



AGENDA COVER MEMORANDUM

Memorandum Date: December 18, 2023
First Reading Date: January 9, 2024
Second Reading/Public Hearing: January 23, 2024
Third Reading/Continued Public Hearing: February 6, 2024
Fourth Reading/Continued Public Hearing: March 12, 2024
Fifth Reading: April 2, 2024

TO: Lane County Board of Commissioners

DEPARTMENT: Public Works, Land Management Division, Planning Department

PRESENTED BY: Rachel Serslev, Senior Planner

AGENDA TITLE: ORDINANCE NO. 24-01 / In the Matter of Amending Lane Code 16.244(5)(b)(iv) and 10.271(5)(b)(iv) to Define the Term "Footprint" as Used in Regards to the Replacement, Repair, Alteration, or Modification of a Structure in the Floodway, and to Allow Expansion of a Replacement Dwelling Outside of the Same Footprint in the Floodway; and Adopting a Savings and Severability Clause (File No. 509-PA23-05424).

I. MOTION:

March 12, 2024 (Fourth Reading and Continued Hearing)

- 1) MOVE TO APPROVE THE FOURTH READING, CLOSE THE PUBLIC HEARING AND SET A FIFTH READING FOR APRIL 2, 2024, TO ADOPT ORDINANCE NO. 24-01 AS PRESENTED;

OR

- 2) MOVE TO APPROVE THE FOURTH READING, CLOSE THE PUBLIC HEARING AND SET A FIFTH READING FOR APRIL 2, 2024, TO ADOPT ORDINANCE NO. 24-01 WITH INCLUSION OF A 1,500 SQUARE FOOT LIMITATION ON THE EXPANSION OF REPLACEMENT DWELLINGS IN THE FLOODWAY.

Ordinance No. 24-01
File No. 509-PA23-05424
Floodplain Development Code Updates

Memorandum Date: December 18, 2023
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OR

- 3) MOVE TO APPROVE THE FOURTH READING, SET A FIFTH READING, AND CONTINUE THE PUBLIC HEARING TO APRIL 2, 2024, AT 1:30 PM, AND DIRECT STAFF TO REVISE ORDINANCE NO. 24-01 AS DIRECTED BY THE BOARD (SUMMARIZE REVISIONS).

April 2, 2024 (Fifth Reading)

- 1) MOVE TO APPROVE THE FIFTH READING AND ADOPT ORDINANCE NO. 24-01 AS PRESENTED;

OR

- 2) MOVE TO APPROVE THE FIFTH READING, CLOSE THE PUBLIC HEARING, AND SET A SIXTH READING FOR A DATE CERTAIN.

II. AGENDA ITEM SUMMARY:

The proposal before the Board of County Commissioners (the Board) is an amendment to Lane Code 16.244 and 10.271, the Floodplain Development Code, initiated by the Land Management Division (LMD) in response to a Board assignment to clarify the term “footprint” used in regulating development allowed in the floodway. The Board has also motioned for staff to draft code to allow expansion of dwelling footprints in the floodway by 50 percent.

III. BACKGROUND/IMPLICATIONS OF ACTION:

A. Board Action and Other History

As part of the Land Management Division (LMD) Code Modernization Project, updates to Lane Code 16.244 and Lane Code 10.271, the floodplain development code, were adopted in December of 2020 with Ordinance No. 20-08 and additional revisions were adopted in October of 2021 with Ordinance No. 21-07.

Prior to the code amendments adopted with Ordinance No. 20-08 and 21-07, Lane Code floodplain regulations met the minimum requirements of the National Flood Insurance Program (NFIP) for development proposed in the floodway. These minimum requirements are that any development (new encroachment or expansion of existing encroachment) may be allowed in the floodway with an engineer’s analysis and certification that the proposed development will not create a rise in floodwaters. The “no-rise” certification is required to be accompanied by a hydrologic and hydraulic analysis performed in accordance with standard engineering practices. The analysis and certification are reviewed through a Type II land use application.

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Through the adoption of Ordinances 20-08 and 21-07, the Board elected to adopt higher regulatory standards for floodway development given the risk that this highly hazardous flood zone poses to life and property. Through these past code amendments, the Board elected to prohibit new development from the floodway entirely. However, the code does allow for several exceptions for development deemed necessary to be located in the floodway. Development necessary to be located in the floodway must still meet the minimum NFIP requirements of demonstrating no-rise in flood levels as a result of the development through a Type II land use application.

One of the exceptions adopted is that existing structures in the floodway may be replaced, repaired, altered, or modified, subject to certain criteria. One of the criteria is that the proposal must not expand the *footprint* of a pre-FIRM (prior to first adoption of Federal Insurance Rate Maps) or approved existing structure. See LC 16.244(5)(b)(iv) for additional criteria.

At the time of adoption of Ordinance No. 21-07, the Board made an assignment for a future code amendment to clarify the term “footprint” (see the links at the end of this memo for more background information on this Board assignment). The Board made the assignment due to lack of clarity surrounding the definition of the term. The purpose of these amendments is to satisfy that Board assignment, as well as address public comment related to the restriction of structures in the floodway to the same footprint. These amendments are discussed in more detail in **Section III.F** below.

Below is a timeline of the outreach and noticing conducted for the proposed LC 16.244 and 10.271 amendments:

- On July 11, 2023, notice of the proposed change was provided to the Department of Land Conservation and Development (DLCD).
- On July 25, 2023, notice of LCPC public hearing was published in the Register Guard and sent to interested parties.
- On August 15, 2023, the LCPC held a public hearing. The Commissioners heard public testimony on the proposed amendments to Lane Code. The LCPC closed the public hearing and set deliberations for September 19, 2023.
- On September 19, 2023, the Commissioners deliberated on the proposed amendments, considering testimony provided at the public hearing and in the record. The Commission recommended that the Board adopt the amendments with specific revisions. The motion passed with a vote of 4 to 3, in support. The specific revisions motioned by the LCPC are discussed in more detail under **III.F – Analysis** and the motion document is provided as **Attachment 2**.

- On December 13, 2023, the notice provided to DLCD on July 11, 2023, was updated with a current draft of the code, including the changes motioned by the LCPC.
- On January 2, 2024, notice of the Board public hearing was published in the Register Guard and mailed/sent to parties of record and interested parties at least 21 days prior to the hearing, in accordance with Lane Code Chapter 14.
- On January 9, 2024, the Board held a first reading of the proposed code amendments and moved to hold a second reading and public hearing on January 23, 2024.
- On January 23, 2024, the Board held a second reading and public hearing, and continued the hearing to February 6, 2024, to hear more public testimony and deliberate further.
- On February 6, 2024, the Board held a third reading and continued public hearing. The Board made a motion for staff to return for a fourth reading and continued hearing on March 12, 2024, and for staff to revise the proposed code to allow a fifty percent increase in the footprint of dwellings proposed to be replaced in the floodway.
- On February 16, 2024, staff updated the notice provided to DLCD on July 11, 2023.

B. Policy Issues

Any policy considerations are discussed below under **III. F - Analysis**.

C. Board Goals

Approval of Ordinance No. 24-01 amendments supports the following Lane County Strategic Priority:

Vibrant Community:

- 2.b Pursue programs and practices that reduce impacts on and leverage the natural environment to enhance livability and economic development.

Enhancements to the land use provisions of Lane Code will further the Vibrant Communities Key Strategic Initiative 2.b by ensuring development within the County occurs in a safe, orderly, and efficient manner, specifically within highly hazardous floodplain areas.

D. Financial and/or Resource Considerations

Sufficient resources have been made available as part of LMD's long range planning program to complete this effort in the timeliest manner possible.

E. Health Implications

Amendments to the floodplain regulations within Lane Code may have implications on health in the event of a flood event. Although, actual health implications are difficult to predict. Generally, the code amendments passed with Ordinance 24-01 provide clarity on implementation of floodplain development standards, furthering the safety of development located in the floodplain and potentially reducing negative impacts on health and safety.

F. Analysis

At the February 6, 2024, continued public hearing, the Board heard additional public testimony and deliberated on the proposed amendments. The Board motioned for staff to revise the proposed code to include an allowance for a fifty percent increase in the footprint of replacement dwellings. The proposed code amendments, revised as motioned, are provided as **Attachment 1, Exhibit A** of this memo.

A policy consideration for the Board is whether to limit this allowance by establishing an upper limit on the square feet of expansion that may occur given the variability in the size of dwellings in the floodway. The Board has heard testimony in support of a fifty percent expansion primarily from owners of manufactured homes who desire the ability to replace their existing manufactured homes with larger homes in the Seavey Loop area. However, the proposed code provision applies county-wide and thus, would apply to any dwelling existing in the floodway, including larger dwellings. An expansion would allow those dwellings to be replaced with the same fifty percent increase as a small, manufactured home. If already large homes are allowed to replace with the fifty percent increase, this could result in more people dwelling in the floodway and more valuable property existing in the floodway, making risk flooding much higher. To address this, the Board could establish an upper limit to the fifty percent expansion. Such language could read as follows:

(ii-ii) In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than 50 percent, not to exceed 1,500 square feet;

The example above limits the expansion to at most 1,500 square feet, but the Board may provide direction to limit the expansion by any amount.

i. **APPLICABLE CRITERIA**

The proposed amendments are subject to the applicable criteria identified in Lane Code 12.100.005, 12.100.050 16.252(2) and the Lane County Rural Comprehensive Plan/Statewide Planning Goals.

