding an increase in labor and equipment costs for Phase 2B of the Advance Metering Infrastructure (AMI) System, which provides real time information about individual water usage and eliminates the need for a water meter reader to visit each meter on site.

K.4 2024-2025 Outside Agency Grant Recipient and Award Recommendations

The City Council Subcommittee requests their Nonprofit grant award recommendations be approved.

L. CITY MANAGER/CITY ATTORNEY REPORTS

M. ACTIONS, IF ANY, BASED ON WORK SESSION, EXECUTIVE SESSION, OR PUBLIC COMMENT

N. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

O. ADJOURNMENT

The Office of
CITY ADMINISTRATION

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF THE MEETING

October 28, 2024, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets, and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. *(See Channel 4 guide on the hour at http://www2.lincolncity.org/program-guide/.*

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 6:02 PM.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Marci Baker	City Councilor	Present	
Todd Barker	City Councilor	Present	
Judy Casper	Councilor Ward 3	Present	
Riley Hoagland	Councilor Ward 2	Present	
Rick Mark	Councilor Ward 3	Present	
Mitch Parsons	Councilor Ward 1	Excused	
Susan Wahlke	Mayor	Present	

Staff Present: Daphnee Legarza, City Manager; David James Robinson, City Attorney; Chief Broderick, Lincoln City Police Department; Kim Cooper Findling, Explore Lincoln City Director; Stephanie Reid, Public Works Director; Richard Townsend, Planning and Community Development Director; Kirsten Brodbeck-Kenney, Library Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Mayor Wahlke led The Pledge of Allegiance.

D. CONSENT AGENDA

MOTION:	**Consent Agenda**
MOVER:	**Judy Casper, Councilor Ward 3**
SECONDER:	**Todd Barker, Councilor Ward 1**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed**

1. Regular Meeting – Minutes of Regular Meeting – October 14, 2024, 5:00 PM

2. Regular Meeting – Minutes of Regular Meeting – October 14, 2024, 6:00 PM

3. Regular Meeting – Minutes of Work Session – October 21, 2024, 5:00 PM

E. COUNCIL DELIBERATIONS

None

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Kerri Biddle spoke regarding issues that she is having with the City.

Mayor Wahlke added an item as L.8 for the abbreviated appointment process to reappoint two members for the Sustainability Committee.

G. PRESENTATIONS

4. Seven Capes Bird Alliance Presentation

Dawn Villaescusa, President of the Seven Capes Bird Alliance, presented an overall recap of activities over the past twelve months. Ms. Villaescusa shared a presentation with the Council.

5. Cascade Head Biosphere Collaborative Presentation

Duncan Berry and Dan Twitchell, Co-Directors for the Cascade Head Biosphere Collaborative presented an overall recap of activities over the past twelve months with a slide show presentation.

6. Lincoln City Housing Production Roadmap

Rachel Cotton, Senior Associate, with Cascadia Partners shared a presentation with information regarding the Lincoln City Housing Production Roadmap. The Council and Ms. Cotton had a discussion regarding the information provided.

H. PUBLIC HEARING / ORDINANCE

None

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing for ZOA 2024-06 (Mass Timber)

Mayor Wahlke opened the public hearing at 7:11 PM. The Council had no potential conflicts. Richard Townsend, Planning and Community Development Director reviewed the staff report and showed a

presentation. The Council and Staff had a discussion on the information provided. No Citizens were present for public comment. Mayor Wahlke closed the public hearing at 7:30 PM.

J. ORDINANCES

2. Ordinance 2024-06 for ZOA 2024-06 (Mass Timber)

Correction: Page 136, line 20, strike "to 900"

MOTION:	**Motion to Approve First Reading of Ordinance 2024-06 ZOA 2024-06 Mass Timber**
MOVER:	**Marci Baker, Councilor Ward 2**
SECONDER:	**Todd Barker, Councilor Ward 1**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Roll Call Vote**

3.

MOTION:	**Motion to Approve Second Reading and Adoption of Ordinance 2024-06 ZOA 2024-06 Mass Timber**
MOVER:	**Marci Baker, Councilor Ward 2**
SECONDER:	**Todd Barker, Councilor Ward 1**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Roll Call Vote**

4. Ordinance No. 2024-17 An Ordinance Amending Ord. 2017-20 Exhibit A, the City of Lincoln City Municipal Code, 2.04.180 Section 4.4

MOTION:	**Motion to Approve First Reading of Ordinance 2024-17 Excluding Remote Attendance at Executive Sessions**
MOVER:	**Rick Mark, Councilor Ward 3**
SECONDER:	**Judy Casper, Councilor Ward 3**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Roll Call Vote**

5.

MOTION:	**Motion to Approve Second Reading and Adoption of Ordinance 2024-17 Excluding Remote Attendance at Executive Sessions**
MOVER:	**Rick Mark, Councilor Ward 3**
SECONDER:	**Judy Casper, Councilor Ward 3**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Roll Call Vote**

K. RESOLUTIONS

None

L. SPECIAL ORDER OF BUSINESS

6. Fourth of July Drone Display Contract (Revised)

Kim Cooper Findling gave a presentation regarding a drone display for the 4th of July.

MOTION:	**Motion to Approve the One-Year Contract with Sky Elements for a 4th of July Drone Display Vendor Contract**
MOVER:	**Judy Casper, Councilor Ward 3**
SECONDER:	**Rick Mark, Councilor Ward 3**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Roll Call Vote**

7. Reappointment to Sustainability Committee - Applicant Leonard Folino

MOTION:	**Motion to Re-appointment Leonard Folino to the Sustainability Committee**
MOVER:	**Judy Casper, Councilor Ward 3**
SECONDER:	**Marci Baker, Councilor Ward 2**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed via Voice Vote**

8.

MOTION:	**Motion to Direct the City Recorder to Use the Abbreviated Process for Donna Eddy and Robert Vincent**
MOVER:	**Judy Casper, Councilor Ward 3**
SECONDER:	**Marci Baker, Councilor Ward 2**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Voice Vote**

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Legarza gave an update on current events.
Mr. Robinson asked for a show of hands on who would be attending the December 3rd training in Newport hosted by the LOC.

N. ACTIONS, IF ANY, BASED ON WORK SESSION, EXECUTIVE SESSION OR PUBLIC COMMENT

The Council gave consensus for Councilor Casper to send information pertaining to the executive session to the Council.

9.

MOTION:	**Motion to Notice Another Executive Session with the subject of Internal Advisory Communication Confidential Personnel Memorandum and Second Notice Would be for Performance Evaluation for the City Manager for the Date of November 4th at 5 PM**
MOVER:	**Riley Hoagland, Councilor Ward 2**
SECONDER:	**Todd Barker, Councilor Ward 1**
AYES:	Baker, Barker, Casper, Hoagland, Mark, Wahlke
EXCUSED:	Parsons
RESULT:	**Passed by Voice Vote**

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

Ms. Legarza summarized an email from Naomi Fast regarding bicycle parking and transportation.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Hoagland asked for a LOC Conference work session. Ms. Legarza said that she is planning that for the next work session. Councilor Hoagland spoke about the items (shower timer and fat trapper box) available to the public on the table in the hallway.

Councilor Baker spoke about the boards & committees and asked about; signage, location, recognition of volunteers, and committee issues as well as resignations. Councilor Baker asked for a possible work session. Councilor Baker spoke about emails the Council receives from the public and to whom to refer those emails to. Ms. Legarza said that she would start blind-copying the Council on how the matter is handled. Councilor Baker asked about the resolution for the AI policy. Ms. Legarza noted that IT is currently assessing the subject.

Councilor Casper asked if the information or emails to the City Manager should also be sent to the Executive Assistant as well. Councilor Mark asked about changing the website to have the information sent to one link rather than each Councilor. Councilor Mark spoke about the FAQ on the City website and if it's appropriate for the City Council to forward that link to social media. Mr. Robinson spoke about using a personal social media page for City business. Councilor Casper asked for the flow of sending information. Councilor Hoagland said that there may be a great discussion needed for the questions being asked.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 8:21 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

The Office of
CITY ADMINISTRATION

CITY OF LINCOLN CITY

JOINT CITY COUNCIL/CONFEDERATED TRIBES OF SILETZ INDIANS TRIBAL COUNCIL

MINUTES OF THE MEETING

November 4, 2024, 6:00 p.m.

City Council/Tribal Council Present:

Susan Wahlke - Mayor
Mitch Parsons - City Council Ward I
Todd Barker - City Council Ward I
Riley Hoagland - City Council Ward II
Marci Baker - City Council Ward II
Judy Casper - City Council Ward III
Rick Mark - City Council Ward III
Delores Pigsley - Tribal Council Chair
Alfred 'Bud' Lane III - Tribal Council Vice-Chair
Judy Muschamp - Tribal Council
Loraine Butler - Tribal Council
Bonnie Petersen - Tribal Council
Gerald Ben - Tribal Council

City Council/Tribal Council Absent:

Robert Kentta - Tribal Council
Selene Rilatos - Tribal Council
Alfred 'Bud' Lane IV - Tribal Council

Staff Present:

Daphnee Legarza - City Manager
Richard Townsend - Planning & Community Development Director
David Broderick, Police Chief;
Jeanne Sprague, Parks and Recreation Director;
Kim Cooper Findling, Explore Lincoln City Director;
Tyrel Trainor, Explore Lincoln City; Stephanie Reid, Public Works Director;
Jamie Young, City Recorder

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A. CALL TO ORDER

Mayor Wahlke called to order the meeting at 6:00 PM.

Mayor Wahlke said The City of Lincoln City would like to acknowledge and express our gratitude for our many joint and coordinated efforts in 2024 and read the following projects:

- The 2024 Explore Lincoln City Visitor Guide included four pages on tribal culture
- Outreach to the tribe to invite a member to join the Public Arts Committee
- Outreach to the tribe to invite participation in the D River Welcome Center design
- Outreach to the tribe to invite a representative to be featured in the 2025 Visitors Guide
- Donation of $600 to a dance category contest for the Nesika Illahee Pow-Wow - August 9th, 10th, and 11th, 2024
- Social media and website calendar promotion of pow wows - (both):

-Approximately 26,000 reach on Instagram and Facebook for promotion of the 2023 Restoration Fall Pow-Wow and the 2024 Nesika Illahee Summer Pow-Wow

- Partnered to run parking shuttle for ribbon cutting ceremony for The Magic of Lincoln City Kite Festival Mural from Chinook Winds Casino Resort
- Partnered to share safety and event messaging on CWCR's new totem sign on the north end of town, 4th of July, and other events
- Special float drops with Chinook Winds for their yearly anniversary and Celebration of Honor
- The food cart at both Kite Fests is from the tribe – Bristo's Place, offering Indian tacos and more. Chinook Winds Casino Resort is a sponsor of both kite festivals. The Kite Fliers love going to the buffet and it's an annual tradition at the conclusion of both festivals to gather there in celebration of the festivals.
- Explore Lincoln City is invited to Tribal Tourism Bi-Annual Gathering at CWCR to showcase strong local partnership between the tribe and local tourism agency. ELC hosted a special float drop and provided blown glass gifts to tribal attendees.
- Introductory meetings with CTSI staff, LC Parks & Recreation (LCP&R), Explore Lincoln City (ELC) and the Schooner Creek Discovery Park

(SCDP) Design Team, to facilitate conversations regarding interpretive signage in the new park. This will be an ongoing 2-year design project, with continued partner meetings being planned for Winter/Spring 2025.

- The Siletz Tribal Charitable Contribution Fund granted LCP&R $10k for the construction of the 1st inclusive and accessible playground on the OR Coast.
- Chinook Winds Casino Resort (CWCR), an arm of CTSI, funded $16k of a $32k City construction project to replace the wooden stairs at the NW 41st public beach access. CWCR partnered with LCP&R on this project, with LCP&R granting two Adopt-A-Beach-Access names and sites to CWCR and CTSI.
- CWCR, an arm of CTSI, sponsored our Capital Campaign (Fundraising) Kick-Off event for Schooner Creek Discovery Park. This event occurred on April 19, 2024, at CWCR, and brought in over $25k in funds for the new SCDP. CWCR supplied all food, drink, marketing, and location for our event, at a cost savings of $9k to LCP&R.
- Tracy Bailey, Construction Management Engineer for CTSI serves on the City's Environmental Protection Agency Community Wide Assessment Grant Brownfield Advisory Committee.
- Our Neotsu Path and Boardwalk project would not be possible without CTSI allowing cut slopes for this project to avoid an estimated $2,000,000 in retaining walls. We are now re-planting these slopes with directions about the plantings from CTSI.

B. DISCUSSION ITEMS

B.1 Schooner Creek Discovery Park - partnering with CTSI staff

Jeanne Sprague, Parks and Recreation Director, thanked the Tribal Council for their partnership efforts. Ms. Sprague explained the partnership with the interpretive signage. Ms. Sprague also explained how the $10,000 contribution helped with phase I of the Schooner Creek Discovery Park. Councilor Muschamp said that Zeph Mullens manager at the Siletz Farm and would be able to assist with the selection of native landscape. The Councils and staff discussed the information provided.

B.2 Planning of the new road from Roads End

Chair Pigsley asked about an update on the new road from Roads End. Alison Robertson, Urban Renewal and Economic Development Director, gave an update on the 44th Street Connector Project. Phase II is on hold waiting for the community visioning project. The Councils and staff had a discussion regarding the information provided.

B.3 Housing

Chair Pigsley spoke about the housing being put up on the hill above the Casino. Chair Pigsley said the homes will be for the employees of the Casino. Chair Pigsley said there are 38 units going next to where the new Casino will be in Salem. Chair Pigsley said there are two lots by the Outlet Mall that the City gave to the Tribe that are being developed. Mayor Wahlke asked if anything was planned for the lots in Garden Estates that the County gave to the Tribe. Chair Pigsley said that the infrastructure has been designed and the permits are obtained, one would be complete in 2025 and 2026. Chair Pigsley said the Tribe has a clinic opening in February across from the Hilltop Restaurant. Chair Pigsley said that since the Councils have last met, they have installed a new sign. The Councils had a discussion on the sign and the new sidewalk.

B.4 Consent Decree Update

Chair Pigsley said they received very good news on Friday, they have been working on getting rid of the Consent Decree which limits their hunting, fishing, and gathering rights since 1980. Chair Pigsley explained that was the only way to have the Restoration Act passed. Chair Pigsley explained the consequences of the decree and the work that has been done to restore their rights. Chair Pigsley said that Friday the Federal Court vacated the action and they are back to where they were before they were terminated as a Tribe. The Councils had a discussion about the decree.

