

1 **Ordinance No. 2024-18**

2 **An Ordinance Amending the City of Lincoln City Municipal Code 15.16 updating the flood**
3 **prevention ordinance to comply with recent directives from the Federal Emergency**
4 **Management Agency and repealing Ordinances 2009-17 and its exhibits, 2019-25, and**
5 **2021-10**

6 **The City Council finds:**

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

8 2.1 Powers of the City

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

12 2.2 Construction of Charter

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

19 B. The above referenced grant of power has been interpreted as affording all legislative
20 powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton*
21 *v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P
22 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284
23 Or 173 (1978); and

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

28 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

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

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4 E. On October 14, 2024, the City duly notified the Oregon Department of Land
5 Conservation and Development pursuant to ORS 197.610 of its consideration of the
6 proposed amendment(s); ORS 227.186(4) notice was sent to impacted property owners
7 as required; and
- 8
9 F. In its training sessions, FEMA staff disclosed that it would be up-dating standards
10 contained in the model ordinance, which would require amendment of this ordinance.
- 11
12 G. The City Council conducted a public hearing on November 18, 2024 continued the
13 hearing to _____ providing direction to staff to continue monitoring
14 developments in the FEMA model ordinance and return with the Ordinance for required
15 readings and adoption.
- 16
17 H. All persons were given an opportunity to provide written and/or oral testimony on the
18 proposed ordinance amendments.

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21 **The City of Lincoln City Ordains as follows:**

22 **Section 1:**

23 (see Exhibit 1)

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

28 **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.

1 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
2 9.2 of the City of Lincoln City Charter on the 18th day of November, 2024 (First Reading) and on
3 the ____ day of _____ 202__ (Second Reading).

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

6 _____
7 Susan Wahlke, Mayor

8 ATTEST:

9 _____
10 Jamie Young, City Recorder

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12 APPROVED AS TO FORM:

13 _____
14 David Robinson, City Attorney

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