LC 12.100.005 Purpose. The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The amendments will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

LC 12.100.050 Method of Adoption and Amendment

A. The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.

The proposed amendments will be adopted by ordinance when enacted by the Board.

B. The Board may amend or supplement the comprehensive plan upon a finding of:

- 1. An error in the plan; or***
- 2. Changed circumstances affecting or pertaining to the plan; or***
- 3. A change in public policy; or***
- 4. A change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.***

The proposed amendments follow those previously adopted by the Board with Ordinance 20-08 and 21-07, which implemented minimum standards for participation of Lane County in the NFIP and were a result of Board policy direction. The proposed updates aim to further clarify code language adopted at the Board's direction with Ordinance 20-08 and 21-07. As such, the proposed amendments meet (c) and (d) above upon adoption by the Board.

LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.

(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

The proposed amendments follow those previously adopted by the Board with Ordinance 20-08 and 21-07, which adopted floodplain development standards at the direction of the Board that are designed to better protect life and private property from flood hazard. The proposed amendments aim to further clarify the intent of the standards adopted with Ordinance 20-08 and 21-07. The proposed amendments were drafted at the direction of the Board and considering public input. Therefore, they are

not contrary to the public interest and promote the will of the people through better protection from flood hazard.

Lane County Rural Comprehensive Plan Goal Seven: Areas Subject to Natural Disasters and Hazards

(1) The Natural Hazards Inventory, as contained in the 1982 Natural Hazards Working Paper and associated materials, shall be used as a guide for general land use decisions. Specific land use decisions shall be based upon inventory and upon on-site or other evaluation as appropriate.

The 1982 Natural Hazards Working Paper does not inventory flood hazard. The adopted Federal Emergency Management Agency Flood Insurance Study and corresponding Flood Insurance Rate Maps for Lane County inventory flood hazard. Land use decision and development proposals are reviewed against this study and appropriate standards are applied to prevent structural damage and protect lives from flooding.

(2) Development shall be commensurate with the type and degree of any natural hazards(s) present and appropriate safeguards against flooding, ponding, landslides, land slippage, erosion or other natural hazards applicable shall be assured. For purposes of evaluation and in the absence of any specific proposal, the provisions of the Oregon State Building Code shall be assumed to be the sole means of safeguard against natural hazards.

The floodplain standards are a result of adopting the Federal Emergency Management Agency Flood Insurance Study and corresponding Flood Insurance Rate Maps for Lane County. The study identifies special flood hazard areas and development proposals are considered in their relation to the mapped special flood hazard areas. If a development proposal lies within a special flood hazard area, the proposal is subject to the standards at Lane Code 16.244 or 10.271. The proposed code amendments revise these floodplain development standards to be commensurate with the level of risk associated with flooding by further clarifying the intent of higher regulatory standards adopted by the Board of County Commissioners with Ordinance 20-08 and 21-07.

(3) When extensive or drastic safeguards must be employed in conjunction with development proposals, the immediate and ultimate impact, (including financial and economic considerations) of such safeguards on the environment and the public shall be considered.

The proposed code amendments do not allow extensive or drastic safeguards for development within the special flood hazard area. The proposed standards for development in the special flood hazard area are consistent with those required or

allowed by the Federal Emergency Management Agency and the National Flood Insurance Program.

(4) Lane County shall continue as a qualified participant in the Federal Flood Insurance Program through application of comprehensive flood hazards analysis and floodplain management data to general and specific land use decision.

The purpose of the proposed code amendments is to clarify the intent of standards adopted by the Board of Commissioners with Ordinance 20-08 and 21-07. The proposed amendments do not alter any floodplain development standards that are required as minimum standards for Lane County's participation in the National Flood Insurance Program. Therefore, the proposed amendments will not disqualify or affect Lane County's participation in the National Flood Insurance Program.

Oregon's Statewide Planning Goals and Guidelines Goal Seven: Areas Subject to Natural Hazards.

B. Implementation

5. Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:

a. limiting placement of fill in floodplains;

b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials; and

c. elevating structures to a level higher than that required by the NFIP and the state building code. Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.

The purpose of the proposed code amendments is to clarify the intent standards adopted by the Board of Commissioners with Ordinance 20-08 and 21-07. The proposed amendments do not affect regulations relating to placement of fill, storage of hazardous materials or elevation of structures.

G. Alternatives/Options

Option 1. Move to approve the fourth reading, close the public hearing, and set a fifth reading for April 2, 2024, to adopt Ordinance No. 24-01 as presented;

OR

Option 2. Move to approve the fourth reading, close the public hearing and set a fifth reading for April 2, 2024, to adopt Ordinance No. 24-01 with inclusion of a 1,500 square foot limitation on the expansion of replacement dwellings in the floodway.

OR

Option 3. Move to approve the fourth reading, set a fifth reading, and continue the public hearing to April 2, 2024, at 1:30 PM, and direct staff to revise Ordinance No. 24-01 as directed by the Board (summarize revisions).

IV. RECOMMENDATION:

Staff recommends **Option 1** above.

V. TIMING/IMPLEMENTATION:

Provided the changes made to the draft code, the Ordinance must be read a fifth time (proposed date is April 2, 2024). If approved and not appealed, the code changes become effective 30 days after the enactment of Ordinance 24-01.

VI. FOLLOW UP:

Should the Lane County Board of Commissioners choose **Option 1 or 2**, staff will return on April 2, 2024, for a fifth reading of the Ordinance. Staff may revise Ordinance No. 24-01 as directed if desired by the Board.

Upon final approval of the Ordinance, notice of the Lane County Board of Commissioners action will be provided to the Department of Land Conservation and Development and all interested parties as required by State law.

VII. ATTACHMENTS:

1. Ordinance No. 24-01 (2 page) with:
 - Exhibit A:** Lane Code 16.244 and 10.271 Amendments* (110 pages)
**Legislative version of code amendments provided after Exhibit A*
 - Exhibit B:** Findings of Fact (3 pages)
2. Public Comment submitted up to February 22, 2024:
 - a. O'Connell 1/4/2024
 - b. Borkgren 1/11/2024
 - c. Bowerman 1/19/2024
 - d. Peterson 1/22/2024
 - e. Kloos 1/23/2024
 - f. Malone 1/23/2024
 - g. Robinowitz 2/5/2024
 - h. Widdicomebe 2/6/2024

i. Segel 2/6/2024

To conserve paper, copies of the Planning Commission Packets and past Board memos are not included. Copies are available at the following links:

[August 15, 2023, LCPC Public Hearing Staff Memo](#)
[September 19, 2023, LCPC Deliberations Staff Memo](#)

Links to past Board of Commissioners staff memos and webcasts for Ordinance 21-07:

- [Adopted Ordinance 21-07](#)
- [Agenda Cover Memo for First Reading of Ordinance 21-07](#)
- [Agenda Cover Memo for Second Reading of Ordinance 21-07](#)
- [Agenda Cover Memo for Third Reading and Continued Public Hearing for Ordinance 21-07](#)
- [Webcast of Board of Commissioners Meeting on October 12, 2021, for Third Reading and Adoption of Ordinance 21-07](#)

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BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 24-01

ORDINANCE NO. 24-01 / IN THE MATTER OF AMENDING LANE CODE 16.244(5)(B)(IV) AND 10.271(5)(B)(IV) TO DEFINE THE TERM "FOOTPRINT" AS USED IN REGARDS TO THE REPLACEMENT, REPAIR, ALTERATION, OR MODIFICATION OF A STRUCTURE IN THE FLOODWAY, AND TO ALLOW EXPANSION OF A REPLACEMENT DWELLING OUTSIDE OF THE SAME FOOTPRINT IN THE FLOODWAY; AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE (FILE NO. 509-PA23-05424).

WHEREAS, amendments to Lane Code 16.244 and 10.271 are desired to clarify the meaning of the term "footprint" by revising and adding provisions; and

WHEREAS, on July 11, 2023, initial notice of the proposed changes to Lane Code 16.244 and 10.271 were provided to the Department of Land Conservation and Development (DLCD) and on July 25, 2023, notice of a Lane County Planning Commission public hearing was mailed and published; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing held on August 15, 2023; and

WHEREAS, the Lane County Planning Commission deliberated on September 19, 2023, and made a recommendation for approval with modifications to the Board of County Commissioners (the Board); and

WHEREAS, on January 9, 2024, DLCD notice was updated with a current draft code and on January 13, 2024, notice of a Lane County Board of Commissioners public hearing was mailed and published; and

WHEREAS, the Board held a duly noticed public hearing on January 23, 2024, and moved to continue the hearing to February 6, 2024, to hear more public testimony and continue deliberations;

WHEREAS, the Board held a continued hearing on February 6, 2024, and moved to continue the hearing to March 12, 2024, to make additional amendments to the draft code;

WHEREAS, on February 16, 2024, DLCD notice was updated with a current draft of the code, including those changes made by the Board at the February 6, 2024, hearing;

WHEREAS, the Board held a continued hearing on March 12, 2024, and a fifth reading of the revised code on April 2, 2024, and after considering the public comments, testimony, and staff report, the Board is now ready to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

1. Lane Code 16.244 and 10.271 is amended according to **Exhibit A**, attached hereto and incorporated herein by reference.