B.5 New GM - Chinook Winds Casino Resort

Chair Pigsley said they have a new GM coming to the Casino, they made an offer. Chair Pigsley said they have lots of winter activities. Mayor Wahlke said that she had a wonderful dinner at the Chinook Seafood Grill for the Chamber Awards Ceremony.

B.6 Climate Action Plan - Greenhouse Gas Inventory Update

Daphnee Legarza, City Manager, explained the Climate Action Plan as well as the Greenhouse Gas Inventory and the projects and funding associated. Ms. Legarza gave an update on the charging stations in town. The Councils had a discussion on the charging stations, electric cars, and energy.

B.7 Explore Lincoln City Updates

Kim Cooper Findling spoke about the D River Welcome Center. Ms. Cooper Findling handed out an Industry Newsletter and the 2024 Visitor Guide.

B.8 Update on Urban Renewal and Economic Development

Alison Robertson, Urban Renewal and Economic Development Director gave an update on the current and future Urban Renewal projects. The Councils discussed the information provided.

C. MISCELLANEOUS

Councilor Mark asked about efforts in the County to improve the broadband internet accessibility and asked if the Siletz would be any help. Chair Pigsley said the Tribe received a giant award but it seems to address the need. It helps those without any but it doesn't cover a wide area. The Councils had a discussion on the future of broadband internet.

Councilor Hoagland spoke about the drone show that will replace the fireworks for the 4th of July. 2025. The Councils discussed drone shows and fireworks.

Councilor Parsons asked if the Tribe was still interested in changing the name of the street in front of the Casino. After a discussion with the Councils, the Tribe did not have an interest.

D. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 7:22 PM.

Susan Wahlke, Mayor

Jamie Young, City Recorder

City of Lincoln City
City Council Communication

Lincoln County Transit Presentation

Meeting Date: 11/18/2024
Department: Administration
Secondary Dept:
Approval: Daphnee Legarza
Strategic Priority: Not Applicable

Primary Staff Contact: Daphnee Legarza
Email: dlegarza@lincolncity.org
Secondary Contacts:
Estimated Time: 15 minutes

Tim Johnson, Lincoln County Administrator and Kenneth Lipp, Lincoln County Public Information Officer will be attending via zoom to provide an update regarding Lincoln County Transit System.

City of Lincoln City
City Council Communication

EXTERNAL GENERATORS FOR MOBILE FOOD UNITS

Meeting Date: 11/18/2024	Primary Staff Contact: Richard Townsend
Department: Planning & Community Development	Email: rtownsend@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval: Daphnee Legarza	Estimated Time: 10 minutes
Strategic Priority: Economic	

Question:
Should the City Council direct staff to draft an ordinance amendment to allow mobile food units to be powered by external generators?

Staff Recommendation:
Staff recommends the Council consider whether an ordinance amendment is warranted.

Background:
In 2020 the City Council adopted Ordinance No. 2020-05 to allow mobile food units and mobile food unit pods in certain zones. The ordinance included a suite of standards for mobile food units that included the following requirements:

- Mobile food units must be fully contained;
- Equipment must be integral to the unit; and
- External generators are prohibited.

In 2023 the City Council adopted an ordinance amendment creating an exception to the integral equipment standard. The amendment allows a mobile food unit to have an outdoor cooking unit, such as a barbeque or a smoker, that is not integral to the mobile food unit itself, provided the fire marshal approves its placement.

The result is that LCMC 17.80.170.B.2 now reads as follows:

> Mobile food units must be fully contained, and equipment must be integral to the unit except that a Class IV mobile food unit may have one and only one separate outdoor cooking unit, such as a barbecue or smoker unit, that is not integral to the mobile food unit itself. The distance of the one separate outdoor

> cooking unit from the mobile food unit and from any structure is subject to approval by the fire marshal. External generators are prohibited.

Recently the operator of a mobile food unit requested the City Council to amend the code to allow mobile food units to have external generators.

In discussions leading up to adoption of the ordinance relating to mobile food units, the principal objection to external generators was their noise. There also was concern about pollution. Regarding noise, some generators are quieter than others. Those generators using inverters are known to be quieter than other generators. Additionally, inverter generators are more efficient because they do not run constantly at high rpms, their speed varying with the load that is put on them. Because of these advantages, staff suggests that if external generators are to be allowed they be limited to inverter generators.

Of course, while inverter generators are quieter, they are far from silent. Given this, proximity of such generators to each other and to places where people may be eating, otherwise congregating, or sleeping becomes an issue. For this reason, staff suggests that if they are allowed they be limited in the following ways:

- They not be allowed in mobile food unit pods.
- They not be allowed on or adjacent to a "noise sensitive unit" (i.e. places used for sleeping) as defined in LCMC 9.10.020.
- They not be allowed to be located within some distance (e.g. 100 feet) of each other.

A possible further restriction would be to limit allowed generators to those that are rated at 60 dB or less.

Additionally, if external generators are to be allowed, they should be subject to basic safety requirements, such as the following:

- They be subject to fire marshal approval.
- They be required to be operated and maintained in accordance with the Oregon Fire Code, their listing, and their manufacturer's instructions.

Another possibility to consider is to allow mobile food units that have external generators only in limited circumstances. Such circumstances might be athletic events (e.g. high school football, baseball, softball games, athletic tournaments like the mushball event, etc.), farmers markets under LCMC 5.04.030.C., ELC-sponsored events, and special events under LCMC Chapter 5.16.

Council Options:

1. Direct staff to prepare an ordinance amendment to remove the prohibition on external generators.
2. Direct staff to prepare an ordinance amendment to allow external generators in limited circumstances.
3. Direct staff to take no action.
4. Continue discussion to a later date.

City of Lincoln City
City Council Communication

Public Hearing – Ord. 2024-18 FEMA PICM

Meeting Date: 11/18/2024	Primary Staff Contact: Richard Townsend
Department: Planning & Community Development	Email: rtownsend@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval: Daphnee Legarza	Estimated Time: 15 minutes
Strategic Priority: Housing	

Question:

Should the City Council conduct a public hearing on Ordinance No. 2024-18?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for ordinance amendments is as follows:

17.76.060 Type IV procedure (legislative).

A. General Description. Type IV procedures apply to legislative matters. Legislative decisions are made by the city council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
D. Application Requirements.
    1. Application Forms. Legislative applications must be made on forms provided by the department.

2. Submittal Information. The application shall contain all of the following information:
    a. The information requested on the application form;
    b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
    c. The required fee as adopted by city council resolution, except when the city initiates the request.

E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
    1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
    2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
        a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another); see ORS 227.186 for instructions;
        b. Any affected governmental agency;
        c. Any person who requests notice in writing; and
        d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.

G. Public Hearing Procedure. The planning commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in LCMC 17.76.160. In addition to the public hearing held by the planning commission, the city council shall also conduct a public hearing on Type IV applications.

H. Recommendation Authority.
    1. Following receipt of testimony and deliberation at the public hearing held before the planning commission, the planning commission shall provide a recommendation to the City council for all Type IV applications. The planning commission shall recommend that the city council approve or deny the proposed amendments, with or without changes. The planning commission's recommendation shall be issued as a final recommendation, and shall include

findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the planning commission's final recommendation, the city council shall hold a public hearing on the Type IV application.

I. Notice of Decision.
   1. Not more than seven days after the date the city council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the planning commission or the city council.
   2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
   3. The city council's decision is final for purposes of appeal on the date the notice is mailed.

J. Appeal. The final decision of the city council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:
The proposed ordinance amendment will update the City of Lincoln City Flood Development code to maintain compliance with the National Flood Insurance Program and the Endangered Species Act. The updates are required by the Federal Emergency Management Agency (FEMA) and will focus on ensuring there is no net loss in riparian vegetation, flood storage, and water quality for endangered species in the area. These changes only apply to areas of the City that are located within the Special Flood Hazard area as defined by FEMA.

See Ordinance No. 2024-18 later on this agenda

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed ordinance amendment.
- Continue the public hearing to the December 9th City Council meeting.

City of Lincoln City
City Council Communication

Ord. 2024-18 FEMA PICM

Meeting Date: 11/18/2024
Department: Administration
Secondary Dept:
Approval: Daphnee Legarza
Strategic Priority: Environment

Primary Staff Contact: David James Robinson
Email: drobinson@lincolncity.org
Secondary Contacts:
Estimated Time: 15 minutes

Staff Report will be provided before the meeting.

Ordinance No. 2024-18
An Ordinance Amending the City of Lincoln City Municipal Code 15.16 updating the flood prevention ordinance to comply with recent directives from the Federal Emergency Management Agency and repealing Ordinances 2009-17 and its exhibits, 2019-25, and 2021-10

The City Council finds:

A. Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City
The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter
In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

B. The above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop,* 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

C. The proposed amendments to the Lincoln City Municipal Code are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements, Statewide Planning Goals and Lincoln City Comprehensive Plan goals.

D. This ordinance and total code revision come based on a change in rules that FEMA uses to regulate its flood insurance program. (Exhibit B NFIP Oregon Implementation Program Guidance Model Floodplain Management Ordinance). The rollout from FEMA is on an abbreviated timeline. Originally the message was that cities needed to select one of three options by December 1, 2024: (1) Adopt a model ordinance, (2) prohibit all development in the wetland, or (3) adopt a policy that implements the new regulations and apply it on a permit by permit basis. Since that time, FEMA has walked back the enforcement timeline. They will accept notice of the city's intent to select one of the options. In addition, FEMA has stated that it intends to change its model ordinance so

much of the urgency in getting an ordinance adopted has lessened. At this time notice to DLCD is all that is required.

E. On October 14, 2024, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed amendment(s); ORS 227.186(4) notice was sent to impacted property owners as required; and

F. In its training sessions, FEMA staff disclosed that it would be up-dating standards contained in the model ordinance, which would require amendment of this ordinance.

G. The City Council conducted a public hearing on November 18, 2024 continued the hearing to _____ providing direction to staff to continue monitoring developments in the FEMA model ordinance and return with the Ordinance for required readings and adoption.

H. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

The City of Lincoln City Ordains as follows:

Section 1:

(see Exhibit 1)

Section 2: Findings Adopted. The findings of this ordinance, Exhibit A, and competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

Section 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 4. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

Section 5. Codification. Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 1-38) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 18th day of November, 2024 (First Reading) and on the ____ day of _____ 202__ (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this ____ day of _____.

_____
Susan Wahlke, Mayor

ATTEST:

_____
Jamie Young, City Recorder

APPROVED AS TO FORM:

_____
David Robinson, City Attorney

Exhibit 1

Chapter 15.16

FLOOD DAMAGE PREVENTION

Sections:

DRAFT

Article V. Provisions for Flood Hazard Reduction

Article VI. Regulations by Location

Article VII. Standards for Protection of SFHA Floodplain Functions

DRAFT

Article I. Purpose, Applicability, Authority, Findings

15.16.110 Purpose.

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

A. Protect human life and health;

B. Minimize expenditure of public money and costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard, so as to minimize blight areas caused by flooding;

G. Notify potential buyers that the property is in an area of special flood hazard; and

H. Notify those who occupy areas of special flood hazard that they assume responsibility for their actions; and

I. Participate in and maintain eligibility for flood insurance and disaster relief; and

J. Preserve natural and beneficial floodplain functions.

15.16.115 Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

15.16.120 Statutory authorization.

The legislature of the state has, in ORS 197.175, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety and general welfare of its citizenry.

15.16.125 Findings of fact.

A. The flood hazard areas of ~~the city are~~ **the City of Lincoln City provide natural and beneficial values. However, these area are** subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities and, when inadequately anchored, cause damage in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

15.16.130 Methods of reducing flood losses.
In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting development which is dangerous to health, safety and property due to water or erosion hazards, or that results in damaging increases in erosion or in flood heights or velocities;

B. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas**; and**

F. Employing a standard of "no net loss" of natural and beneficial floodplain functions.

Article II. Definitions

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

"Appeal" means a request for a review of interpretation of any provision of this chapter, or a request for a variance.

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

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

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

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

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

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

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

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

"Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment and materials.

"Fill" means the placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered "development."

"Fish Accessible Space" means the volumetric space available to fish to access.

"Fish Egress-able Space" means the volumetric space available to fish to exit or leave from.

"Flood or flooding" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   a. The overflow of inland or tidal waters.

   b. The unusual and rapid accumulation or runoff of surface waters from any source.

   c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

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

"Flood insurance rate map" ("FIRM") means the official map of a community, on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Flood Insurance Study. See "Flood elevation study" for this definition.

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

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

"Freeboard" is a term used by FEMA's National Flood Insurance Program (NFIP) to describe a factor of safety usually expressed in feet above the one percent annual chance flood level. A structure built with one foot of freeboard would have its lowest floor one foot or more above the base flood elevation (BFE). Adding freeboard will reduce NFIP insurance premiums.

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

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

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

"Hazard Trees" means standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

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

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

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

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

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

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

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

"Impervious Surface" means a surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then "flushed" into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

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

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at LCMC 15.16.550.

"Manufactured dwelling" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

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

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

"Mean sea level" means for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

"New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation, including Ordinance 2009-17, or Ordinance 2019-25, and includes any subsequent improvements to such structures.

"No Net Loss" means a standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

"Offsite" means mitigation occurring outside of the project area.

"Onsite" means mitigation occurring within the project area.

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

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

"Qualified Professional" means appropriate subject matter expert that is defined by the community.

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

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;

2. Four hundred square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck or sport utility vehicle; and

4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Riparian" means of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

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

"Riparian Buffer Zone Fringe" means the area outside of the RBZ and floodway but still within the SFHA.

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

Special Flood Hazard. See "Area of special flood hazard" for this definition.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other

structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 49 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place in a five year consecutive period of time, the cost of which equals or exceeds 49 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

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

2. Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

"Undeveloped Space" means the volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

"Variance" means, for floodplain management purposes, a grant of relief by the city of Lincoln City from the terms of a floodplain management regulation.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

Article III. General Provisions

15.16.310 Lands to which this chapter applies and basis for establishing areas of special flood hazard.

This chapter shall apply to all the areas of special flood hazard within the jurisdiction of the city of Lincoln City. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Lincoln County, Oregon and Incorporated Areas," dated October 18, 2019, with accompanying flood insurance rate maps (FIRMS), are hereby adopted by reference and declared

to be a part of this chapter. The flood insurance study and FIRM panels are on file at the planning and community development department and with the city recorder at City Hall. The best available information for flood hazard area identification, as outlined in LCMC 15.16.430, shall be the basis for regulation until a new FIRM is issued that incorporates the data utilized under LCMC 15.16.430.

15.16.311 Coordination with specialty codes adopted by the State of Oregon Building Codes Division.

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

15.16.315 Compliance with chapter required.

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

15.16.316 Penalties for noncompliance.

A. Violations.

1. No structure or land shall hereafter be constructed, located, extended, converted, or altered and no development shall occur without full compliance with the terms of this chapter and other applicable regulations and maps. Violations of any provisions of this chapter, or the incorporated provisions herein, by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class A violation. Each day that the violation of this title exists is deemed to be a separate offense.

2. Any person, firm, association or corporation, whether as principal, agent, employee or otherwise, who violates any provision of this chapter, including any order adopted implementing this chapter, shall be punished under the provisions of Chapter 1.16 LCMC. Nothing herein contained shall prevent the city of Lincoln City from taking such other lawful action, including as is necessary to prevent or remedy any violation.

15.16.318 Alternative remedy.

A. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired or used; or land is, or is proposed to be, used in violation of this chapter, the building or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute a civil suit for an injunction, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

B. If the city initiates and prevails in an action under subsection (A) of this section, the city shall be entitled to an assessment of its costs as provided in LCMC 8.12.170 relating to nuisances. Such assessment will then become a lien against the property as provided in LCMC 8.12.170.

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

15.16.325 Interpretation.
In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

15.16.330 Warning and disclaimer of liability.
The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administrator, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

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

Article IV. Administration

15.16.410 Establishment of development permit for flood hazard zones.
A development permit shall be obtained before construction or development begins within any area horizontally within the area of special flood hazard established in LCMC 15.16.310. The development permit shall be required for all structures, including mobile dwellings, as defined in LCMC 15.16.200, and for all other development, including fill and other activities, also as defined in LCMC 15.16.200. Application for a development permit shall be made on forms furnished by the planning and community development director or designee. Information required to be submitted by the applicant may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; and drainage facilities. Specifically, the following information is required:

A. In riverine flood zones, the proposed elevation, in relation to mean sea level, of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures;

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

C. Elevation, in relation to mean sea level, to which any nonresidential structure will be flood-proofed;

D. Certification by a registered professional engineer or architect licensed in the state of Oregon that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in LCMC 15.16.550;

E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

F. Substantial improvement calculations for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure. This may require the applicant to submit verifiable cost estimates to determine value of the improvements or repairs if no other accurate method of determining the value exists;

G. The amount and location of any fill or excavation activities proposed; and

H. Base flood elevation data for subdivision proposals or other development when required in LCMC 15.16.530.

15.16.415 Designation of local floodplain administrator.
The planning and community development director is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The floodplain administrator may delegate authority to implement these provisions.

15.16.420 Local floodplain administrator – Duties generally.
The duties of the local floodplain administrator, or their designee, shall include, but not be limited to, those set forth in LCMC 15.16.425 through 15.16.445.

15.16.425 Permit review.
The local floodplain administrator shall review all development permits to determine:

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

B. That all other required permits have been obtained and approved from those federal, state or local governmental agencies from which prior approval is required;

C. Whether the proposed development is located in the floodway. If located in the floodway, the local floodplain administrator shall ensure that the provisions of LCMC 15.16.615, Floodways, are met;

D. Review all development permits to determine if the proposed development is located in an area where base flood elevation (BFE) data is available either through the flood insurance study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of LCMC 15.16.430;

E. Provide to building official the base flood elevation (BFE) plus freeboard applicable to any building requiring a development permit;

F. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in LCMC 15.16.200;

G. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in LCMC 15.16.510; and

H. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation**; and**

I. Determine whether the proposed development activity complies with the no net loss standards in Article VII.

15.16.430 Use of other base flood data.
When base flood elevation data has not been provided in accordance with LCMC 15.16.310, the local floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer Article V of this chapter through LCMC 15.16.625.

15.16.435 Information to be obtained and maintained.
The local floodplain administrator is responsible for obtaining and maintaining the following information for public inspection:

A. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where base flood elevation (BFE) data is provided through the flood insurance study (FIS), flood insurance rate map (FIRM), or obtained in accordance with LCMC 15.16.430;

B. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of LCMC 15.16.425, 15.16.516, 15.16.615, and 15.16.625(G) are adhered to;

C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain an elevation certificate (EC), prepared and sealed by a professional licensed surveyor or engineer, certifying the actual elevation (in relation to mean sea level) of the lowest floor (including basement), attendant utilities in place, and the location and height of all flood openings;

D. Obtain an as-built elevation certificate (EC) recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities, and the location and height of all flood openings, prior to the final inspection;

E. Maintain all elevation certificates (EC) submitted to the city;

F. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were flood-proofed for all new or substantially improved flood-proofed structures where base flood elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with LCMC 15.16.430;

G. Maintain all flood-proofing certificates required under this chapter;

H. Record and maintain all variance actions, including justification for their issuance;

I. Obtain and maintain all hydrologic and hydraulic analyses performed as required under LCMC 15.16.615;

J. Record and maintain all substantial improvement and substantial damage calculations and determinations as required under LCMC 15.16.441;

K. Maintain for public inspection all records pertaining to the provisions of this chapter.

L. Document how no net loss standards have been met (see Article VII)

15.16.440 Requirement to notify other entities and submit new technical data.

A. Alteration of Watercourses. The local floodplain administrator shall: notify adjacent communities and the Oregon Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a letter of map revision (LOMR), along with either:

1. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

2. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a conditional letter of map revision (CLOMR) when required under this section.

B. Community Boundary Alterations. The floodplain administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area. To ensure that all flood hazard boundary maps (FHBM) and flood insurance rate maps (FIRM) accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

C. Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a

community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA letter of map change (LOMC) process.

The floodplain administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and

2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six months of project completion when an applicant has obtained a conditional letter of map revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a letter of map revision (LOMR).

15.16.441 Substantial improvements and substantial damage assessments and determinations.

Conduct substantial improvement (SI) (as defined in LCMC 15.16.200) reviews for all structural development proposal applications and maintain record of SI calculations within permit files in accordance with LCMC 15.16.435. Conduct substantial damage (SD) (as defined in LCMC 15.16.200) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures horizontally within the special flood hazard area (as established in LCMC 15.16.310) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 49 percent of market value of the structure before the damage occurred.

15.16.445 Interpretation of FIRM boundaries.

The local floodplain administrator shall make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall have a reasonable opportunity to appeal the interpretation, as provided in LCMC 15.16.450.

15.16.450 Appeal board.

A. The city planning commission, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter. An appeal of a decision by the local floodplain administrator shall be processed as provided in subsection (B) of this section. An application for a variance shall be processed to the planning commission consistent with subsections (D), (E) and (G) of this section and Type III procedures set forth in LCMC 17.76.050.

B. The city planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local floodplain administrator in the enforcement or administration of this chapter. After consideration of the assignments of error, the city planning commission may approve or deny the appeal, and if approved, the

commission may attach such conditions as it deems necessary to further the purposes of this chapter. Notwithstanding any other provision of this code, an appeal under this section shall be a review "on the record" (i.e., not de novo) and shall be processed in strict conformance with the jurisdictional appeal requirements of LCMC 17.76.180.

C. Those aggrieved by the decision of the city planning commission, or any taxpayer, may appeal such decision as provided by law.

D. In passing upon such variance applications, the city planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of subsection (D) of this section and the purposes of this chapter, the city planning commission may deny or approve variances, attaching such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. In addition to conditions attached to approval of a specific application, conditions in LCMC 15.16.455 apply.

F. The local floodplain administrator shall maintain the records of all appeal actions.

G. The local floodplain administrator shall maintain the records of all variance applications and report any variances approved by the commission to the Federal Insurance Administration.

15.16.455 Conditions for variances.

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

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

B. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

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

D. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

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

E. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, or economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

F. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (A) of this section, and complies with the standards set forth in LCMC 15.16.515, Anchoring; 15.16.520, Construction materials and methods; 15.16.525, Utilities; 15.16.542, Garages; and 15.16.543, Appurtenant (accessory) structures.

G. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance, shall be maintained in accordance with LCMC 15.16.435.

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

I. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Article VII and associated options in Table 1).

Article V. Provisions for Flood Hazard Reduction

15.16.510 Generally.

In all areas of special flood hazards, the **no net loss standards (see Article VII) and the** standards set forth in this article are required.

15.16.511 Alteration of watercourses.

Require that the flood carry capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance of the flood carrying capacity is provided for within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with LCMC 15.16.435 and 15.16.440.

15.16.515 Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

~~**15.16.516 Placement of fill in the special flood hazard area.**~~

~~**All fill placed at or within any special flood hazard area boundary shall be balanced with at least an equal amount of soil material removal from the same parcel and within the active flood area. The placement of fill in a coastal high hazard area is prohibited. The placement of fill must also meet the following standards:**~~

~~**A. Fill placed within the regulatory floodway shall not result in any increase in flood levels during the occurrence of the base flood discharge.**~~

~~**B. The fill is necessary for an approved use on the property.**~~

~~**C. The fill is the minimum amount necessary to achieve an approved use on the property.**~~

~~**D. No feasible alternative upland locations exist on the property.**~~

~~**E. The fill does not impede or alter drainage or the flow of floodwaters.**~~

~~**F. Be designed and compacted to prevent erosion or scour.**~~

15.16.520 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

15.16.525 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

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

1. If replaced as part of a substantial improvement shall meet all the requirements of this section.

2. Not be mounted on or penetrate through breakaway walls.

15.16.526 Tanks.

A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

B. Above-ground tanks shall be installed at a minimum of two feet above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

C. In coastal flood zones (V Zones) when elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on foundations that conform to the requirements of the State of Oregon Specialty Codes.

15.16.530 Subdivision proposals and other proposed developments.

All new subdivision proposals and other proposed developments (including proposals for manufactured dwelling parks and subdivisions) shall:

A. Be consistent with the need to minimize flood damage.

B. Have public utilities and facilities such as sewer, gas, electrical and water systems located and so constructed as to minimize flood damage.

C. Have adequate drainage provided to reduce exposure to flood hazards.

D. Comply with no net loss standards in Article VII.

~~**D.**~~ **E.** For subdivision proposals and other proposed developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, base flood elevation data. If base flood elevation data is not currently available from another authoritative source, the applicant shall be responsible for generating it.

15.16.531 Structures located in multiple or partial flood zones.
In compliance with the State of Oregon Specialty Codes:

A. When a structure is located in multiple flood zones on the community's flood insurance rate maps (FIRM) the provisions for the more restrictive flood zone shall apply.

B. When a structure is partially located in a special flood hazard area (SFHA), the entire structure shall meet the requirements for new construction and substantial improvements.

15.16.535 Review of building permits.
Where elevation data is not available either through the flood insurance study or from another authoritative source (LCMC 15.16.430), the city shall review applications for building permits to ensure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

15.16.540 Specific standards.
The provisions set forth in LCMC 15.16.541 through 15.16.570 **and the no net loss standards (see Article VII)** are required in all areas of special flood hazards where base flood elevation data has been provided as set forth in LCMC 15.16.310, basis for establishing the areas of special flood hazard (Zones A1-30, AH, and AE), or 15.16.430, use of other flood data (in A and V Zones).

15.16.541 Flood openings.
Enclosed areas below the base flood elevation, including crawlspaces, shall:

A. Be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters;

B. Be used solely for parking, storage, or building access;

C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

1. A minimum of two openings;

2. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;

3. The bottom of all openings shall be no higher than one foot above grade;

4. Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and

5. All additional higher standards for flood openings in the State of Oregon Specialty Codes shall be complied with when applicable.

15.16.542 Garages.

A. Attached garages may be constructed with the garage floor slab below the base flood elevation (BFE) in riverine flood zones, if the following requirements are met:

1. The floors are at or above grade on not less than one side;

2. The garage is used solely for parking, building access, and/or storage;

3. The garage is constructed with flood openings in compliance with LCMC 15.16.541 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

4. The portions of the garage constructed below two feet above the BFE are constructed with materials resistant to flood damage;

5. The garage is constructed in compliance with the standards in this section; and

6. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

7. If located within a floodway the proposed garage must comply with the requirements of LCMC 15.16.615.

B. Detached garages must be constructed in compliance with the standards for appurtenant structures in LCMC 15.16.543 or nonresidential structures in LCMC 15.16.550 depending on the square footage of the proposed detached garage.

15.16.543 Appurtenant (accessory) structures.

Relief from elevation or flood-proofing requirements for residential and nonresidential structures located outside of the floodway or coastal high hazard areas may be granted for accessory structures that meet the following requirements:

A. Accessory structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

B. In compliance with State of Oregon Specialty Codes, accessory structures on properties that are zoned residential are limited in size to one story and less than 200 square feet, or 400 square feet if the property is greater than two acres in area and the proposed accessory structure will be located a minimum of 20 feet from all property lines. Accessory structures on properties that are zoned as nonresidential are limited in size to 120 square feet;

C. The portions of accessory structures located below two feet above the base flood elevation must be built using flood-resistant materials;

D. Accessory structures must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

E. Accessory structures must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in LCMC 15.16.541;

F. Accessory structures must be located and constructed to have low damage potential;

G. Accessory structures must not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with LCMC 15.16.526; and

H. Accessory structures must be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

15.16.545 Residential construction.
A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of two feet above the base flood elevation.

B. Enclosed areas below the lowest floor shall comply with the flood opening requirements in LCMC 15.16.541.

15.16.550 Nonresidential construction.
New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated a minimum of two feet above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be flood-proofed so that below two feet above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;

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

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

plans. Such certifications shall be provided to the floodplain administrator as set forth in LCMC 15.16.410;

D. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for enclosed areas below the lowest floor as described in LCMC 15.16.545(B), Residential construction; and

E. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

15.16.555 Manufactured dwellings.
All manufactured dwellings to be placed or substantially improved shall:

A. Be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam of the manufactured dwelling is a minimum of two feet above the base flood elevation and securely anchored to an adequately anchored system in accordance with the provisions of LCMC 15.16.515(B).

B. Be constructed with flood openings that comply with LCMC 15.16.541.

C. Have electrical crossover connections a minimum of 24 inches above the base flood elevation.

D. Manufactured dwellings placed or substantially within designated floodways are regulated by LCMC 15.16.615.

15.16.560 Recreational vehicles.
Recreational vehicles placed on sites are required to either:

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

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

C. Meet the elevation, anchoring and all other requirements for manufactured dwellings in LCMC 15.16.555, Manufactured dwellings.

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 a minimum of three feet 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.

15.16.570 Below-grade crawlspaces.
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 a 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 flood openings stated in subsection (B) of this section. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five 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 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 at or above BFE.

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

E. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

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

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

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

Article VI. Regulations by Location

15.16.610 Before the regulatory floodway.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community **and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in LCMC 15.16.710(C).**

15.16.615 Floodways.

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

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the regulatory floodway unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

B. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in Article VII.