2. The Findings of Fact, attached as **Exhibit B** and incorporated herein by reference, and the above recitals are adopted in support of this amendment.
3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.
4. Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.
5. Ordinances, Lane Code sections, and regulations amended by this Ordinance remain in force to authorize a punishment, penalty or forfeiture incurred, or a suit, prosecution, or proceeding pending when the amendment takes effect, for an offense or violation committed under the amended Ordinance, code section, or regulation prior to the effective date of this Ordinance.

ENACTED this ____ day of _____ 2024.

Laurie Trieger, Chair
Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

Lane Code

Chapter 16 – LANE COUNTY LAND USE AND DEVELOPMENT CODE 446

 FLOODPLAIN COMBINING ZONE (/FP, RCP) RURAL COMPREHENSIVE PLAN 446

 16.244 Floodplain Combining Zone (/FP, RCP) 446

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FP Combining Zone Table of Contents

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Chapter 16 – LANE COUNTY LAND USE AND DEVELOPMENT CODE**FLOODPLAIN COMBINING ZONE (/FP, RCP) RURAL COMPREHENSIVE PLAN****16.244 Floodplain Combining Zone (/FP, RCP)****(1) Statutory Authority, Findings of Fact, Purpose, and Methods**

(a) Statutory Authorization. The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Lane County does ordain as follows:

(b) Findings of Fact

(i) The flood hazard areas of Lane County 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.

(ii) 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 flood proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

(c) Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this section are designed to:

(i) Protect human life and health

(ii) Minimize expenditure of public money and costly flood control projects.

(iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(iv) Minimize prolonged business interruptions.

(v) 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 hazards.

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

(vii) Notify potential buyers that the property is in a special flood hazard area.

(viii) Notify those who occupy special flood hazard areas that they assume responsibility for their actions.

(ix) Participate in and maintain eligibility for flood insurance and disaster relief.

(d) Methods for Reducing Flood Losses. In order to accomplish its purpose, this section includes methods and provisions for:

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- (i) Restricting or prohibiting uses which are 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.
- (ii) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (iii) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters.
- (iv) Controlling filling, grading, dredging and other development, which may increase flood damage.
- (v) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(2) Definitions

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

- (a) "Agricultural structure" means a structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities and livestock; not used for human habitation.
 - (i) The structure is walled and roofed, meaning it has at least two outside rigid walls and fully secured roof.
 - (ii) Includes aquaculture (farming that is conducted in water) structures that are walled and roofed and used exclusively for the production, harvesting, storage, raising or drying of aquatic animals or plants.
- (b) "Appeal" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.
- (c) "Area of shallow flooding" means a designated Zone AO, AH, AR/AO, 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.
- (d) "Area of special flood hazard" means 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, VO, V1-30, VE. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."
- (e) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- (f) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.
- (g) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (h) "Below-grade crawlspaces" 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 4 feet at any point.

- (i) "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.
- (j) "Building" see "Structure."
- (k) "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.
- (l) "Critical facility" means any building or location vital to emergency response operations, limited to: Emergency operation centers, 911 centers, police stations, fire stations or hospitals. Any buildings or locations that if damaged, would create secondary disasters, limited to: schools, nursing homes, prison or jail facilities, or installations which produce, use or store hazardous materials.
- (m) "Development" means 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.
- (n) "Elevated building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- (o) "Flood or Flooding" means:
 - (i) A general and temporary condition or complete inundation of normally dry land areas from:
 - (aa) The overflow of inland or tidal waters.
 - (bb) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (cc) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (i)(cc) 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.
 - (ii) 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 (i)(aa) of this definition.
- (p) "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.
- (q) "Flood Insurance Rate Map (FIRM)" means 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).
- (r) "Flood Insurance Study (FIS)" see "Flood elevation study."

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- (s) "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."
- (t) "Floodplain administrator" means the Lane County official designated by title to administer and enforce the floodplain management regulations.
- (u) "Floodplain Management" means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
- (v) "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (w) "Flood proofing" 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.
- (x) "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 a designated height. Also referred to as "Regulatory Floodway."
- (y) "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.
- (z) "Hazardous material" means material identified as hazardous by the Oregon Structural Specialty Code (OSSC) or Oregon Fire Code (OFC) that exceeds the exempt thresholds of the OSSC or OFC.
- (aa) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (bb) "Historic structure" means any structure that is:
 - (i) 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;
 - (ii) 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;
 - (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.
 - (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

- (cc) "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:
- (i) Conditional Letter of Map Amendment (CLOMA). A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
 - (ii) Conditional Letter of Map Revision (CLOMR). A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
 - (iii) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
 - (iv) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
 - (v) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
 - (vi) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
 - (vii) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
- (dd) "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 non-elevation design requirements of this ordinance.
- (ee) "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."

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- (ff) "Manufactured dwelling park or subdivision" means parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.
- (gg) "Mean sea level" means 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.
- (hh) "New construction" means 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 (this ordinance) adopted by Lane County and includes any subsequent improvements to such structures.
- (ii) "Post-FIRM Structures" means a structure built after the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (jj) "Pre-FIRM Structure" means a structure built prior to the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (kk) "Recreational vehicle" means a vehicle which is: (i) Built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) Designed to be self-propelled or permanently towable by a light truck; and (iv) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ll) "Regulatory floodway" see "Floodway."
- (mm) "Special Flood Hazard Area (SFHA)" see "area of special flood hazard."
- (nn) "Start of construction" means for the purposes of LC 16.244, the start of construction is defined in LC 16.090, and 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.
- (oo) "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.
- (pp) "Substantial damage" means 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.
- (qq) "Substantial improvement" means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, permitted within the past 5 years, 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: (i) 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 (ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- (rr) "Variance" means a grant of relief by Lane County from the terms of a flood plain management regulation.
- (ss) "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 ordinance is presumed to be in violation until such time as that documentation is provided.

(tt) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(uu) "Wet Flood proof" means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter and exit the structure.

(3) General Provisions

(a) Lands to Which this Ordinance Applies. This Ordinance will apply to all Special Flood Hazard Areas (SFHA) within the jurisdiction of Lane County.

(b) 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 Lane County, Oregon and Incorporated Areas Volumes 1- 4", dated June 5, 2020, with accompanying Flood Insurance Rate Map (FIRM) panels 0025 through 2975, dated June 2, 1999 and June 5, 2020 are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the offices of the Lane County Land Management Division.

(c) Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division. Pursuant to the requirement established in ORS 455 that Lane County administers and enforces the State of Oregon Specialty Codes, Lane County 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 ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

(d) Compliance and Penalties for Noncompliance.

(i) 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.

(ii) Penalties for Noncompliance. No structure or land must 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) will constitute an administrative civil penalty subject to administrative enforcement pursuant to Lane Code Chapter 5. Any responsible person who fails to comply with any provision of Lane Code subject to Chapter 5 enforcement may be subject to daily fines. Nothing herein contained will prevent Lane County from taking such other lawful action as is necessary to prevent or remedy any violation.

(e) 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 will prevail.

(f) 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 will in no way effect the validity of the remaining portions of this Ordinance.

- (g) Interpretation. In the interpretation and application of this ordinance, all provisions are:
 - (i) Considered as minimum requirements;
 - (ii) Liberally construed in favor of the governing body; and
 - (iii) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (h) Warning and Disclaimer of Liability
 - (i) 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.
 - (ii) This ordinance will not create liability on the part of Lane County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (4) Administration
 - (a) Designation of the Floodplain Administrator. The Planning Director and their designee are 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.
 - (b) Duties and Responsibilities of the Floodplain Administrator. Duties of the local administrator, or their designee, include, but are not limited to:
 - (i) Permit Review. Review all development permits to determine that:
 - (aa) The permit requirements of this ordinance have been satisfied;
 - (bb) All other required local, state, and federal permits have been obtained and approved.
 - (cc) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section (5)(b)(iv) are met; and
 - (dd) 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 section (5)(a)(vii); and
 - (ee) Provide to building officials the Base Flood Elevation (BFE) and freeboard requirement applicable to any building requiring a development permit.
 - (ff) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section (2).
 - (gg) 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 section (5)(a)(i).
 - (hh) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
 - (ii) Information to be obtained and maintained.