~~**B.**~~ **C** If the certification required by subsection (A) of this section is provided, then all new construction, substantial improvements, and other developments shall comply with all applicable flood hazard reduction provisions set out in the following sections: Article V of this chapter, Provisions for Flood Hazard Reduction, through LCMC 15.16.625, Coastal high hazard areas (V zones).

~~**C**~~. **D** New installation of manufactured dwellings in floodways is prohibited. Manufactured dwellings may only be located in floodways according to one of the following conditions:

1. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

2. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation, the replacement home will not

be a threat to life, health, property, or the general welfare of the public, and it meets the following criteria:

a. As required by 44 CFR Chapter 1, Section 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) shall not divert water in a manner that causes erosion or damage to other properties and shall meet the requirements of this section;

b. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall comply with all other standards of LCMC 15.16.543, and all other applicable standards of Article V of this chapter;

c. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and

d. Any other requirements deemed necessary by the authority having jurisdiction.

15.16.620 Standards for shallow flooding areas (AO zones).

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

A. New construction and substantial improvements of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated a minimum of two feet above the depth number specified on the FIRM (three feet if no depth number is specified), as measured from the highest grade adjacent to the building site.

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

1. Have the lowest floor, including basement, elevated a minimum of two feet or more above the depth number specified on the FIRM (at least three feet if no depth number is specified), as measured from the highest grade adjacent to the building site; or

2. Together with attendant utility and sanitary facilities, be completely flood-proofed to or above the depth number specified on the FIRM (at least three feet if no depth number is specified), so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in LCMC 15.16.550.

C. Adequate drainage paths shall be required around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO Zones on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days; and

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

3. Meet the elevation requirements of subsection (B)(1) of this section, and the anchoring and other requirements for manufactured dwellings of LCMC 15.16.555.

E. New and substantially improved appurtenant (accessory) structures must comply with the standards in LCMC 15.16.543.

F. Enclosed areas beneath elevated structures shall comply with the requirements in LCMC 15.16.541.

15.16.625 Coastal high hazard areas.

Coastal high hazard areas designated as V1-30, VE and/or V, established in LCMC 15.16.310, have special flood hazards associated with high-velocity waters from tidal surges and, therefore, in addition to meeting all applicable provisions of this chapter and the State of Oregon Specialty Codes, the following provisions shall apply in addition to the standards in LCMC 15.16.430, 15.16.511, 15.16.515, 15.16.520, 15.16.525, 15.16.526, 15.16.530, 15.16.531, and 15.16.535.

A. All new construction and substantial improvements in zones VE and V shall be elevated on pilings and foundations such that:

1. The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated a minimum of two feet above the base flood level; and

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

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

C. Obtain the elevation, in relation to mean sea level, of the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings and columns, of all new and substantially improved structures; and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information.

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

E. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot, either by design or when so required by local or state codes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

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

2. Walls intended to break away under flood loads shall have flood openings that meet or exceed the criteria for flood openings in LCMC 15.16.541; and

3. If breakaway walls are utilized, such enclosed space shall be less than 300 square feet and usable solely for parking of vehicles, building access or storage. The applicant must sign a non-conversion agreement stating such space shall not be used for human habitation. This agreement must be recorded with the county assessor's office prior to issuance of a building permit.

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

G. The use of fill for structural support of buildings is prohibited.

H. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

I. All structures, including but not limited to residential structures, nonresidential structures, appurtenant structures, and attached garages, shall comply with all the requirements of this section. Flood-proofing of nonresidential structures is prohibited.

J. For construction of new essential structures and new special occupancy structures, refer to ORS 455.446 and 455.447, which state that they may not be constructed in the tsunami inundation zone, which includes V, A, and potentially other flood zones. If an exception is granted, the coastal high hazard area construction standards in LCMC 15.16.625 shall apply to the building of these new structures in the tsunami inundation zone.

K. Manufactured Dwellings. All manufactured dwellings to be placed or substantially improved within coastal high hazard areas (Zones V and VE) shall meet the following requirements:

1. Comply with all of the standards within this section;

2. The bottom of the longitudinal chassis frame beam shall be elevated to a minimum of two feet above the base flood elevation (BFE); and

3. Electrical crossover connections shall be a minimum of 24 inches (two feet) above the BFE.

L. Recreational Vehicles. Recreational Vehicles within coastal high hazard areas (Zones V and VE) shall either:

1. Be on the site for fewer than 180 consecutive days; and

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

3. Meet the permit requirements of LCMC 15.16.410 and the requirements for manufactured dwellings in this section.

M. Tanks shall meet the requirements of LCMC 15.16.526(C) **and Article VII.**

Article VII: Standards For Protection of SFHA Floodplain Functions

The standards described below apply to all special flood hazard areas as defined in Article II. Applicants must submit documentation that addresses the approval criteria in this section. An applicant may choose to submit this in paragraph form, as a part of a plan set, or by using FEMA's latest Habitat Assessment Guide, as long as all standards are clearly addressed and met therein.

15.16.710 No Net Loss Standards

A. No net loss of the three proxies for the floodplain functions mentioned in Section 1 is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

1. **Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);**
2. **Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;**
3. **Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.**

B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.

C. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

15.16.711 Undeveloped Space

A. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

B. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

C. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

1. **Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:**

   (1) Ordinary High Water Mark to 10-year,
   (2) 10-year to 25-year,
   (3) 25-year to 50-year,
   (4) And 50-year to 100-year

2. **Hydrologically connected to the waterbody that is the flooding source;**

3. **Designed so that there is no increase in velocity; and**

4. **Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.**

15.16.712 Impervious Surface
Impervious surface mitigation shall be mitigated through any of the following options:

A. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

B. use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or

C. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading. See LCMC 15.16.720.(C) for stormwater retention specifications.

15.16.713 Trees

A. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

1. **Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.**

2. **Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.**

15.16.720 Stormwater Management

Any development proposal that cannot mitigate as specified in LCMC 15.16.712 (A)-(B) must include the following:

A. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and

B. Water quantity treatment (retention facilities) unless the outfall discharges into the ocean.

C. Retention facilities must:

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

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

3. **Be designed to not entrap fish and drain to the source of flooding.**

4. **Be certified by a qualified professional.**

D. Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:

1. **Access to stormwater treatment facilities at the site by the The City of Lincoln City for the purpose of inspection and repair.**
2. **A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.**
3. **For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.**
4. **The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on-site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by The City of Lincoln City for five years**

15.16.730 Activities Exempt from No Net Loss Standards
The following activities are not subject to the no net loss standards in LCMC 15.16.710; however, they may not be exempt from floodplain development permit requirements.

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

B. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;

C. Routine maintenance of landscaping that does not involve grading, excavation, or filling;

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

E. Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;

F. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

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

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

I. Habitat restoration activities.

15.16.740 Riparian Buffer Zone

A. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

B. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.

C. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.

D. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.

E. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

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

Table 1 No Net Loss Standards

Notes:

1. Ratios with asterisks are indicated in the BiOp. (Biological Opinion)

2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.

A. For example, if only 500 ft2 of the total 1000 ft2 of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft2 of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.

3. RBZ impacts must be offset in the RBZ, on-site or off-site.

4. Additional standards may apply in the RBZ (LCMC 15.16.740)

DRAFT

NFIP Oregon Implementation Program Guidance

Model Floodplain Management Ordinance

For Participating Communities in the Implementation Plan Area

FEMA

Federal Emergency Management Agency
Region 10
Department of Homeland Security
130 – 228th Street SW
Bothell, WA 98021

Note to Communities: This document presents the draft model ordinance that for the Pre-Implementation Compliance Measures and is intended to closely represent most of the language that will be presented as Pathway A of the Draft Implementation Plan. It is built off the 2020 State of Oregon Model Flood Hazard Management Ordinance and the 2018 iteration of the Oregon Model ordinance for ESA Integration. It reflects the NMFS 2016 Biological Opinion (BiOp) (except where noted) and is informed by the 2023 NEPA Scoping effort.

Table of Contents

Acronyms and Abbreviations

BiOp	Biological Opinion
CFR	Code of Federal Regulations
CLOMR	Conditional Letter of Map Revision
CRS	Community Rating System
dbh	diameter breast height
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
LID	Low-Impact Development
LOMR	Letter of Map Revision
MHHW	Marine Higher-High Water line
NFIP	National Flood Insurance Program
NMFS	National Marine Fisheries Service
OHWM	Ordinary High Water Mark
ORS	Oregon Revised Statutes
ORSC	Oregon Residential Specialty Code
OSSC	Oregon Structural Specialty Code
RBZ	Riparian buffer zone
SFHA	Special Flood Hazard Area
TB	Technical Bulletin

SECTION 1. Introduction

FEMA has developed this model flood hazard management ordinance ("2024 model ordinance") to address the requirements outlined in the Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration in Oregon ("Oregon Implementation Plan"). The Federal Emergency Management Agency (FEMA) consulted with the National Marine Fisheries Service (NMFS) on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority. In 2016, NMFS issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area (see the 2024 Draft Oregon Implementation Plan for NFIP-ESA Integration [2024 Draft Implementation Plan] for a description of the plan area).

As a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS). The 2024 model ordinance provides the tools a community would need to implement "Path A" of the 2024 Draft Implementation Plan and serves as one of three actions a community can take under Pre-Implementation Compliance Measures (PICM).

The regulatory language contained within the 2024 model ordinance can be adopted verbatim and incorporated into local floodplain and land use regulations, or a community may select those sections that are missing from its current floodplain ordinance and adopt those sections. The State of Oregon's Model Flood Hazard Management Ordinance (2020) was used as a starting point, with additions to provide compliance with the Oregon Implementation Plan. The additional sections are clearly noted with yellow highlighting to simplify implementation for Oregon communities in the plan area that have already adopted the Oregon Model Flood Hazard Management Ordinance (2020).

This 2024 model ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Area (see definitions), which includes the maintenance, repair, or remodel of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon.

The Oregon Implementation Plan and this model ordinance do not change the definition of development in 44 Code of Federal Regulations [CFR] 59.1.

> "Development" is defined as "any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials." (44 C.F.R. 59.1)

The 2024 model ordinance provides compliance with federal and state statutes and with the Oregon Implementation Plan. The 2024 model ordinance conforms to the following:

1. The requirements of the NFIP, as specified in 44 CFR 59 and 60.

2. Oregon State codes to protect structures from flood damage that are specified in Oregon Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code (ORSC), Section R322.

3. Oregon Statewide Land Use Planning Goals

4. Provisions needed to meet the requirements of the Oregon Implementation Plan for NFIP-ESA Integration. These sections are highlighted in yellow in the model ordinance.

This 2024 model ordinance provides communities with ordinance language that complies with the NFIP-ESA Integration Implementation Plan. Adoption of the ordinance language will ensure compliance with the minimum standards for participation in the NFIP in the plan area in Oregon. Prior to adoption of the ordinance language, communities must have their locally proposed draft language reviewed by FEMA and/or the Oregon Department of Land Conservation and Development.

The model flood hazard ordinance includes standards and provisions that encourage sound floodplain management. The language is based on the minimum requirements of the NFIP found in 44 CFR 59 and 60, Oregon's statewide land use planning Goal 7, and Oregon specialty codes. The new language added to the state model floodplain ordinance, highlighted in yellow, provides compliance with the ESA for floodplain development in the plan area.

Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can prevent the no net loss of the parent floodplain functions. These proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of these proxies must be completed to ensure compliance with no net loss standards. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact.

1.1. How to Use this Document

This 2024 model ordinance includes a Table of Contents and a Regulatory Crosswalk that identifies the federal and state standards that align to and are reflected in each section. Communities will need to review their ordinances and ensure that all the required components are included.

Please refer to FEMA's website for information on how to determine whether or not your community is within the plan area.

1.1.1. ORDINANCE LANGUAGE LEGEND:

The colors are used in the text in the model ordinance to denote specific actions or sections with specific applicability.

- Black: Represents the existing NFIP and current state minimum requirements that are found in the 2020 Oregon Model Flood Hazard Management Ordinance.
- Red: Represents language that must be replaced with community specific information. Only include the appropriate language for your community.
- Purple: Represents language required for communities with Coastal High Hazard Areas mapped by FEMA (V Zones or Coastal A Zones). *(DELETE ALL PURPLE LANGUAGE IF NOT A COASTAL COMMUNITY).*
- Blue: Represents hyperlinks to other sections of the document or external websites.
- Yellow highlighting: Represents new ordinance language not in the 2020 Oregon Model Flood Hazard Management Ordinance. Communities that have previously adopted the state model ordinance may focus on the yellow highlighted sections.

1.2. Changes from the 2020 Oregon Model Flood Hazard Management Ordinance

This 2024 version of the Oregon Model Flood Hazard Ordinance (to be referred to herein as the "2024 Model Ordinance"), varies from the 2020 Oregon Model Flood Hazard Management Ordinance. with the addition of new content to be included for ESA compliance for NFIP-participating communities in the plan area. If no part of the Special Flood Hazard Area (SFHA) in your NFIP-participating community is in the Oregon NFIP-ESA Integration plan area, your community may continue to use the 2020 Oregon Model Flood Hazard Management Ordinance.

In general, the ordinance was revised to ensure that the implementation of the NFIP-ESA integration no net loss standards avoids or offsets adverse impacts on threatened and endangered species and their critical habitat. A summary of the primary changes found in the 2024 model ordinance is provided below:

1. New language has been added to incorporate the following no net loss standards:
    a. No net loss of undeveloped space (see Section 6.1.1).
    b. No net loss of pervious surface. (see Section 6.1.2).
    c. No net loss of trees equal to or greater than 6 inches dbh (i.e., tree diameter measured at 4.5 feet from the ground surface). (see Section 6.1.3).

2. Some definitions (see 2.0) have been added to provide context for the new no net loss standards from the Oregon Implementation Plan.

3. Language has been added:

    a. (see 6.3) to address activities that may require a floodplain development permit but are exempt from the no net loss requirement per the BiOp.

    b. (see 6.4) to address the specific requirements of the Riparian Buffer Zone (RBZ).

4. In general, the language in the 2024 model ordinance mirrors the language from the 2020 Oregon Model Flood Hazard Management Ordinance. Minor edits to the 2020 language have been made for clarity, punctuation, and grammar.

1.3. Community Rating System

Implementation of the new no net loss standards related to NFIP-ESA integration may be eligible for credit under the Community Rating System (CRS). The CRS is explained further in CRS Credit for Habitat Protection, available online at: https://crsresources.org/files/guides/crs-credit-for-habitat-protection.pdf, and the 2017 CRS Coordinators' Manual, available online at: https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf, and the 2021 Addendum to the 2017 CRS Coordinator's Manual, available online at: https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinator-manual_addendum-2021.pdf. The Association of State Floodplain Managers' Green Guide, also provides useful information on development techniques that avoid impacts on natural functions and values of floodplains. This document is available at: www.floodsciencecenter.org/products/crs-community-resilience/green-guide/. Communities interested in CRS credits should contact their CRS specialist for additional information and review.

Implementation of the no net loss standards would most likely contribute to credits under the following CRS activities:

- Activity 430 Higher Regulatory Standards
    - Development Limitations
        - Prohibition of all fill (DL1a): This credit is for prohibiting all filling in the regulatory floodplain. To meet this standard, communities may NOT approve Conditional Letters or Letters of Map Revision based on Fill (CLOMR-F or LOMR-F). If a CLOMR-F or LOMR-F is issued for a property in a community, then DL1 credit will be denied. This applies to CLOMRs and LOMRs that include filling as part of the reason for requesting a map change. Minor filling may be allowed where needed to protect or restore natural floodplain functions, such as part of a channel restoration project.

- The CRS manual describes a number of regulatory approaches that do not warrant credit under DL1; however, because the Oregon NFIP-ESA integration no net loss standards exceed the approaches described in the manual, a community meeting the Oregon no net loss standards should qualify for credit under DL1.

- Compensatory storage (DL1b): This credit is for regulations that require new development to provide compensatory storage at hydraulically equivalent sites up to a ratio of 1.5:1. Credit is not provided for:

    - Compensatory storage requirements in floodways only or in V Zones only, or

    - Stormwater management regulations that require a developer to compensate for any increase in runoff created by the development. This is credited under Activity 450.

- Activity 450 Stormwater Management

    - Stormwater management regulations (SMR – 452a): This credit is the sum of four sub-elements: Size of development (Section 452.a(1), SZ); design storm used (Section 452.a(2), DS); low-impact development (LID) regulations (Section 452.a(3), LID); and public agency authority to inspect and maintain, at the owner's expense, private facilities constructed to comply with the ordinance (Section 452.a.(4), PUB).

        - LID credits the community's regulatory language that requires the implementation of LID techniques to the maximum extent feasible to control peak runoff when new development occurs. LID techniques can significantly reduce or eliminate the increase in stormwater runoff created by traditional development, encourage aquifer recharge, and promote better water quality.

SECTION 2. Regulatory Crosswalk

The following table presents a crosswalk of the model ordinance sections against the relevant federal and state laws, regulations, and policies. The new sections related to the Oregon NFIP-ESA integration implementation (yellow highlighted sections of the model ordinance) are not listed in this table and are related to compliance with the ESA.

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
1.1 Statutory Authorization	59.22(a)(2)	Goal 7; ORS 203.035 (Counties), ORS 197.175 (Cities)
1.2 Findings of Fact	59.22(a)(1)	Goal 7
1.3 Statement of Purpose	59.2; 59.22(a)(1) and (8); 60.22	Goal 7
1.4 Methods of Reducing Flood Losses	60.22	Goal 7
2.0 Definitions	59.1; 33 CFR 328.3(c)(7)	Goal 7
3.1 Lands to Which this Ordinance Applies	59.22(a)	Goal 7
3.2 Basis for Establishing the Special Flood Hazard Areas	59.22(a)(6); 60.2(h)	Goal 7
3.3 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division		ORS 455
3.4.1 Compliance	60.1(b) – (d)	Goal 7
3.4.2 Penalties for Noncompliance	60.1(b) – (d)	Goal 7
3.5.1 Abrogation	60.1(b) – (d)	Goal 7
3.5.2 Severability		
3.6 Interpretation	60.1(b) – (d)	Goal 7
3.7.1 Warning		
3.7.2 Disclaimer of Liability		
4.1 Designation of the Floodplain Administrator	59.22(b)(1)	Goal 7
4.2.1 Permit Review	60.3(a)(1) – (3); 60.3(c)(10)	Goal 7
4.2.2 Information to be Obtained and Maintained	59.22(a)(9)(iii); 60.3(b)(5)(i) and (iii); 60.3(c)(4); 60.3(b)(3); 60.6(a)(6)	Goal 7; 105.9; 110.33; R106.1.4; R109.1.3; R109.1.6.1; R322.1.10; R322.3.6

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
4.2.3.1 Community Boundary Alterations	59.22(a)(9)(v)	Goal 7
4.2.3.2 Watercourse Alterations	60.3(b)(6) – (7), 65.6(12-13)	Goal 7
4.2.3.3 Requirement to Submit New Technical Data	65.3, 65.6, 65.7, 65.12	Goal 7
4.2.4 Substantial Improvement and Substantial Damage Assessments and Determinations	59.1; 60.3(a)(3); 60.3(b)(2); 60.3(b)(5)(i); 60.3(c)(1), (2), (3), (5) – (8), (10), (12); 60.3(d)(3); 60.3(e)(4), (5), (8)	Goal 7
4.3.1 Floodplain Development Permit Required	60.3(a)(1)	Goal 7
4.3.2 Application for Development Permit	60.3(a)(1); 60.3(b)(3); 60.3(c)(4)	Goal 7; Oregon Residential Specialty Code (R) 106.1.4; R322.3.6
4.4 Variance Procedure	60.6(a)	Goal 7
4.4.1 Conditions for Variances	60.6(a)	Goal 7
4.4.2 Variance Notification	60.6(a)(5)	Goal 7
5.1.1 Alteration of Watercourses	60.3(b)(6) and (7)	Goal 7
5.1.2 Anchoring	60.3(a)(3); 60.3(b)(1), (2), and (8)	Goal 7; R322.1.2
5.1.3 Construction Materials and Methods	60.3(a)(3), TB 2; TB 11	Goal 7; R322.1.3; R322.1.3
5.1.4.1 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems	60.3(a)(5) and (6)	Goal 7; R322.1.7
5.1.4.2 Electrical, Mechanical, Plumbing, and Other Equipment	60.3(a)(3)	Goal 7; R322.1.6;
5.1.5 Tanks		R322.2.4; R322.3.7
5.1.6 Subdivision Proposals	60.3(a)(4)(i) – (iii); 60.3(b)(3)	Goal 7
5.1.7 Use of Other Base Flood Data	60.3(a)(3); 60.3(b)(4); 60.3(b)(3); TB 10-01	Goal 7; R322.3.2
5.1.8 Structures Located in Multiple or Partial Flood Zones		R322.1
5.2.1 Flood Openings	60.3(c)(5); TB 1; TB 11	Goal 7; R322.2.2;

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
		R322.2.2.1
5.2.2 Garages	TB 7-93	R309
5.2.3.1 Before Regulatory Floodway	60.3(c)(10)	Goal 7
5.2.3.2 Residential Construction	60.3(c)(2)	Goal 7
5.2.3.3 Non-residential Construction	60.3(c)(3) – (5); TB 3	Goal 7; R322.2.2; R322.2.2.1
5.2.3.4 Manufactured Dwellings	60.3(b)(8); 60.3(c)(6)(iv); 60.3(c)(12)(ii)	Goal 7; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011
5.2.3.5 Recreational Vehicles	60.3(c)(14)(i) – (iii)	Goal 7
5.2.3.6 Appurtenant (Accessory) Structures	60.3(c)(5); TB 1; TB 7-93	Oregon Structural Specialty Code (S) 105.2; R105.2
5.2.4 Floodways	60.3(d); FEMA Region X Fish Enhancement Memo (Mark Riebau)	Goal 7
5.2.5 Standards for Shallow Flooding Areas	60.3(c)(7), (8), (11), and (14)	Goal 7
5.3 Specific Standards for Coastal High Hazard Flood Zones, and 5.3.1 Development Standards	60.3(e); TB 5; TB 8; TB 9	Goal 7; R322.3.1; R322.3.2; R322.3.3; R322.3.4; R322.3.5
5.3.1.1 Manufactured Dwelling Standards for Coastal High Hazard Zones	60.3(e)(8)(i) – (iii)	Goal 7; RR322.3.2; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
5.3.1.2 Recreational Vehicle Standards for Coastal High Hazard Zones	60.3(e)(9)(i)- (iii)	Goal 7
5.3.1.3 Tank Standards for Coastal High Hazard Zones		R322.2.4; R322.3.7

*Link to Oregon Specialty Codes (https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx)

There is no option for a credit in this ordinance and FEMA is not allowing it right now.

SECTION 3. Model Ordinance Language

1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

1.1 STATUTORY AUTHORIZATION

The State of Oregon has in ORS 203.035 (COUNTIES) OR ORS 197.175 (CITIES) delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the COMMUNITY NAME does ordain as follows:

1.2 FINDINGS OF FACT

A. The flood hazard areas of COMMUNITY NAME preserve the natural and beneficial values served by floodplains but are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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

1.3 STATEMENT OF PURPOSE

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

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Preserve natural and beneficial floodplain functions;

D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

E. Minimize prolonged business interruptions;

F. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

G. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

H. Notify potential buyers that the property is in a special flood hazard area;

I. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;

J. Participate in and maintain eligibility for flood insurance and disaster relief.

1.4 METHODS OF REDUCING FLOOD LOSSES

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

A. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage;

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding: A designated Zone AO, AH, AR/AO or AR/AH on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel

does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, V1-30, VE). "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Fill: Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered "development."

Fish Accessible Space: The volumetric space available to fish to access.

Fish Egress-able Space: The volumetric space available to fish to exit or leave from.

Flood or Flooding:

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

(1) The overflow of inland or tidal waters.

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

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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

Flood Insurance Study (FIS): See “Flood elevation study.”

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

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

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

Hazard Trees: Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

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

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

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

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

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

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

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

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then "flushed" into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

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

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by COMMUNITY NAME and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function

from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

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

Recreational vehicle: A vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See "Area of special flood hazard" for this definition.

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

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete

structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

Variance: A grant of relief by COMMUNITY NAME from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of COMMUNITY NAME.

3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for "EXACT TITLE OF FLOOD INSURANCE STUDY FOR COMMUNITY", dated DATE (MONTH DAY, FOUR DIGIT YEAR), with accompanying Flood Insurance Rate Maps (FIRMs) LIST ALL EFFECTIVE FIRM PANELS HERE (UNLESS ALL PANELS ARE BEING REPLACED THROUGH A NEW COUNTY_WIDE MAP THAT INCORPORATES ALL PREVIOUS PANELS/VERSIONS, IN THAT SITUATION PANELS DO NOT NEED TO BE INDIVIDUALLY LISTED) are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at INSERT THE LOCATION (I.E. COMMUNITY PLANNING DEPARTMENT LOCATED IN THE COMMUNITY ADMINISTRATIVE BUILDING).

3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES

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

3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

3.4.1 COMPLIANCE

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

3.4.2 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a (INFRACTION TYPE (I.E. MISDEMEANOR) AND PENALTIES PER STATE/LOCAL LAW ASSOCIATED WITH SPECIFIED INFRACTION TYPE (I.E. ANY PERSON WHO VIOLATES THE REQUIREMENTS OF THIS ORDINANCE SHALL UPON CONVICTION THEREOF BE FINED NOT MORE THAN A SPECIFIED AMOUNT OF MONEY…) Nothing contained herein shall prevent the COMMUNITY NAME from taking such other lawful action as is necessary to prevent or remedy any violation.

3.5 ABROGATION AND SEVERABILITY

3.5.1 ABROGATION

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

3.5.2 SEVERABILITY

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

3.6 INTERPRETATION

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

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

3.7 WARNING AND DISCLAIMER OF LIABILITY

3.7.1 WARNING

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply

that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

3.7.2 DISCLAIMER OF LIABILITY

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

4.0 ADMINISTRATION

4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The INDIVIDUAL JOB TITLE is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

Additional Recommended Language Provided in Appendix B

4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

4.2.1 PERMIT REVIEW

Review all development permits to:

A. Determine that the permit requirements of this ordinance have been satisfied;

B. Determine that all other required local, state, and federal permits have been obtained and approved;

C. Determine if the proposed development is located in a floodway.

i. If located in the floodway assure that the floodway provisions of this ordinance in section **5.2.4** are met; and

ii. Determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections **5.1.7**; and

iii. Provide to building officials the Base Flood Elevation (BFE) (ADD FREEBOARD IF COMMUNITY HAS HIGHER ELEVATION STANDARDS) applicable to any building requiring a development permit.

D. Determine if the proposed development qualifies as a substantial improvement as defined in section **2.0**.

E. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section **5.1.1**.

F. Determine if the proposed development activity includes the placement of fill or excavation.

G. Determine whether the proposed development activity complies with the no net loss standards in Section 6.0.

4.2.2 INFORMATION TO BE OBTAINED AND MAINTAINED

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

A. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section **5.1.7**.

B. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections **4.2.1(B), 5.2.4, and 5.3.1(F),** are adhered to.

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

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

E. Maintain all Elevation Certificates (EC) submitted to the community.

F. The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where

Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section **5.1.7**.

G. All floodproofing certificates required under this ordinance.

H. All variance actions, including justification for their issuance.

I. All hydrologic and hydraulic analyses performed as required under section **5.2.4**.

J. All Substantial Improvement and Substantial Damage calculations and determinations as required under section **4.2.4**.

K. Documentation of how no net loss standards have been met (see Section 6.0)

L. All records pertaining to the provisions of this ordinance.

4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS

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

4.2.3.2 WATERCOURSE ALTERATIONS

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

i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

B. The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section **4.2.3.3**. Ensure compliance with all applicable requirements in sections **4.2.3.3** and **5.1.1**.

4.2.3.3 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

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

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

i. Proposed floodway encroachments that increase the base flood elevation; and

ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

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

Additional Recommended Language Provided in Appendix B

4.2.4 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section **4.2.2**. Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section **3.2**) are damaged to the extent that the cost of restoring

the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.3.1 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section **3.2**. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section **2.0**, including fill and other development activities.

4.3.2 APPLICATION FOR DEVELOPMENT PERMIT

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

A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section **4.2.2**.

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

C. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

D. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section **5.2.3.3**.

E. Description of the extent to which any watercourse will be altered or relocated.

F. Base Flood Elevation data for subdivision proposals or other development when required per sections **4.2.1 and 5.1.6**.

G. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

H. The amount and location of any fill or excavation activities proposed.

4.4 VARIANCE PROCEDURE

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

4.4.1 CONDITIONS FOR VARIANCES

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections **4.4.1 (C) and (E), and 4.4.2**. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

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

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

D. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

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

E. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **4.4.1 (B) – (D)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

F. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 6.0 and associated options in Table 1).