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- (aa) 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 section (5)(a)(vii).
 - (bb) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure proposed in the floodway or Coastal High Hazard Flood Zone prior to the start of construction and the placement of any fill and ensure that the requirements of (5)(b)(iv), (5)(c)(i)(ff), (4)(b)(i)(bb) are adhered to.
 - (cc) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain an Elevation Certificate (EC) recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities in place, and the location and height of all flood openings.
 - (dd) Where base flood elevation data are utilized, 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.
 - (ee) Maintain all Elevation Certificates (EC) required under this ordinance and submitted to Lane County;
 - (ff) 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 section (5)(a)(vii).
 - (gg) Maintain all floodproofing certificates required under this ordinance;
 - (hh) Record and maintain all variance actions, including justification for their issuance;
 - (ii) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section (5)(b)(iv).
 - (jj) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section (4)(b)(iv).
 - (kk) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (iii) Requirement to notify other entities and submit new technical data
- (aa) Community Boundary Alterations. The Floodplain Administrator must 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.
 - (bb) Watercourse Alterations. 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 must be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- (A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - (B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance; and
 - (C) The applicant is required to submit a Conditional Letter of Map Revision (CLOMR) when required under section (4)(b)(iii)(cc). Ensure compliance with all applicable requirements in sections (4)(b)(iii)(cc) and (5)(a)(i).
- (cc) 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 must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-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.
- (A) The Floodplain Administrator must require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - (i-i) Proposed floodway encroachments that increase the base flood elevation; and
 - (ii-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.
 - (B) An applicant must 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 must be provided as a Letter of Map Revision (LOMR).
 - (C) The applicant is responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.
 - (D) The Floodplain Administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.
- (iv) Conduct Substantial Improvement (SI) (as defined in section (2)) reviews for all structural development proposal applications and maintain record of SI calculations within permit files in accordance with section (4)(b)(ii). Conduct Substantial Damage (SD) (as defined in section (2)) assessments and make SD determinations whenever structures laterally within the Special Flood Hazard Area (as established in section (3)(b)) 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.

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- (v) Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation to the Hearings Official as provided in LC 14.080 except for LC 14.080(1)(a).
- (vi) Emergency Permits. The Floodplain Administrator may issue an emergency permit orally or in writing:
 - (aa) If issued orally, a written permit will follow within five days confirming the issuance and setting forth the conditions of operation.
 - (bb) Emergency permits may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.
 - (cc) A representative of Lane County may inspect the project site to verify that an emergency condition exists and that the emergency action will not significantly impact water resources.
 - (dd) Emergency permits will be in effect for the time required to complete the authorized emergency action and must not exceed 60 days.
 - (ee) The emergency permit will be circulated for public information within 10 days of issuance.
 - (ff) The Floodplain Administrator will condition emergency permits to protect and conserve the waters of this County.
- (c) Establishment of Development Permit
 - (i) Floodplain Development Permit Required. A development permit must be obtained before construction or development begins within any area laterally (horizontally) within the special flood hazard area established in section (3)(b). The development permit will be required for all structures, including manufactured dwellings, and for all other development, as defined in section (2), including fill and other development activities.
 - (ii) Application for Development Permit. Application for a development permit must be submitted on a form provided by the Floodplain Administrator, address all applicable standards and criteria, include the materials and information required by Lane Code 14.040(1), and the following information is required:
 - (aa) 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)(b)(ii).
 - (bb) 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;
 - (cc) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed.
 - (dd) Certification by a registered professional engineer or architect that the flood proofing methods proposed for any nonresidential structure meet the flood proofing criteria for nonresidential structures in section (5)(b)(iii)(bb).

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- (ee) Description of the extent to which any watercourse will be altered or relocated.
- (ff) Base Flood Elevation data for subdivision proposals or other development when required per sections (4)(b)(i) and (5)(a)(vi).
- (gg) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- (hh) The amount and location of any fill or excavation activities proposed.
- (d) Variance Procedure. The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
 - (i) Conditions for Variance
 - (aa) 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)(d)(i)(cc) and (ee), and (4)(d)(ii). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (bb) Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (cc) Variances will not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - (dd) Variances must only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (C) 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;
 - (D) Compliance with LC 16.256.
 - (ee) Variances may be issued by the 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)(d)(i) (bb) – (dd) 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.
 - (ff) A variance to elevation or flood proofing requirements must only be issued for agricultural structures as defined by (2)(a) that meet the following criteria.
 - (A) The agricultural structure has a low damage potential and is located in an A zone (A, AE, A1-A30, AR, A99).
 - (B) The applicant would incur an exceptional hardship if a variance were not granted.

- (C) Construction of the agricultural structure must comply with (5)(a)(ii) through (iv), (5)(b)(i), and (5)(b)(iv).
 - (ii) Variance Notification. Any applicant to whom a variance is granted will 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 must be maintained in accordance with section (4)(b)(ii).
- (5) Provisions for Flood Hazard Reduction.
- (a) General Standards. In all Special Flood Hazard Areas (SFHA), the following standards must be adhered to:
 - (i) Alteration of Watercourses. Require that the flood carry 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)(b)(iii)(bb) and (4)(b)(iii)(cc).
 - (ii) Anchoring.
 - (aa) All new construction and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (bb) All manufactured dwellings must be anchored per section (5)(b)(iii)(dd).
 - (iii) Construction Materials and Methods.
 - (aa) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.
 - (bb) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.
 - (iv) Utilities and Equipment.
 - (aa) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems
 - (A) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
 - (B) New and replacement sanitary sewage systems must 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 must be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
 - (bb) Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must be elevated at or above two (2) feet above base flood level, or three (3) feet above highest adjacent grade where BFE is not available, with the exception of electrical systems, equipment or components; heating, ventilating, and air conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment

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that are 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 the occurrence of flooding to the design flood elevation. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must:

- (A) If replaced as part of a substantial improvement must meet all the requirements of this section.
- (B) Not be mounted on or penetrate through breakaway walls.

(v) Tanks.

- (aa) Underground tanks must be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- (bb) Above-ground tanks must be installed two (2) feet above the base flood level (three (3) feet above highest adjacent grade where BFE is not available) or must be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
- (cc) In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms must be cantilevered from or knee braced to the building or must be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.

(vi) Subdivision and Partition Proposals

- (aa) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include within such proposals, Base Flood Elevation data.
- (bb) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) must:
 - (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 constructed to minimize or eliminate flood damage.
 - (C) Have adequate drainage provided to reduce exposure to flood hazards.
- (cc) Subdivision and partitioning of land that creates potential for additional residential dwellings in the floodplain or floodway is prohibited.

(vii) Use of Other Base Flood Data

- (aa) When Base Flood Elevation data has not been provided in accordance with section (3)(b) the local floodplain administrator must obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section (5). All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section (5)(a)(vi).
- (bb) Base Flood Elevations must 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

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riverine unnumbered A Zone must 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 where available. When no base flood elevation data is available, development proposals in located within a riverine unnumbered A zone must be elevated three (3) feet above the highest adjacent grade to be reasonable safe from flooding. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

- (viii) Structures Located in Multiple or Partial Flood Zones. In compliance with the State of Oregon Specialty Codes:
 - (aa) 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 will apply.
 - (bb) When a structure is partially located in a Special Flood Hazard Area (SFHA), the entire structure must meet the requirements for new construction and substantial improvements.
- (ix) Critical Facilities. Construction of new critical facilities must be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities must be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA must have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility must also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- (x) Post-FIRM structures built before the effective date of this ordinance that were constructed in compliance with the floodplain regulations at the time will not be required to be elevated to the freeboard standards of this ordinance when a substantial improvement is proposed, except where the BFE on the adopted FIRM has been revised. Any new construction must comply with this ordinance and must not be allowed to make a building non-compliant with any aspect of the floodplain design standards that was required for compliance when the structure was built.
- (xi) New dwellings, except replacement dwellings and temporary medical hardship dwellings, must be located outside of the SFHA unless the applicant demonstrates that the location is infeasible. Circumstances that make the construction or placement of new dwellings on higher ground infeasible and requiring discretion must be reviewed through a Type II procedure. Circumstances that can be reviewed through a Type I procedure include:
 - (aa) When the dwelling cannot meet the development setbacks of Lane Code Chapter 15 or 16 when located outside of the SFHA;
 - (bb) When a Class I stream regulated by Lane Code 16.253 or wetland regulated by the Department of State Lands prevents the dwelling from being located outside of the SFHA;
 - (cc) Where the clear and objective siting standards of Lane Code 16.210(3)(o), (5)(b) and (6); 16.211(3)(r), (5)(b) and (6); or 16.212(4)(bb) and (15)(b) apply to the siting of the dwelling and prevent the dwelling from being located outside of the SFHA;
 - (dd) In forest zones (F-1 and F-2), where the area outside of the SFHA is within 30 feet of any ravine ridge or slope greater than 40 percent;

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- (ee) When an easement that prohibits structural development prevents the dwelling from being located outside of the SFHA;
 - (ff) When the location of the dwelling within the floodplain has already been approved through a septic installation or sewage disposal site evaluation permit, or a Type I, Type II or Type III land use decision; or
 - (gg) When the dwelling cannot be located at least 15 feet from the toe or 40 feet from the top of a slope that exceeds 20% when located outside of the SFHA.
- (xii) All freeboard requirements set forth in section (5) of this Ordinance will not become effective until September 7, 2023. Until that time, new construction and substantial improvement/damage must be elevated at or above one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available.
- (b) Specific Standards for Riverine (including all non-coastal) Flood Zones. These specific standards will apply in addition to the General Standards contained in section (5)(a) of this ordinance.
- (i) 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 must:
 - (aa) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters;
 - (bb) Be used solely for parking, storage, or building access;
 - (cc) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (A) A minimum of two openings;
 - (B) The total net area of non-engineered openings must be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosed walls;
 - (C) The bottom of all openings must be no higher than one foot above grade;
 - (D) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they must allow the automatic flow of floodwater into and out of the enclosed areas and must be accounted for in the determination of the net open area.
 - (E) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 must be complied with when applicable.
 - (dd) For structures that require building permits under the State of Oregon Specialty Code, flood openings must be installed such that the comply with section (5)(b)(i)(aa) through (cc) and the following provisions:
 - (A) There must be not less than two openings on different sides of each enclosed area; if a building has more than one enclosed area below the Base Flood Elevation, each area must have openings,