Additional Optional Language Provided in Appendix B.

4.4.2 VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section **4.2.2**.

5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all special flood hazard areas, the no net loss standards (see Section 6.0) and the following standards shall be adhered to:

5.1.1 ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections **4.2.3.2 and 4.2.3.3**.

5.1.2 ANCHORING

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

B. All manufactured dwellings shall be anchored per section **5.2.3.4**.

5.1.3 CONSTRUCTION MATERIALS AND METHODS

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1.4 UTILITIES AND EQUIPMENT

5.1.4.1 WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

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.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

5.1.4.2 ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

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

A. If replaced as part of a substantial improvement shall meet all the requirements of this section.

B. Not be mounted on or penetrate through breakaway walls.

5.1.5 TANKS

A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

B. Above-ground tanks shall be installed at or above the base flood level (COMMUNITY FREEBOARD REQUIREMENT) or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

C. In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.

5.1.6 SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENTS

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

B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

i. Be consistent with the need to minimize flood damage.

ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

iii. Have adequate drainage provided to reduce exposure to flood hazards.

iv. Comply with no net loss standards in section 6.0.

5.1.7 USE OF OTHER BASE FLOOD ELEVATION DATA

A. When Base Flood Elevation data has not been provided in accordance with section **3.2** the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section **5.0**. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section **5.1.6**.

B. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc… where available. (REFERENCE TO ANY OF THIS TYPE OF INFORMATION TO BE USED FOR REGULATORY PURPOSES BY YOUR COMMUNITY, I.E. BASE LEVEL ENGINEERING DATA, HIGH WATER MARKS, HISTORICAL OR OTHER DATA THAT WILL BE REGULATED TO. THIS MAY BE NECESSARY TO ENSURE THAT THE STANDARDS APPLIED TO RESIDENTIAL STRUCTURES ARE CLEAR AND OBJECTIVE. IF UNCERTAIN SEEK LEGAL ADVICE, **AT A MINIMUM REQUIRE THE ELEVATION OF RESIDENTIAL STRUCTURES AND NON-RESIDENTIAL STRUCTURES THAT ARE NOT DRY FLOODPROOFED TO BE 2 FEET ABOVE HIGHEST ADJACENT GRADE).** Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES

In coordination with the State of Oregon Specialty Codes:

A. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

B. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

Additional Recommended Language Provided in Appendix B.

5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section **5.1** of this ordinance and the no net loss standards (see Section 6.0).

5.2.1 FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

A. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

B. Be used solely for parking, storage, or building access;

C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

i. A minimum of two openings;

ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;

iii. The bottom of all openings shall be no higher than one foot above grade;

iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,

v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

5.2.2 GARAGES

A. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

   i. If located within a floodway the proposed garage must comply with the requirements of section 5.2.4;

   ii. The floors are at or above grade on not less than one side;

   iii. The garage is used solely for parking, building access, and/or storage;

   iv. The garage is constructed with flood openings in compliance with section 5.2.1 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

   v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

   vi. The garage is constructed in compliance with the standards in section 5.1; and,

   vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

B. Detached garages must be constructed in compliance with the standards for appurtenant structures in section 5.2.3.6 or non-residential structures in section 5.2.3.3 depending on the square footage of the garage.

5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS

In addition to the general standards listed in section 5.1 the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

5.2.3.1 BEFORE REGULATORY FLOODWAY

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

result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in section **6.1.C**.

5.2.3.2 RESIDENTIAL CONSTRUCTION

A. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE) (ADDITIONAL FREEBOARD FOR YOUR COMMUNITY – RECOMMEND MINIMUM OF 1FT ABOVE BFE).

B. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section **5.2.1**.

5.2.3.3 NON-RESIDENTIAL CONSTRUCTION

A. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:

i. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) (ANY ADDITIONAL FREEBOARD REQUIREMENTS FOR YOUR COMMUNITY); or

ii. Together with attendant utility and sanitary facilities:

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

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section **4.2.2**.

B. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section **5.2.1**.

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

5.2.3.4 MANUFACTURED DWELLINGS

A. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with section **5.2.1**;

B. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

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

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

5.2.3.5 RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to:

A. Be on the site for fewer than 180 consecutive days, and

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

C. Meet the requirements of section **5.2.3.4**, including the anchoring and elevation requirements for manufactured dwellings.

5.2.3.6 APPURTENANT (ACCESSORY) STRUCTURES

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

A. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section **5.2.4**;

B. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

C. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;

D. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

E. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

F. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section **5.2.1**;

G. Appurtenant structures shall be located and constructed to have low damage potential;

H. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed incompliance with section **5.1.5**; and,

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

5.2.4 FLOODWAYS

Located within the special flood hazard areas established in section **3.2** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

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

ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 6.0.

B. If the requirements of section **5.2.4 (A)** are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section **5.0 and 6.0**.

5.2.5 STANDARDS FOR SHALLOW FLOODING AREAS

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

5.2.5.1 STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in sections **5.1, 5.2, and 5.2.5.**

5.2.5.2 STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in sections **5.1** and **5.2.5**:

A. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (COMMUNITY FREEBOARD REQUIREMENT) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

B. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate

Maps (FIRMS) (COMMUNITY FREE BOARD REQUIREMENT) (at least two (2) feet if no depth number is specified); or

ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM (COMMUNITY FREEBOARD REQUIREMENT) or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section **5.2.3.3(A)(4)**.

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

i. Be on the site for fewer than 180 consecutive days, and

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

iii. Meet the elevation requirements of section **5.2.5.2(A)**, and the anchoring and other requirements for manufactured dwellings of section **5.2.3.4**.

D. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section **5.2.3.6**.

E. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section **5.2.1**.

5.3 SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD FLOOD ZONES

Located within special flood hazard areas established in section **3.2** are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the area between the Limit of Moderate Wave Action (LiMWA) and the Zone V boundary. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions of this ordinance and the State of Oregon Specialty Codes, the following provisions shall apply in addition to the general standards provisions in section **5.1**.

5.3.1 DEVELOPMENT STANDARDS

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

   i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and

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

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

C. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information in accordance with section **4.2.2**.

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

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

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

ii. Such enclosed space created by breakaway walls shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

iii. Walls intended to break away under flood loads shall have flood openings that meet or exceed the criteria for flood openings in section 5.2.1.

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

F. Prohibit the use of fill for structural support of buildings.

G. All new construction shall be located landward of the reach of mean high tide.

H. Prohibit man-made alteration of sand dunes which would increase potential flood damage.

I. All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages shall comply with all the requirements of section 5.3.1 Floodproofing of non-residential structures is prohibited.

5.3.1.1 MANUFACTURED DWELLING STANDARDS FOR COASTAL HIGH HAZARD ZONES

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

A. Comply with all of the standards within section 5.3

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

C. Electrical crossover connections shall be a minimum of 12 inches above the BFE.

5.3.1.2 RECREATIONAL VEHICLE STANDARDS FOR COASTAL HIGH HAZARD ZONES

Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall either:

A. Be on the site for fewer than 180 consecutive days, and

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

5.3.1.3 TANK STANDARDS FOR COASTAL HIGH HAZARD ZONES

Tanks shall meet the requirements of section 5.1.5 and 6.0.

6.0STANDARDS FOR PROTECTION OF SFHA FLOODPLAIN FUNCTIONS

The standards described below apply to all special flood hazard areas as defined in Section 2.0.

6.1 NO NET LOSS STANDARDS

A. No net loss of the three proxies for the floodplain functions mentioned in Section 1 is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

i. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);

ii. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;

iii. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.

B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.

C. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

6.1.1 UNDEVELOPED SPACE

A. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

B. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

C. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

i. Hydraulically equivalent sites must be found within either the ~~equivalent 1-foot elevations or the same flood elevation bands~~ of the development porposal. The flood elevation bands are identified as follows:

(1) Ordinary High Water Mark to 10-year,

(2) 10-year to 25-year,

(3) 25-year to 50-year,

(4) And 50-year to 100-year

ii. Hydrologically connected to the waterbody that is the flooding source;

iii. Designed so that there is no increase in velocity; and

iv. Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.

6.1.2 IMPERVIOUS SURFACES

Impervious surface mitigation shall be mitigated through any of the following options:

A. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

B. use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or

C. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to

minimize pollutant loading. See section **6.2.C** for stormwater retention specifications.

6.1.3 TREES

A. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

i. Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

ii. Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

6.2 STORMWATER MANAGEMENT

Any development proposal that cannot mitigate as specified in 6.1.2(A)-(B) must include the following:

A. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and

B. Water quantity treatment (retention facilities) unless the outfall discharges into the ocean.

C. Retention facilities must:

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

ii. Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.

iii. Be designed to not entrap fish and drain to the source of flooding.

iv. Be certified by a qualified professional.

D. Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:

i. Access to stormwater treatment facilities at the site by the COMMUNITY TYPE (e.g., city, county) for the purpose of inspection and repair.

ii. A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.

iii. For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.

iv. The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the COMMUNITY TYPE (e.g., city, county) for five years

6.3 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

The following activities are not subject to the no net loss standards in Section 6.1; however, they may not be exempt from floodplain development permit requirements.

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

B. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;

C. Routine maintenance of landscaping that does not involve grading, excavation, or filling;

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

E. Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;

F. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

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

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

I. Habitat restoration activities.

6.4 RIPARIAN BUFFER ZONE (RBZ)

A. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

B. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.

C. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.

D. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.

E. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

Table 1 No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft^3)	Impervious Surface (ft^2)	Trees (6"<dbh≤20")	Trees (20"<dbh≤39")	Trees (39"<dbh)
RBZ and Floodway	2:1*	1:1	3:1*	5:1	6:1
RBZ-Fringe	1.5:1*	1:1	2:1*	4:1	5:1

Mitigation multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5th field)	200% *	200%*	200%*	200%	200%

Notes:

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
    a. For example, if only 500 ft^2 of the total 1000 ft^2 of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft^2 of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)

City of Lincoln City
City Council Communication

Lincoln County Water Systems Alliance Resolution

Meeting Date: 11/18/2024	Primary Staff Contact: David James Robinson
Department: Administration	Email: drobinson@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval: Daphnee Legarza	Estimated Time: 15 minutes

Strategic Priority: Emergency Management Preparedness

Question:
Should the City Council approver Resolution 2024-30, a Resolution committing Lincoln City support to a 50-year regional watershed management plan?

Staff Recommendation:
Staff has no recommendation. At this stage the LCWSA requires very little of Lincoln City or its staff. Future commitments would require expenditures and obligations of its own water system that future councils may not want to make. This resolution as presented today gives political support to the LCWSA but it does not bind Lincoln City from any future commitment.

Authority:
ORS 190.010 et. seq.
Lincoln City Charter 2.1

Background:
See LCWSA Introduction document included in council packet

Council Options:
Approve the resolution, with or without edits, or decline the resolution

Financial Impact
City staff time as yet to be defined

Potential Motions:
I move to approve Resolution 2024-30, a resolution declaring the City's commitment to join with Lincoln County cities and water districts to create a 50-year county-wide water supply and distribution system plan.

Resolution No. 2024-30

A Resolution of the City of Lincoln City, declaring the City's commitment to join with Lincoln County cities and water districts to create a 50-year county-wide water supply and distribution system plan that incorporates local and regional integrated plans to provide long term water security for the entire county and significant protections for the environment through membership in the Lincoln County Water Systems Alliance (LCWSA)

Whereas, in its Oregon's Mid-Coast Planning Partnership Water Action Plan, the Mid-Coast Water Planning Partnership (MCWPP) has identified the need to create a feasible 50-year county-wide water supply plan that incorporates regionally integrated plans to improve water system resiliency and water supply development in the face of natural and human-caused disasters; and,

Whereas, the Oregon's Mid-Coast Water Planning Partnership Water Action Plan names the Lincoln County Water Systems Alliance (LCWSA) as a leader in the development of the 50-year County-wide plan, the identification of additional sources of available water, and the prioritization of project funding throughout the region; and,

Whereas, the Mid-Coast Water Planning Partnership (MCWPP) is positioned to support the LCWSA through enhanced coordination with state and federal entities regarding regulations, permits, and funding; and,

Whereas, the Lincoln County Water Systems Alliance (LCWSA) is being created in order to establish regional water systems which will provide long-term water security for our entire county; and,

Whereas, the success of the LCWSA will require the participation of incorporated Lincoln County cities, water districts, the Confederated Tribes of the Siletz, the County of Lincoln County, and the involvement of conservation and water organizations; and,

Whereas, water suppliers will have a strengthened ability to address water issues, increase resiliency, and develop water sources through pooled resources; and,

Whereas, the mission of the LCWSA is urgent, as city, water district, and industrial water systems in Lincoln County are already experiencing water shortages and limits during the dry summer months; and,

Whereas, climate change projections indicate that the water shortages will increase dramatically; and,

Whereas, projected population growth will increase the demand for water resources, as the supply is decreasing, rendering our current systems untenable; and,

Whereas, county-wide water systems must prepare for earthquake and tsunami resilience; and,

Whereas, countywide water systems must meet new federal and state stream flow regulations for endangered fish species and stream ecology; and,

Whereas, Lincoln County cities and water suppliers, as separate entities, have struggled to adequately fund the development and maintenance of the available local water resources; and,

Whereas, infrastructure deterioration and replacement costs are beyond the means of local taxpayers; and,

Whereas, applications for state and federal permits and major infrastructure funding will be strengthened when they demonstrate the benefits to and support of the entire region; and,

Whereas, the overall mission of the LCWSA is to review options, develop a 50-year plan, secure funding, and establish regional water supply and distribution systems which will provide long-term water security throughout Lincoln County, while achieving significant protections for our rivers, streams, and watersheds; and,

Whereas, the development and realization of this plan will be enhanced through a partnership with Oregon State University; and,

Whereas, all LCWSA members should provide their active and proposed plans for local and regional water sources, storage, production, and distribution for inclusion in the OSU study; and,

Whereas, all LCWSA members should become well informed on the options available, and have input into the 50-Year Plan to assure that their organization will benefit; and,

Whereas, the LCWSA will determine which water projects will be included in the 50-Year Lincoln County Regional Water System Plan through a majority vote of the members, after review of the OSU study, review of additional information, and consideration of the needs of all members; and,

Whereas, each member city and water district will maintain their right to determine and independently proceed with water projects they have identified as essential, independent of inclusion in the final 50-Year Plan; and,

Whereas, each member city and water district may choose to remove a water project which is within their service area from the Plan, but should accommodate Plan distribution systems to other cities or water districts; and,

Whereas, the LCWSA will assist the cities and water districts in securing funding for and implementation of the approved 50-Year Plan. Now, Therefore, Be It Resolved That the City Council of the City of Lincoln City, As Follows:

Now Therefore, the members of the Council of the City of Lincoln City do hereby find, declare and resolve that:

1. Lincoln City commits to the mission of the Lincoln County Water Systems Alliance (LCWSA).

2. Lincoln City will appoint a staff member or elected official to actively participate in the pursuits of the LCWSA and to serve as the communication link between the City of Lincoln City and the LCWSA.

3. Lincoln City will consider supporting a portion of the costs of the LCWSA mission when proposed and agreed upon by the LCWSA membership.

Approved by the City Council of the City of Lincoln City this ____ day of _____ 202__.

_____
Susan Wahlke, Mayor

Attest:

_____
Jamie Young, City Recorder

Approved as to form:

_____
David Robinson, City Attorney

Siletz River at Moonshine Park

LINCOLN COUNTY WATER SYSTEMS ALLIANCE

If We All Join Together,
Long-term Water Security Is Possible!

The Lincoln County Water Systems Alliance (LCWSA or Alliance) **is being created in order to establish a 50-year county-wide water supply and distribution system plan that incorporates local and regional integrated plans to provide long-term water security for the entire county and significant protections for the environment. Its success will require the participation of Lincoln County cities, water districts, the Confederated Tribes of the Siletz, the County of Lincoln County, and the support and involvement of conservation and water organizations. The development and realization of this plan will be enhanced through a partnership with Oregon State University.**

The *Mid-Coast Water Planning Partnership Water Action Plan* names the LCWSA as a leader in the development of the county-wide plan, and the Mid-Coast Water Planning Partnership (MCWPP) is positioned to support the LCWSA through information sharing and enhanced coordination with state and federal entities regarding regulations, permits, and funding.

MISSION: Review options, develop a 50-year plan, secure funding, and establish water supply and distribution systems which will provide long-term water security for our entire county, while achieving significant protections for our rivers, streams, and watersheds.

Cities, water districts, and industrial water systems in Lincoln County are already experiencing water shortages and limits during the dry summer months – and climate change projections indicate that this will get worse for all of them. These systems must also prepare for earthquake and tsunami resilience, and meet new federal and state stream flow regulations for endangered fish species and stream ecology.

Lincoln County cities and water suppliers, as separate entities, have struggled to adequately fund the development and maintenance of the available local water resources. Now, these water sources are not only decreasing, the infrastructure deterioration and replacement costs are beyond the means of local taxpayers. Applications for state and federal permits and major infrastructure funding will be strengthened when they demonstrate the benefits to and support of the entire region.

PHASE I

The LCWSA will engage with OSU partners to gather information on existing water studies, data, recommendations, new technologies, untapped water sources, and environmental conditions and projections. A digital decision support system which rates the feasibility and impacts of possible solutions to the long-term water supply needs of the county will be developed and applied. This model decision support system will be transferable and valuable to other regions in our state and nation. Grant funding through OSU has been awarded to initiate the project, to be followed by applications for additional grants to develop and apply the decision-making system. The study should include:

- **City and Water District Water Management and Conservation Plans and other active or proposed water projects.**
- **Reviews of existing reports on proposed regional water supply projects.**
- **Recommendations and data from the Mid-Coast Water Planning Partnership (MCWPP).**
- **Recommendations, and data from meetings with community water suppliers, users, and representatives of conservation and water organizations.**
- **Studies on projected effects of climate change on instream flow requirements and out of stream water availability.**
- **Water use records and projections for cities, water districts, and large water users.**
- **Possibilities for: water conservation, conservation pricing, n*ew* technologies, new water sources, distribution systems, and water reuse and reclamation processes.**

PHASE II

The LCWSA, with OSU partners, will review the Phase I report, evaluate the viable options and their estimated costs, pursue additional data and possibilities, if necessary, and formulate plans which can provide water security in Lincoln County for the next fifty years. The plans must include the input and requirements of state and federal regulatory agencies and recommendations for significant and sustainable protections for the environment.

PHASE III

The LCWSA will coordinate with the cities, water districts, and conservation organizations to secure funding for the realization of the plans. State and federal funding will be essential. Local tax measures and/or water rate increases to residences and businesses may be required.

PHASE IV

This final phase will be the implementation of the county-wide water systems plan. This will include the permits, land acquisition and water rights, design, engineering, construction, and operation of the required infrastructure.

Supporting Signatories

Senator Dick Anderson, Oregon State Senate
Penelope Kaczmarek, LCWSA Support
Billie Jo Smith, LCWSA Support

For additional information, please contact:
Penelope Kaczmarek 541-961-2417 Owyhee7@msn.com
Billie Jo Smith 541-961-8335 bjsmith42@hotmail.com

Oregon State University LCWSA Partners

The Partnership between the University of Oregon and the Lincoln County Water Systems Alliance will be linked to the OSU Institute for Water and Watersheds.

I. **Team**: The membership of our team crosses researchers, extension, centers and institutes, and community partners. Members were (and will be) identified based on their unique knowledge and skills relevant to the proposed research topic, openness to divergent ideas, diversity in perspectives, demonstrated and expressed interest in enabling One Water approach for climate-ready communities, and positive contribution to team dynamics. The participation of some of our non-research partners is further incentivized via monetary support for their role.

1. ***Dr. Meghna Babbar-Sebens*** (CCE Faculty, Role: PI): Expertise in watershed and water infrastructure models, simulation-optimization, humans-in-the-loop decision support.
2. ***Dr. Daniel Cox*** (CCE Faculty, Role: co-PI): Expertise in community resilience to coastal hazards, including tsunami and hurricane surge and waves inundation in the built and natural environments.
3. ***Dr. Kristen Macuga*** (Psychological Sciences Faculty, Role: co-PI): Expertise in virtual environments and human-computer interaction
4. ***Dr. Luhui Whitebear*** (Indigenous Studies Faculty, Role: co-PI): Expertise in Indigenous knowledge systems and beliefs, experience with Tribal nations
5. ***Dr. Kenneth Williamson*** (Institute of Water and Watersheds, Role: co-PI): Research and industry experiences, with expertise in wastewater treatment, regulatory innovation, business operations, and environmental restoration.
6. ***Ms. Miranda Gray*** (Oregon Sea Grant Extension, Role: co-PI): Expertise in coastal water resources extension and education
7. ***Dr. David Rupp*** (CEOAS Faculty, Role: collaborator): Expertise in climate models, climate variability, and anthropogenic influences on climate and hydrology
8. ***Ms. Billie Jo Smith*** (LCWSA, Role- community partner): Expertise and experience in leading and facilitating educational and community programs, background in environmental studies and water ecology and systems, and former mayor of the City of Toledo
9. ***Dr. Lisa Gaines*** (Institute for Natural Resources, Role: collaborator) Expertise in human dimensions of environmental risk, environmental policy and decision-making, citizen participation, evaluation, and international transboundary waters.
10. ***Ms. Carrie Hertel*** (Center for Applied Systems & Software (CASS), Role: collaborator) Expertise in managing and guiding open software development projects. A $4000 budget support for a CASS hourly student has been included.
11. ***Anticipated members***: During the project we also expect to identify missing expertise in this team related to, but not limited to, tribal relations, artificial intelligence, visualization, asset management, economics, ecology, and business models for open digital platforms. While our current team may identify prospective experts to fill gaps in the team, we will use our workshops as incentives to engage with them and others and recruit them based on their alignment to our overall vision and long-term plan.

City of Lincoln City
City Council Communication

Reappointments to The Parks and Recreation Board

Meeting Date: 11/18/2024
Department: City Council
Secondary Dept:
Approval: Daphnee Legarza
Strategic Priority: Not Applicable

Primary Staff Contact: Jamie Young
Email: jyoung@lincolncity.org
Secondary Contacts:
Estimated Time: 5 Minutes

Question:
Should the City Council approve the appointment of Robert Vincent and Donna Eddy for positions on the Parks and Recreation Board?

Staff Recommendation:
Mr. Vincent and Ms. Eddy serve on the Parks and Recreation Board. Their terms will expire on December 31, 2024. On October 28, 2024 Council voted to use the abbreviated appointment process pending a new background check. They have successfully passed a new background check.

Background:
The Parks and Recreation Board currently has no vacant position.

Council Options:
Review and discuss the recommendation for reappointment of Robert Vincent and Donna Eddy to the Parks and Recreation Board, for a three-year term ending 12/31/27.

Potential Motions:

1. **I move to appoint Robert Vincent and Donna Eddy to the Parks and Recreation Board City resident position with a term expiring 12/31/2027.**
2. **I move to table this agenda item until January 13, 2025**

Attachments:
MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION-2024

MEMORANDUM

To: City of Lincoln City Mayor and Council
From: Human Resources Department
Date: November 01, 2024
Re: Council Volunteer Reappointment—Background Report

To the Honorable Mayor and City Council:

Human Resources has conducted a background investigation for a volunteer application for City Appointed Bodies as set forth in the Lincoln City Municipal Code, Section 2.06.015(D).

No adverse information was found for the following applicant, and they have *passed* the background check.

Name: Robert Vincent
Position Applied For: Parks and Recreation Board

Respectfully,

Niña Graham

Niña Graham
Human Resources Supervisor

MEMORANDUM

To: City of Lincoln City Mayor and Council
From: Human Resources Department
Date: November 12, 2024
Re: Council Volunteer Reappointment—Background Report

To the Honorable Mayor and City Council:

Human Resources has conducted a background investigation for a volunteer application for City Appointed Bodies as set forth in the Lincoln City Municipal Code, Section 2.06.015(D).

No adverse information was found for the following applicant, and they have *passed* the background check.

Name: Donna Eddy
Position Applied For: Parks and Recreation Board

Respectfully,

Niña Graham

Niña Graham
Human Resources Supervisor

City of Lincoln City
City Council Communication

North Lincoln Fire and Rescue (NLFR) Dispatch Service Contract

Meeting Date: 11/18/2024
Department: Administration
Secondary Dept:
Approval: Daphnee Legarza
Primary Staff Contact: David James Robinson
Email: drobinson@lincolncity.org
Secondary Contacts:
Estimated Time: 20 minutes
Strategic Priority: Emergency Management Preparedness

Question:
Should the City Council discontinue charging the North Lincoln Fire and Rescue District for 911 dispatch services and terminate the IGA for dispatch services?

Staff Recommendation:
Staff recommends the Council terminate the IGA

Authority:
ORS 190.010, et al. and the IGA itself which allows for unilateral voluntary termination (see section 8 B.) – the IGA will terminate 180 days from one party giving notice of its intent to terminate.

Background:

Lincoln City and the North Lincoln Fire and Rescue District entered into an IGA on June 24, 2019. The agreement was that the district would pay the city $25,000 two times each year in exchange for the city taking fire calls at the city's 911 dispatch center. The annual installment payments increased by 4% every year at renewal.

The city's decision to terminate the IGA is not a reflection on the district or its services. On the contrary, the district has voiced concerns about lost tax revenue from the Urban Renewal Area. The city no longer wants to charge the district for services and the city will continue to provide dispatch services to the district. Fire and life safety services are a vital service in our community. The city desires to do what it can to help the district provide excellent services.

With the elimination of the payment requirement the IGA is no longer necessary. As a purely contractual matter, if the city no longer charges for the services, the IGA no longer has "consideration" a legal term meaning the bargained for exchange of obligations. The IGA becomes one-sided.

We hope that eliminating the payment for dispatch services will give the district what it needs to continue its good work.

Council Options/ Potential Motions:

Motion to stop charging the NLFRD for services and motion to terminate the IGA.

Motion to continue charging the NLFRD and motion to continue the IGA

No motion (or no second) and maintain the status quo.

Financial Impact
$60,834

Attachments:

NFL dispatch service IGA

INTERGOVERNMENTAL AGREEMENT
FOR PROVISION OF DISPATCH AND ENHANCED 911 SERVICES

This agreement is entered into this 24th day of June, 2019 by and between THE CITY OF LINCOLN CITY, Oregon, (hereinafter "City"), and NORTH LINCOLN FIRE & RESCUE DISTRICT #1 (District).

A. ORS 190.010 permits units of local government to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has authority to perform; and

B. The City, and its Police Dispatch Center (Center), presently operates a 911 emergency reporting system and Computer Aided Dispatch (CAD) system.

C. The District wants to receive City Information Technology (IT) support for Mobile Data Computers (MDC).

D. The District and City wish to enter into an agreement for the City to provide emergency dispatch services to the District including CAD service and IT support for MDCs.

NOW, THEREFORE, in consideration of the mutual covenants contained herein the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RECITALS.

The recitals set forth above are true and correct and are incorporated herein by this reference.

2. DURATION / TERM OF AGREEMENT. [ORS 190.020(1)(e)].

A. One year term. The term of this Agreement shall begin on July 1, 2019 and shall continue until June 30, 2020 unless renewed as provided in Section 2(B) below.

B. Annual renewal term. This agreement may be renewed for additional consecutive terms of one year beginning July 1, 2020. Unless either party gives notice of non-renewal by December 31st of any term, the Agreement will automatically renew on July 1 for an additional year, except if the Agreement is earlier terminated under Section 8. The annual escalation referred to in Section 5(B) will apply.

3. REAL OR PERSONAL PROPERTY. [ORS 190.020(1)(d)].

No real or personal property is being transferred or allocated between the parties.

4. **FUNCTIONS, SERVICES, OR ACTIVITIES.** [ORS 190.020(1)].

A. Definitions for purposes of this Agreement:

1. "Emergency Call" means a telephone request that results from a situation where prompt service is essential to preserve human life or property.
2. "Non-Emergency" means a request for service that has been routed through the center and where a response from the District is not essential to preserve human life or property.

3. "The Center" means the City-operated police dispatch center and public service answering point where dispatchers are housed and 9-1-1 calls are received.

4. "Enhanced 9-1-1 telephone service" means 24-hour a day 9-1-1 telephone service consisting of a network, database, and on-premises equipment that provides:

a. Automatic accessibility of the Center as an emergency call answering point as governed by the Lincoln County 9-1-1 service plan as approved by the State of Oregon.

b. Direct dispatch of the District emergency services, in response to emergency calls, anywhere within the District's service area;

c. Two 9-1-1 circuits from each telephone utility service servicing the District area to the center;

d. Automatic display at the Center of the address and telephone number at the time of receiving an incoming 9-1-1 call;

e. A network which is developed to transport address and telephone number information to the Center automatically upon a person placing a call to 911;

f. Emergency call service in which no more than one call and 100 attempts will receive a busy signal on the first attempt during the average busiest hour or a minimum of two 9-1-1 circuits to the Center.