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- (B) Openings must be permitted to be installed in doors and windows on the condition that they fully comply with the requirements for flood openings stated in this Section.
- (ii) Garages
- (aa) 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:
 - (A) If located within a floodway the proposed garage must comply with the requirements of section (5)(b)(iv).
 - (B) The floors are at or above grade on not less than one side;
 - (C) The garage is used solely for parking, building access, and/or storage;
 - (D) The garage is constructed with flood openings in compliance with section (5)(b)(i) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (E) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - (F) The garage is constructed in compliance with the standards in section (5)(a); and
 - (G) 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.
 - (bb) Detached garages must be constructed in compliance with the standards for accessory structures in section (5)(b)(iii)(ff) or nonresidential structures in section (5)(b)(iii)(cc) depending on the square footage of the garage.
- (iii) For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section (5)(a) the following specific standards will apply in Riverine (non-coastal) Special Flood Hazard Areas (SFHA) with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.
- (aa) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) must 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.
 - (bb) Residential Construction.
 - (A) New construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available.
 - (B) Enclosed areas below the lowest floor must comply with the flood opening requirements in section (5)(b)(i).
 - (cc) Non-residential Construction.

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- (A) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure must:
 - (i-i) Have the lowest floor, including basement elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available; or
 - (ii-ii) Together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (iii-iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (iv-iv) 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 must be provided to the Floodplain Administrator as set forth section (4)(b)(ii).
 - (B) Non-residential structures that are elevated, not flood proofed, must comply with the standards for enclosed areas below the lowest floor in section (5)(b)(i).
 - (C) Applicants flood proofing non-residential buildings must be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one (1) foot below).
 - (D) Applicants must supply a maintenance plan for the entire structure to include but not limited to: exterior envelop of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide flood proofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components, as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
 - (E) Applicants must supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.
- (dd) Manufactured Dwellings.
- (A) New or substantially improved manufactured dwellings supported on solid foundation walls must be constructed with flood openings that comply with section (5)(b)(i);
 - (B) The bottom of the longitudinal chassis frame beam must be at or above two (2) feet above Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available;
 - (C) New or substantially improved manufactured dwellings must 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;

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- (D) Electrical crossover connections must be a minimum of twenty four (24) inches above Base Flood Elevation (BFE).
- (ee) Recreational Vehicles. Recreational Vehicles placed on sites are required to:
 - (A) Be on 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)(b)(iii)(cc), including the anchoring and elevation requirements for manufactured dwellings.
- (ff) Appurtenant (Accessory) Structures. Relief from elevation or flood proofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory 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)(b)(iv).
 - (B) Appurtenant structures must only be used for parking, access, and/or storage and must 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 accessory 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)(b)(i);
 - (G) Appurtenant structures must be located and constructed to have low damage potential;
 - (H) Appurtenant 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 section (5)(a)(v).
 - (I) Appurtenant 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.

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(gg) 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 can usually be addressed through the required flood openings stated in (5)(b)(i). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - (B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
 - (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - (D) Any building utility systems within the crawlspace must be elevated 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 above the BFE or sealed from floodwaters.
 - (E) The interior grade of a crawlspace below the BFE must not be more than two (2) 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 (4) 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) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained 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 must not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- (iv) Floodways. Located within the special flood hazard areas established in section (3)(b) 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, encroachments, including fill, new construction, substantial improvements and other development is prohibited.

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- (aa) The following encroachments may be permitted if 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 will not result in an increase in flood levels within the community during the occurrence of the base flood discharge. The proposed encroachment and the analysis required by this subsection must be evaluated through a Type II land use review process.
- (A) The replacement, repair, alteration, or modification of a structure that:
- (i-i) Does not increase the total area of the footprint of the structure that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date. For the purpose of this provision and the following subsection (ii-ii), footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground; or
 - (ii-ii) In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than fifty percent (50%);
 - (iii-iii) In the case of replacement, may be reoriented to be centered on the same footprint as the existing structure or may be relocated upon the highest natural grade possible within the same footprint, or may be relocated outside of the existing footprint to a location with an entirely higher natural ground elevation within the floodway when no areas outside of the floodway are available for replacement consistent with (vii-vii) below;
 - (iv-iv) In the case of repair, alteration, or modification, any reorientation or reconfiguration of the footprint must be located upon the highest natural grade possible;
 - (v-v) Is pre-FIRM or was approved by a Lane County Floodway Development permit;
 - (vi-vi) Is lawfully existing, was in lawful existence five (5) years prior to the adoption date of Ordinance 24-01, or was in lawful existence prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and
 - (vii-vii) For replacement of structures, the applicant demonstrates that no alternative exists on the subject property that would allow the structure to be replaced outside of the floodway. Circumstances that make construction or placement of the replacement dwelling on higher ground infeasible that can be reviewed through a Type I procedure include those listed at (5)(xi)(aa) through (gg). Circumstances requiring discretion must be reviewed through a Type II procedure.
- (B) Quarry and mine extraction as defined in Lane Code 16.216 or development ancillary to quarry and mine extraction that is not a structure as defined in (2)(oo);
- (C) A locationally dependent public utility, and there is no feasible or practicable location outside of the regulatory floodway for establishing the utility facility;

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- (D) The construction, maintenance, preservation, repair and replacement of a public road and ancillary facilities, including bridges, recreational paths or trails culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of a public agency, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements;
 - (E) Minimal development, such as, but not limited to fences, gazebos, raised gardening beds, signage, retaining walls, bank stabilization, or other landscaping features, and not including habitable structures; or
 - (F) A habitat enhancement or restoration project.
- (bb) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that:
- (A) A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Title 44 of the Code of Federal Regulations, Section 65.12 are fulfilled;
 - (B) The purpose of the project is habitat enhancement or restoration;
 - (C) The project does not involve the placement of any structures as defined in (2)(oo) within the floodway;
 - (D) A feasibility analysis has been completed documenting that habitat enhancement or restoration will be achieved through the proposed project;
 - (E) No existing structures will be negatively impacted by the proposed activity; and
 - (F) The project has received approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency.
- (cc) If the requirements of section (5)(b)(iv)(aa) are satisfied, all new construction, substantial improvements, and other development must comply with all other applicable flood hazard reduction provisions of section (5).
- (v) 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.
- (aa) Standards for AH Zones. Development within AH Zones must comply with the standards in sections (5)(a), (5)(b) and (5)(b)(v)
- (bb) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirement in section (5)(b)(v):
- (A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones must have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at or above

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two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least three (3) 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 and substantial improvements of non-residential structures within AO zones must either:
 - (i-i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least three (3) feet if no depth number is specified); or
 - (ii-ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above two (2) feet above the depth number specified on the FIRM or a minimum of three (3) 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 must be certified by a registered professional engineer or architect as stated in section (5)(b)(iii)(bb)(A)(iv-iv).
- (C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) must either:
 - (i-i) Be on the site for fewer than 180 consecutive days, and
 - (ii-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-iii) Meet the requirements of (5)(b)(v)(bb)(A) above, including the elevation and anchoring requirements for manufactured dwellings.
- (D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section (5)(b)(iii)(ee).
- (E) In AO zones, enclosed areas beneath elevated structures must comply with the requirements in section (5)(b)(i).
- (c) Specific Standards for Coastal High Hazard Flood Zones. Located within special flood hazard areas established in section (3)(b) are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the areas 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 must apply in addition to the general standards provisions in section (5)(a).
 - (i) Development Standards.
 - (aa) All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) must be elevated on pilings and columns such that:

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- (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of two (2) feet above the base flood level (BFE), or three (3) feet above highest adjacent grade where BFE is not available; and
- (B) 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 must be those associated with the base flood. Wind loading values used must be those specified by the State of Oregon Specialty Codes;
- (bb) A registered professional engineer or architect must develop or review the structural design, specifications and plans for the construction, and must 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.
- (cc) Obtain the 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 new and substantially improved structures and whether or not such structures contain a basement. The local floodplain administrator will maintain a record of all such information in accordance with section (4)(b)(ii).
- (dd) 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.
 - (A) For the purpose of this section, a breakaway wall must 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-i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii-ii) If breakaway walls are utilized, such enclosed space must be useable solely for parking of vehicles, building access, or storage. Such space will not be used for human habitation.
 - (iii-iii) Walls intended to break away under flood loads must have flood openings that meet or exceed the criteria for flood openings in section (5)(b)(i).
- (ee) The elevated portion of the building and supporting foundation system must 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 must be those associated with the base flood. Maximum wind loading values used must be those specified by the State of Oregon Specialty Codes.
- (ff) Prohibit the use of fill for structural support of buildings.
- (gg) All new construction must be located landward of the reach of mean high tide.

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- (hh) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (ii) All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages must comply with all the requirements of section (5)(c)(i). Flood proofing of non-residential structures is prohibited.
- (jj) Manufactured Dwelling Standards for Coastal High Hazard Zones. All manufactured dwellings to be placed or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must meet the following requirements:
 - (A) Comply with all of the standards within section (5)(c);
 - (B) The bottom of the longitudinal chassis frame beam must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available); and
 - (C) Electrical crossover connections must be a minimum of twenty four (24) inches above the BFE.
- (kk) Recreational Vehicle Standards for Coastal High Hazard Zones. Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must either:
 - (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 permit requirements of section (4) and the requirements for manufactured homes in section (5)(c)(i)(aa).
- (ll) Tank Standards for Coastal High Hazard Zones. Tanks must meet the requirements of section (5)(a)(v).

(Ordinance 20-08, 1.14.2021; Ordinance 21-07, 10.12.21)

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Chapter 16 – LANE COUNTY LAND USE AND DEVELOPMENT CODE

FLOODPLAIN COMBINING ZONE (/FP, RCP) RURAL COMPREHENSIVE PLAN

16.244 Floodplain Combining Zone (/FP, RCP)

(1) Statutory Authority, Findings of Fact, Purpose, and Methods

(a) Statutory Authorization. The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Lane County does ordain as follows:

(b) Findings of Fact

(i) The flood hazard areas of Lane County 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.

(ii) 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 flood proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

(c) Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this section are designed to:

(i) Protect human life and health

(ii) Minimize expenditure of public money and costly flood control projects.

(iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(iv) Minimize prolonged business interruptions.

(v) 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 hazards.

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

(vii) Notify potential buyers that the property is in a special flood hazard area.

(viii) Notify those who occupy special flood hazard areas that they assume responsibility for their actions.

(ix) Participate in and maintain eligibility for flood insurance and disaster relief.

(d) Methods for Reducing Flood Losses. In order to accomplish its purpose, this section includes methods and provisions for:

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- (i) Restricting or prohibiting uses which are 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.
- (ii) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (iii) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters.
- (iv) Controlling filling, grading, dredging and other development, which may increase flood damage.
- (v) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(2) Definitions

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

- (a) "Agricultural structure" means a structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities and livestock; not used for human habitation.
 - (i) The structure is walled and roofed, meaning it has at least two outside rigid walls and fully secured roof.
 - (ii) Includes aquaculture (farming that is conducted in water) structures that are walled and roofed and used exclusively for the production, harvesting, storage, raising or drying of aquatic animals or plants.
- (b) "Appeal" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.
- (c) "Area of shallow flooding" means a designated Zone AO, AH, AR/AO, 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.
- (d) "Area of special flood hazard" means 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, VO, V1-30, VE. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."
- (e) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- (f) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.
- (g) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

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- (h) "Below-grade crawlspaces" 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 4 feet at any point.
- (i) "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.
- (j) "Building" see "Structure."
- (k) "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.
- (l) "Critical facility" means any building or location vital to emergency response operations, limited to: Emergency operation centers, 911 centers, police stations, fire stations or hospitals. Any buildings or locations that if damaged, would create secondary disasters, limited to: schools, nursing homes, prison or jail facilities, or installations which produce, use or store hazardous materials.
- (m) "Development" means 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.
- (n) "Elevated building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- (o) "Flood or Flooding" means:
 - (i) A general and temporary condition or complete inundation of normally dry land areas from:
 - (aa) The overflow of inland or tidal waters.
 - (bb) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (cc) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (i)(cc) 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.
 - (ii) 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 (i)(aa) of this definition.
- (p) "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.
- (q) "Flood Insurance Rate Map (FIRM)" means the official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk

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premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

- (r) "Flood Insurance Study (FIS)" see "Flood elevation study."
- (s) "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."
- (t) "Floodplain administrator" means the Lane County official designated by title to administer and enforce the floodplain management regulations.
- (u) "Floodplain Management" means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
- (v) "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (w) "Flood proofing" 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.
- (x) "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 a designated height. Also referred to as "Regulatory Floodway."
- (y) "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.
- (z) "Hazardous material" means material identified as hazardous by the Oregon Structural Specialty Code (OSSC) or Oregon Fire Code (OFC) that exceeds the exempt thresholds of the OSSC or OFC.
- (aa) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (bb) "Historic structure" means any structure that is:
 - (i) 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;
 - (ii) 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;
 - (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

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- (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.
- (cc) "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:
- (i) Conditional Letter of Map Amendment (CLOMA). A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
 - (ii) Conditional Letter of Map Revision (CLOMR). A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
 - (iii) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
 - (iv) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
 - (v) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
 - (vi) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
 - (vii) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
- (dd) "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 non-elevation design requirements of this ordinance.

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- (ee) "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."
- (ff) "Manufactured dwelling park or subdivision" means parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.
- (gg) "Mean sea level" means 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.
- (hh) "New construction" means 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 (this ordinance) adopted by Lane County and includes any subsequent improvements to such structures.
- (ii) "Post-FIRM Structures" means a structure built after the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (jj) "Pre-FIRM Structure" means a structure built prior to the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (kk) "Recreational vehicle" means a vehicle which is: (i) Built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) Designed to be self-propelled or permanently towable by a light truck; and (iv) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ll) "Regulatory floodway" see "Floodway."
- (mm) "Special Flood Hazard Area (SFHA)" see "area of special flood hazard."
- (nn) "Start of construction" means for the purposes of LC 16.244, the start of construction is defined in LC 16.090, and 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.
- (oo) "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.
- (pp) "Substantial damage" means 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.
- (qq) "Substantial improvement" means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, permitted within the past 5 years, 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: (i) 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 (ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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- (rr) "Variance" means a grant of relief by Lane County from the terms of a flood plain management regulation.
 - (ss) "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 ordinance is presumed to be in violation until such time as that documentation is provided.
 - (tt) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
 - (uu) "Wet Flood proof" means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter and exit the structure.
- (3) General Provisions
- (a) Lands to Which this Ordinance Applies. This Ordinance will apply to all Special Flood Hazard Areas (SFHA) within the jurisdiction of Lane County.
 - (b) 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 Lane County, Oregon and Incorporated Areas Volumes 1- 4", dated June 5, 2020, with accompanying Flood Insurance Rate Map (FIRM) panels 0025 through 2975, dated June 2, 1999 and June 5, 2020 are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the offices of the Lane County Land Management Division.
 - (c) Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division. Pursuant to the requirement established in ORS 455 that Lane County administers and enforces the State of Oregon Specialty Codes, Lane County 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 ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
 - (d) Compliance and Penalties for Noncompliance.
 - (i) 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.
 - (ii) Penalties for Noncompliance. No structure or land must 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) will constitute an administrative civil penalty subject to administrative enforcement pursuant to Lane Code Chapter 5. Any responsible person who fails to comply with any provision of Lane Code subject to Chapter 5 enforcement may be subject to daily fines. Nothing herein contained will prevent Lane County from taking such other lawful action as is necessary to prevent or remedy any violation.
 - (e) Abrogation. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another

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ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions will prevail.

- (f) 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 will in no way effect the validity of the remaining portions of this Ordinance.
- (g) Interpretation. In the interpretation and application of this ordinance, all provisions are:
 - (i) Considered as minimum requirements;
 - (ii) Liberally construed in favor of the governing body; and
 - (iii) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (h) Warning and Disclaimer of Liability
 - (i) 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.
 - (ii) This ordinance will not create liability on the part of Lane County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (4) Administration
 - (a) Designation of the Floodplain Administrator. The Planning Director and their designee are 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.
 - (b) Duties and Responsibilities of the Floodplain Administrator. Duties of the local administrator, or their designee, include, but are not limited to:
 - (i) Permit Review. Review all development permits to determine that:
 - (aa) The permit requirements of this ordinance have been satisfied;
 - (bb) All other required local, state, and federal permits have been obtained and approved.
 - (cc) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section (5)(b)(iv) are met; and
 - (dd) 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 section (5)(a)(vii); and
 - (ee) Provide to building officials the Base Flood Elevation (BFE) and freeboard requirement applicable to any building requiring a development permit.