B. Dispatch Services. The City shall provide enhanced 9-1-1 telephone service at the Center and the Center, shall provide emergency and non-emergency dispatch services to the District. The service shall include:

1. Receipt of the calls from persons or agencies requesting services provided by the District, including transferred calls;

2. Dispatch of District vehicles in response to emergency and non-emergency calls from persons requesting services provided by the District;

3. Emergency Calls will be processed from time of call answer to dispatch time at 2 minutes or less 90% of the time.

4. Information gathering from persons making emergency calls to 9-1-1 services provided by the district;

5. Pre-arrival instructions to dispatch District vehicles responding to emergency calls to 9-1-1 services provided by the District;

6. For emergency calls from persons needing services provided by the District, recording of event times and tracking the status of individual District vehicles dispatched. Examples of event times that may be recorded are time of call, time of dispatch, time of arrival, and time of clearing. Examples of status that may be tracked are in route, on standby, or cleared.

7. For emergency calls from persons needing services provided by the District, recording of other information as reasonably requested by the District. Examples of other information that may be recorded are performance in relation to significant activity in an emergency event (benchmarks).

8. For emergency calls from persons needing services provided by the District, contact, coordinate the dispatch of responses from, and facilitate radio traffic among utilities and other agencies and persons as required for appropriate emergency responses to the calls. Examples of other agencies are local police, state police, emergency medical service providers, and public works departments.

9. For emergency calls from persons needing services provided by the District, provide telephone patches among the incident scene, the Districts stations, and cell phones as required for appropriate emergency responses to the calls.

10. Establish and participate in a quality assurance and improvement program, participated in by a District-appointed representative, to assure continual evaluation of the service provided under this Agreement to provide the best practicable service.

11. Organize and conduct quarterly meetings between the City and the District to continually develop and update policies relating to the Centers

dispatch and enhanced 9-1-1 telephone service, including the service provided to the District under this Agreement.

12. Provide pre-arrival medical assistance to callers, as appropriate.

13. The training of Dispatchers and other Center personnel.

C. Collection and Reporting of Data.

1. The City shall collect the following call volume and service cost data and provide it to the District upon request.

   a. The total number of calls handled by the Center;

   b. The number of District calls handled by the Center;

   c. The total number of calls for service handled by the dispatch at the Center.

   d. The number of District calls for service handled by dispatch and the Center.

   e. The cost of providing dispatch and enhanced 9-1-1 telephone services at the Center.

   f. The budget, including line items, for providing dispatch and enhanced 9-1-1 telephone service at the Center.

   g. Call processing times for compliance with the Agreement will be done by random sampling.

2. The City and the District may use the data collected and reported under this section as a basis for negotiating new rates and terms for Agreement renewals.

5. PAYMENT / TAXES / LIENS. [ORS 190.020(1)(a)]. The District shall pay the City for services provided under this Agreement as follows:

A. The District shall pay to this City the sum of $25,000.00 every six months, invoicing July and January for the term of this agreement.

B. On renewal of this Agreement per Section 2.B , the annual payment will include an additional 4 (four)% of the annual payment required in the previous year if a new rate is not negotiated in accordance with Section 4.C.2. and Section 12 (Amendment).

C. The District shall be responsible for its hard equipment costs including portable and mobile radios and MDC's. The District will also cover its costs for MDC software and connectivity.

D. The District will be responsible for the costs associated with any additional CAD programming done for the District by Willamette Valley 911 and will make payment directly to Willamette Valley 911 for such services.

E. Prior to proceeding with programming or any repairs required for fire dispatch services that the District would be responsible for, the City will notify the District of the reasons the repairs are needed. The bill for such programming or repairs will show that the programming or repairs were performed.

6. REVENUE. [ORS 190.020(1)(b)].

The parties do not anticipate any change in revenues derived pursuant to this agreement. That is, all revenues received by the City shall remain the property of Lincoln City.

7. PERSONNEL. [ORS 190.020(1)(c)].

No employees will be transferred pursuant to this agreement. District and City are subject employers under ORS Chapter 656, and shall procure and maintain current valid workers compensation insurance coverage for all of each respective agencies subject workers throughout the period of this agreement. This agreement does not change the status of any employee, contractor, or officer of the respective City and District.

8. TERMINATION. [ORS 190.020(1)(f)].

A. Mutual Termination. The City and District may terminate this Agreement at any time by mutual written agreement.

B. Unilateral Termination. A party seeking termination under this subsection will give the other party notice of termination at least (180) days prior to the desired termination date.

C. Breach / Termination. The City and the District each will have the right to terminate this Agreement prior to expiration of the Agreement term in the event of a material breach of the Agreement by the other party. A material breach shall include, but is not limited to actions such as: failing to remit any required payment or services under the Agreement, or failing to correct an alleged material breach after notice, pursuant to Section 8(C)(2), below. The termination process under this subsection shall be as follows:

1. The party asserting a breach of this Agreement shall give written notice to the other party identifying the specific material action or material omission (with regard to payment or services) that constitutes a material breach and also identifying the section or subsection of this Agreement requiring such payment of services. The written notice shall state that the asserting party intends to terminate this Agreement unless the party receiving the notice corrects the breach as required by subsection C.2. below.

2. The party receiving the notice shall correct the breach within 30 days from receipt of the notice or, if it is not reasonably practicable to correct the breach within 30 days, shall commence the actions necessary to and thereafter shall diligently and continuously pursue correction of the breach until correction is completed.

3. If the party receiving a notice of breach has not corrected the default or has not begun to correct the default as required by subsection (C)(2), of this section, then at any time after the time of non-compliance with subsection (C.)(2), provided that the breach has not yet been corrected, the party giving notice of the breach may terminate this Agreement by giving written notice of termination to the other party in default.

4. The right of termination under this section will be the exclusive remedy available to the parties in the event of default.

9. INDEMNITY /HOLD HARMLESS.

To the extent permitted the Oregon Constitution and the Oregon Tort Claims Act, the City shall hold harmless, defend and indemnify District from any and all claims, demands, damages or injuries, liability of damage, including injury resulting in death or damage to property, that anyone may have or assert by reason of any error, act or omission of City providing services pursuant to this agreement, or of City officials arising out of or in the performance of duties under the terms of this agreement. Provided however, the City shall not be held responsible for any claims, actions, costs, judgments or other damages, directly and proximately caused by the criminal or wanton acts of District employees or the negligence of such employees. Such indemnification shall also cover claims brought against either party under state or federal employees' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

If a claim, demand, action, or suit arises out of negligent acts or omissions of both the District and the City, each shall be responsible for its proportionate share of liability and to the extent allowed under the Oregon Constitution and the Oregon Tort Claims Act, will hold harmless, defend, and indemnify the other and the others officers, agents, and employees against such

claims, demands, actions, or suits to the extent necessary so that each bears the cost of defense and liability in proportion to its proportionate share responsibility as determined by a court.

10. RECORDS.

The City will maintain and retain any document or records required to be maintained under this Agreement, and under applicable public records retention schedules. The District or its authorized representative, on reasonable notice to City and from time to time, may inspect, audit, and copy any public records of the City subject to disclosure and regarding the performance of services under this Agreement.

11. SUCCESSORS; ASSIGNMENT.

A. This Agreement shall be binding on and be for the benefit of the City, The District, and their successors.
B. Neither the City nor the District may assign this Agreement, in whole or in part, without the prior written consent of the other party. This prohibition against assignment without consent includes a prohibition against any assignment by operation of law.

12. AMENDMENTS.

The City and the District may amend this Agreement only by written amendment approved by the City Council and the District Board of Directors and signed by the City and the District.

13. REPRESENTATIVES OF PARTIES; AUTHORITY OF REPRESENTATIVES.

The Chief of Police, or such other person as shall be designated in writing by the Chief of Police, shall be the City's representative under this Agreement. The Fire Chief, or such other person as shall be designated in writing by the Fire Chief, shall be the District's representative under this Agreement. The City's and District representatives are authorized to give notices, terminate this Agreement, and take any other actions referred to herein on behalf of their respective parties, except for the Amendment of this Agreement which can occur only as provided in section 12 of this Agreement.

14. ATTORNEY FEES.

If suit or action is instituted in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonably as attorney fees at trial and on appeal.

15. NON-WAIVER.

No waiver of or neglect to enforce a party's rights on breach of any provision of this Agreement shall be deemed a waiver of the party's rights on any subsequent breach of the same or of any other provision of this Agreement.

16. VENUE GOVERNING LAW.

Venue for resolution of all disputes under this Agreement shall be in Lincoln County, Oregon. This Agreement shall be construed according with the laws of the State of Oregon.

17. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS.

Notices and requests required by and given in connection with this agreement and all other communications related to this agreement shall be in writing or email and deemed given as of the day they are received by (a)personal delivery, (b) electronic, (c)overnight delivery service, (d) United States mail, certified and return receipt requested, and addressed as follows:

City of Lincoln City
Attn: Chief of Police
P.O. Box 50
Lincoln City, OR 97367

North Lincoln Fire & Rescue District #1
Attn: Fire Chief
PO Box 200
Lincoln City, OR 97367

Changes may be made to the names and addresses of the person to whom notices, bills, and payments are to be given by providing notice pursuant to this paragraph.

18. SEVERABILITY.

In the event that any part of this IGA is found to be illegal, or in violation of public policy, or for any other reason unenforceable, such finding shall in no event invalidate or render unenforceable the other parts of this agreement.

19. MERGER.

This writing is intended both as the final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the

agreement. No modification of this agreement shall be effective unless it is made in writing and signed by those parties agreeing to said modification. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this agreement.

City of Lincoln City, Oregon

By: _____
Dick Anderson, Mayor

North Lincoln Fire & Rescue District #1

By: _____
Rob Dahlman, Fire Chief

Approved as to Form:

_____
Richard Appicello, City Attorney

City of Lincoln City
City Council Communication

REQUEST TO INCREASE METER INSTALLATION CONTRACT AMOUNT

Meeting Date: 11/18/2024
Department: Public Works
Secondary Dept:
Approval: Daphnee Legarza
Strategic Priority: Infrastructure

Primary Staff Contact: Stephanie Reid
Email: sreid@lincolncity.org
Secondary Contacts:
Estimated Time: 5 minutes

Question:
Should the City Council approve the increase contract amount for installation only of water meters and radios for the Advance Metering Infrastructure (AMI) System, Phase 2B?

Staff Recommendation:
Staff recommends the City Council approve the increase contract amount for installation only of water meters and radios for the Advance Metering Infrastructure (AMI) System, Phase 2B.

Authority:
LCMC 2.05.060. (Public improvement contracts shall be awarded by competitive bid or as provided by the Public Contracting Code or these rules) In this case, the Council approved the exemption from competitive bid.

Background:
The AMI System is a system where water meters are read by a radio rather than a meter reader visiting each meter on site. The system also provides real time information about the use of water. This information is sent to a Meter Data Management System where the information is process and stored. This information is also sent to the Caselle Software for billing. This information is also available to field operations and alerts are given when the system detects leaks on the service lines.

On June 10, 2024 Council approved the award of the contract to install the AMI System for Phase 2 to Bateson Enterprises, LLC in the amount of $194,203.90.

Phase 2B included installing 725 meters. The contract was a time and materials contract and included the following assumptions:

• Mobilization	$7,500.00
• Vacuum Trailer Rental	$13,549.00
• Installation of Meters (30 crew days)	$148,500.00
• Miscellaneous	$7,000.00
Total	$176,549.00

Phase 2B, installing 725 meters is now completed. Staff originally estimated 30 crew days to install the meters. It actually took the contractor 73.5 days (9.86 meters per day) or $535.15 per meter. The evaluation of the installation from both Finance and Water Maintenance Crew is excellent. Once the crews completed a water meter installation, it was complete and no additional City staff time was needed to correct issues. In Phase 1 and 2 the City staff spent extraordinary amounts of time following behind the installation crew fixing installation problems or software programming issues.

Staff is in the planning stage for installation of Phase 3 water meters, which will entail approximately 3,000 water meters from D-River north to Logan Road. The Phase 2B installation is serving as a base line indicator of the average time each meter installation entails to assist us in better estimating our future installation costs.

Council Options:
City Council can decide to or not to authorize the additional contract amount of $193,780.01.

Financial Impact
The project is funded through the Water Capital Fund. In FY 24/25 the remaining budget amount for this project is $1,761,901.70.

Potential Motions:
Move to approve an increase to the AMI System installation contract to Bateson Enterprises, LLC amount of $193,780.01 bringing the total contract amount for Phase 2B to $387,984.00.

Attachments:
None

City of Lincoln City
City Council Communication

Outside Agency Grant Award Recommendations

Meeting Date: 11/18/2024
Department: Administration
Secondary Dept:
Approval: Daphnee Legarza
Strategic Priority: Not Applicable

Primary Staff Contact: Michael Phillips
Email: mphillips@lincolncity.org
Secondary Contacts:
Estimated Time: 15 minutes

Question:
Should the City Council approve the outside agency grant request award recommendations from the City Council Outside Agency Grant Subcommittee.

Staff Recommendation:
Staff recommends the Council approve the outside agency grant request award recommendations from the City Council Outside Agency Grant Council Subcommittee. Staff also recommends per the City Council Outside Agency Grant Subcommittee, the full City Council have a work session in 2025 before the budget to discuss changes to the grant process and requirements.

Background:
In the 2024-25 adopted budget the contribution to outside agencies was funded with $300,000.

Council Options:

Approve some, all, or none of the following grant award recommendations from the City Council Outside Agency Grant Subcommittee:

Outside Agency Grant Recommendations.

Organization	Recommended Award Amount
Angel's Anonymous	$ 10,000
BFE (Backpacks for Kids)	$ 10,000
Central Coast Humane Society	$ 5,000
Coastal Cheer Athletics	$ 5,000
Coastal Support Services	$ 32,000

Conexión Fenix	$ 15,000
Family Promise of Lincoln County	$ 15,000
Habitat for Humanity	$ 14,000
Helping Hands Reentry Outreach Centers	$ 15,000
Lincoln City Cultural Center	$ 5,000
North End Seniors Solutions	$ 10,000
North Lincoln County CERT	$ 1,000
North Lincoln Hospital Foundation	$100,000
Northwest Coastal Housing	$ 17,350
Oceana Family Literacy	$ 17,000
Oregon Cascades West Senior Services Foundation, Senior Companion Program	$ 4,000
Oregon Coast Community Foundation	$ 5,200
Safe Families for Children	$ 10,000
Samaritan House	$ 10,000
Taft Tiger Boosters	$ 3,500
Oregon Coast West Senior Senior Services Foundation, Meals on Wheels Program	$ 4,500
Total	**$308,550**

Financial Impact:

The total financial impact is $308,550

Potential Motions:

Motion to approve the recommendations as written