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- (ff) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section (2).
- (gg) 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 section (5)(a)(i).
- (hh) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
- (ii) Information to be obtained and maintained.
 - (aa) 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 section (5)(a)(vii).
 - (bb) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure proposed in the floodway or Coastal High Hazard Flood Zone prior to the start of construction and the placement of any fill and ensure that the requirements of (5)(b)(iv), (5)(c)(i)(ff), (4)(b)(i)(bb) are adhered to.
 - (cc) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain an Elevation Certificate (EC) recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities in place, and the location and height of all flood openings.
 - (dd) Where base flood elevation data are utilized, 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.
 - (ee) Maintain all Elevation Certificates (EC) required under this ordinance and submitted to Lane County;
 - (ff) 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 section (5)(a)(vii).
 - (gg) Maintain all floodproofing certificates required under this ordinance;
 - (hh) Record and maintain all variance actions, including justification for their issuance;
 - (ii) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section (5)(b)(iv).
 - (jj) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section (4)(b)(iv).
 - (kk) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (iii) Requirement to notify other entities and submit new technical data

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- (aa) Community Boundary Alterations. The Floodplain Administrator must 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.
- (bb) Watercourse Alterations. 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 must be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
 - (A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - (B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance; and
 - (C) The applicant is required to submit a Conditional Letter of Map Revision (CLOMR) when required under section (4)(b)(iii)(cc). Ensure compliance with all applicable requirements in sections (4)(b)(iii)(cc) and (5)(a)(i).
- (cc) 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 must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-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.
 - (A) The Floodplain Administrator must require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - (i-i) Proposed floodway encroachments that increase the base flood elevation; and
 - (ii-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.
 - (B) An applicant must 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 must be provided as a Letter of Map Revision (LOMR).
 - (C) The applicant is responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

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- (D) The Floodplain Administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.
- (iv) Conduct Substantial Improvement (SI) (as defined in section (2)) reviews for all structural development proposal applications and maintain record of SI calculations within permit files in accordance with section (4)(b)(ii). Conduct Substantial Damage (SD) (as defined in section (2)) assessments and make SD determinations whenever structures laterally within the Special Flood Hazard Area (as established in section (3)(b)) 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.
- (v) Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation to the Hearings Official as provided in LC 14.080 except for LC 14.080(1)(a).
- (vi) Emergency Permits. The Floodplain Administrator may issue an emergency permit orally or in writing:
 - (aa) If issued orally, a written permit will follow within five days confirming the issuance and setting forth the conditions of operation.
 - (bb) Emergency permits may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.
 - (cc) A representative of Lane County may inspect the project site to verify that an emergency condition exists and that the emergency action will not significantly impact water resources.
 - (dd) Emergency permits will be in effect for the time required to complete the authorized emergency action and must not exceed 60 days.
 - (ee) The emergency permit will be circulated for public information within 10 days of issuance.
 - (ff) The Floodplain Administrator will condition emergency permits to protect and conserve the waters of this County.
- (c) Establishment of Development Permit
 - (i) Floodplain Development Permit Required. A development permit must be obtained before construction or development begins within any area laterally (horizontally) within the special flood hazard area established in section (3)(b). The development permit will be required for all structures, including manufactured dwellings, and for all other development, as defined in section (2), including fill and other development activities.
 - (ii) Application for Development Permit. Application for a development permit must be submitted on a form provided by the Floodplain Administrator, address all applicable standards and criteria, include the materials and information required by Lane Code 14.040(1), and the following information is required:

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- (aa) 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)(b)(ii).
 - (bb) 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;
 - (cc) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed.
 - (dd) Certification by a registered professional engineer or architect that the flood proofing methods proposed for any nonresidential structure meet the flood proofing criteria for nonresidential structures in section (5)(b)(iii)(bb).
 - (ee) Description of the extent to which any watercourse will be altered or relocated.
 - (ff) Base Flood Elevation data for subdivision proposals or other development when required per sections (4)(b)(i) and (5)(a)(vi).
 - (gg) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
 - (hh) The amount and location of any fill or excavation activities proposed.
- (d) Variance Procedure. The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
- (i) Conditions for Variance
- (aa) 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)(d)(i)(cc) and (ee), and (4)(d)(ii). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (bb) Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (cc) Variances will not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - (dd) Variances must only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (C) 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;

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(D) Compliance with LC 16.256.

(ee) Variances may be issued by the 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)(d)(i) (bb) – (dd) 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.

(ff) A variance to elevation or flood proofing requirements must only be issued for agricultural structures as defined by (2)(a) that meet the following criteria.

(A) The agricultural structure has a low damage potential and is located in an A zone (A, AE, A1-A30, AR, A99).

(B) The applicant would incur an exceptional hardship if a variance were not granted.

(C) Construction of the agricultural structure must comply with (5)(a)(ii) through (iv), (5)(b)(i), and (5)(b)(iv).

(ii) Variance Notification. Any applicant to whom a variance is granted will 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 must be maintained in accordance with section (4)(b)(ii).

(5) Provisions for Flood Hazard Reduction.

(a) General Standards. In all Special Flood Hazard Areas (SFHA), the following standards must be adhered to:

(i) Alteration of Watercourses. Require that the flood carry 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)(b)(iii)(bb) and (4)(b)(iii)(cc).

(ii) Anchoring.

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

(bb) All manufactured dwellings must be anchored per section (5)(b)(iii)(dd).

(iii) Construction Materials and Methods.

(aa) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.

(bb) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.

(iv) Utilities and Equipment.

(aa) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

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- (A) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
- (B) New and replacement sanitary sewage systems must 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 must be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
- (bb) Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must be elevated at or above two (2) feet above base flood level, or three (3) feet above highest adjacent grade where BFE is not available, with the exception of electrical systems, equipment or components; heating, ventilating, and air conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment that are 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 the occurrence of flooding to the design flood elevation. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must:
 - (A) If replaced as part of a substantial improvement must meet all the requirements of this section.
 - (B) Not be mounted on or penetrate through breakaway walls.
- (v) Tanks.
 - (aa) Underground tanks must be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
 - (bb) Above-ground tanks must be installed two (2) feet above the base flood level (three (3) feet above highest adjacent grade where BFE is not available) or must be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
 - (cc) In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms must be cantilevered from or knee braced to the building or must be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.
- (vi) Subdivision and Partition Proposals
 - (aa) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include within such proposals, Base Flood Elevation data.
 - (bb) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) must:
 - (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 constructed to minimize or eliminate flood damage.

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- (C) Have adequate drainage provided to reduce exposure to flood hazards.
- (cc) Subdivision and partitioning of land that creates potential for additional residential dwellings in the floodplain or floodway is prohibited.
- (vii) Use of Other Base Flood Data
 - (aa) When Base Flood Elevation data has not been provided in accordance with section (3)(b) the local floodplain administrator must obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section (5). All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section (5)(a)(vi).
 - (bb) Base Flood Elevations must 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 must 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 where available. When no base flood elevation data is available, development proposals in located within a riverine unnumbered A zone must be elevated three (3) feet above the highest adjacent grade to be reasonable safe from flooding. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.
- (viii) Structures Located in Multiple or Partial Flood Zones. In compliance with the State of Oregon Specialty Codes:
 - (aa) 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 will apply.
 - (bb) When a structure is partially located in a Special Flood Hazard Area (SFHA), the entire structure must meet the requirements for new construction and substantial improvements.
- (ix) Critical Facilities. Construction of new critical facilities must be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities must be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA must have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility must also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- (x) Post-FIRM structures built before the effective date of this ordinance that were constructed in compliance with the floodplain regulations at the time will not be required to be elevated to the freeboard standards of this ordinance when a substantial improvement is proposed, except where the BFE on the adopted FIRM has been revised. Any new construction must comply with this ordinance and must not be allowed to make a building non-compliant with any aspect of the floodplain design standards that was required for compliance when the structure was built.
- (xi) New dwellings, except replacement dwellings and temporary medical hardship dwellings, must be located outside of the SFHA unless the applicant demonstrates that the location is

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infeasible. Circumstances that make the construction or placement of new dwellings on higher ground infeasible and requiring discretion must be reviewed through a Type II procedure. Circumstances that can be reviewed through a Type I procedure include:

- (aa) When the dwelling cannot meet the development setbacks of Lane Code Chapter 15 or 16 when located outside of the SFHA;
 - (bb) When a Class I stream regulated by Lane Code 16.253 or wetland regulated by the Department of State Lands prevents the dwelling from being located outside of the SFHA;
 - (cc) Where the clear and objective siting standards of Lane Code 16.210(3)(o), (5)(b) and (6); 16.211(3)(r), (5)(b) and (6); or 16.212(4)(bb) and (15)(b) apply to the siting of the dwelling and prevent the dwelling from being located outside of the SFHA;
 - (dd) In forest zones (F-1 and F-2), where the area outside of the SFHA is within 30 feet of any ravine ridge or slope greater than 40 percent;
 - (ee) When an easement that prohibits structural development prevents the dwelling from being located outside of the SFHA;
 - (ff) When the location of the dwelling within the floodplain has already been approved through a septic installation or sewage disposal site evaluation permit, or a Type I, Type II or Type III land use decision; or
 - (gg) When the dwelling cannot be located at least 15 feet from the toe or 40 feet from the top of a slope that exceeds 20% when located outside of the SFHA.
- (xii) All freeboard requirements set forth in section (5) of this Ordinance will not become effective until September 7, 2023. Until that time, new construction and substantial improvement/damage must be elevated at or above one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available.
- (b) Specific Standards for Riverine (including all non-coastal) Flood Zones. These specific standards will apply in addition to the General Standards contained in section (5)(a) of this ordinance.
- (i) 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 must:
 - (aa) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters;
 - (bb) Be used solely for parking, storage, or building access;
 - (cc) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (A) A minimum of two openings;
 - (B) The total net area of non-engineered openings must be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosed walls;
 - (C) The bottom of all openings must be no higher than one foot above grade;

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- (D) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they must allow the automatic flow of floodwater into and out of the enclosed areas and must be accounted for in the determination of the net open area.
- (E) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 must be complied with when applicable.
- (dd) For structures that require building permits under the State of Oregon Specialty Code, flood openings must be installed such that they comply with section (5)(b)(i)(aa) through (cc) and the following provisions:
 - (A) There must be not less than two openings on different sides of each enclosed area; if a building has more than one enclosed area below the Base Flood Elevation, each area must have openings,
 - (B) Openings must be permitted to be installed in doors and windows on the condition that they fully comply with the requirements for flood openings stated in this Section.
- (ii) Garages
 - (aa) 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:
 - (A) If located within a floodway the proposed garage must comply with the requirements of section (5)(b)(iv).
 - (B) The floors are at or above grade on not less than one side;
 - (C) The garage is used solely for parking, building access, and/or storage;
 - (D) The garage is constructed with flood openings in compliance with section (5)(b)(i) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (E) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - (F) The garage is constructed in compliance with the standards in section (5)(a); and
 - (G) 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.
 - (bb) Detached garages must be constructed in compliance with the standards for accessory structures in section (5)(b)(iii)(ff) or nonresidential structures in section (5)(b)(iii)(cc) depending on the square footage of the garage.
 - (iii) For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section (5)(a) the following specific standards will apply in Riverine (non-coastal) Special Flood Hazard Areas (SFHA) with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

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- (aa) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) must 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.
- (bb) Residential Construction.
 - (A) New construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available.
 - (B) Enclosed areas below the lowest floor must comply with the flood opening requirements in section (5)(b)(i).
- (cc) Non-residential Construction.
 - (A) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure must:
 - (i-i) Have the lowest floor, including basement elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available; or
 - (ii-ii) Together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (iii-iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (iv-iv) 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 must be provided to the Floodplain Administrator as set forth section (4)(b)(ii).
 - (B) Non-residential structures that are elevated, not flood proofed, must comply with the standards for enclosed areas below the lowest floor in section (5)(b)(i).
 - (C) Applicants flood proofing non-residential buildings must be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one (1) foot below).
 - (D) Applicants must supply a maintenance plan for the entire structure to include but not limited to: exterior envelop of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide flood proofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components,

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as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

- (E) Applicants must supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

(dd) Manufactured Dwellings.

- (A) New or substantially improved manufactured dwellings supported on solid foundation walls must be constructed with flood openings that comply with section (5)(b)(i);
- (B) The bottom of the longitudinal chassis frame beam must be at or above two (2) feet above Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available;
- (C) New or substantially improved manufactured dwellings must 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 must be a minimum of twenty four (24) inches above Base Flood Elevation (BFE).

(ee) Recreational Vehicles. Recreational Vehicles placed on sites are required to:

- (A) Be on 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)(b)(iii)(cc), including the anchoring and elevation requirements for manufactured dwellings.

(ff) Appurtenant (Accessory) Structures. Relief from elevation or flood proofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory 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)(b)(iv).
- (B) Appurtenant structures must only be used for parking, access, and/or storage and must 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 accessory 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.

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- (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)(b)(i);
 - (G) Appurtenant structures must be located and constructed to have low damage potential;
 - (H) Appurtenant 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 section (5)(a)(v).
 - (I) Appurtenant 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.
- (gg) 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 can usually be addressed through the required flood openings stated in (5)(b)(i). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - (B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
 - (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - (D) Any building utility systems within the crawlspace must be elevated 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 above the BFE or sealed from floodwaters.
 - (E) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

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- (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 (4) 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) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained 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 must not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- (iv) Floodways. Located within the special flood hazard areas established in section (3)(b) 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, encroachments, including fill, new construction, substantial improvements and other development is prohibited.
- (aa) The following encroachments may be permitted if certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses preformed in accordance with standard engineering practice that the proposed encroachment will not result in an increase in flood levels within the community during the occurrence of the base flood discharge. The proposed encroachment and the analysis required by this subsection must be evaluated through a Type II land use review process.
- (A) The replacement, repair, alteration, or modification of a structure that:
- (i-i) Does not ~~expand~~ **increase the total area of** the footprint of the structure ~~that lawfully existed at the time of adoption of Ordinance 24-01 on~~ **[date to be added when Ordinance 24-01 is passed by the BCC]** or that **existed five (5) years prior to the adoption date. For the purpose of this provision and the following subsection (ii-ii), footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground; or**
 - (ii-ii) **In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than fifty percent (50%);**
 - (iii-iii) **In the case of replacement, may be reoriented to be centered on the same footprint as the existing structure or may be relocated upon the highest natural grade possible within the same footprint, or may be relocated outside of the existing footprint to a location with an entirely higher natural ground elevation within the floodway when no areas**

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outside of the floodway are available for replacement consistent with (vii-vii) below;

(iv-iv) In the case of repair, alteration, or modification, any reorientation or reconfiguration of the footprint must be located upon the highest natural grade possible;

(v-vii-ii) Is pre-FIRM or was approved by a Lane County Floodway Development permit;

(vi-viii-iii)- Is lawfully existing, ~~or~~ was in lawful existence **five (5) years prior to the adoption date of Ordinance 24-01, or was in lawful existence** prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and

(vii-viii-iv) For replacement of structures, the applicant demonstrates that no alternative exists on the subject property that would allow the structure to be replaced outside of the floodway. Circumstances that make construction or placement of the replacement dwelling on higher ground infeasible that can be reviewed through a Type I procedure include those listed at (5)(xi)(aa) through (gg). Circumstances requiring discretion must be reviewed through a Type II procedure.

(B) Quarry and mine extraction as defined in Lane Code 16.216 or development ancillary to quarry and mine extraction that is not a structure as defined in (2)(oo);

(C) A locationally dependent public utility, and there is no feasible or practicable location outside of the regulatory floodway for establishing the utility facility;

(D) The construction, maintenance, preservation, repair and replacement of a public road and ancillary facilities, including bridges, recreational paths or trails culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of a public agency, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements;

(E) Minimal development, such as, but not limited to fences, gazebos, raised gardening beds, signage, retaining walls, bank stabilization, or other landscaping features, and not including habitable structures; or

(F) A habitat enhancement or restoration project.

(bb) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that:

(A) A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Title 44 of the Code of Federal Regulations, Section 65.12 are fulfilled;

(B) The purpose of the project is habitat enhancement or restoration;

(C) The project does not involve the placement of any structures as defined in (2)(oo) within the floodway;

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- (D) A feasibility analysis has been completed documenting that habitat enhancement or restoration will be achieved through the proposed project;
 - (E) No existing structures will be negatively impacted by the proposed activity; and
 - (F) The project has received approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency.
- (cc) If the requirements of section (5)(b)(iv)(aa) are satisfied, all new construction, substantial improvements, and other development must comply with all other applicable flood hazard reduction provisions of section (5).
- (v) 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.
- (aa) Standards for AH Zones. Development within AH Zones must comply with the standards in sections (5)(a), (5)(b) and (5)(b)(v)
- (bb) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirement in section (5)(b)(v):
- (A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones must have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least three (3) 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 and substantial improvements of non-residential structures within AO zones must either:
 - (i-i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least three (3) feet if no depth number is specified); or
 - (ii-ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above two (2) feet above the depth number specified on the FIRM or a minimum of three (3) 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 must be certified by a registered professional engineer or architect as stated in section (5)(b)(iii)(bb)(A)(iv-iv).
 - (C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) must either:

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- (i-i) Be on the site for fewer than 180 consecutive days, and
- (ii-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-iii) Meet the requirements of (5)(b)(v)(bb)(A) above, including the elevation and anchoring requirements for manufactured dwellings.
- (D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section (5)(b)(iii)(ee).
- (E) In AO zones, enclosed areas beneath elevated structures must comply with the requirements in section (5)(b)(i).
- (c) Specific Standards for Coastal High Hazard Flood Zones. Located within special flood hazard areas established in section (3)(b) are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the areas 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 must apply in addition to the general standards provisions in section (5)(a).
 - (i) Development Standards.
 - (aa) All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) must be elevated on pilings and columns such that:
 - (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of two (2) feet above the base flood level (BFE), or three (3) feet above highest adjacent grade where BFE is not available; and
 - (B) 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 must be those associated with the base flood. Wind loading values used must be those specified by the State of Oregon Specialty Codes;
 - (bb) A registered professional engineer or architect must develop or review the structural design, specifications and plans for the construction, and must 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.
 - (cc) Obtain the 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 new and substantially improved structures and whether or not such structures contain a basement. The local floodplain administrator will maintain a record of all such information in accordance with section (4)(b)(ii).
 - (dd) 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

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water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

- (A) For the purpose of this section, a breakaway wall must 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-i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii-ii) If breakaway walls are utilized, such enclosed space must be useable solely for parking of vehicles, building access, or storage. Such space will not be used for human habitation.
 - (iii-iii) Walls intended to break away under flood loads must have flood openings that meet or exceed the criteria for flood openings in section (5)(b)(i).
- (ee) The elevated portion of the building and supporting foundation system must 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 must be those associated with the base flood. Maximum wind loading values used must be those specified by the State of Oregon Specialty Codes.
- (ff) Prohibit the use of fill for structural support of buildings.
- (gg) All new construction must be located landward of the reach of mean high tide.
- (hh) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (ii) All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages must comply with all the requirements of section (5)(c)(i). Flood proofing of non-residential structures is prohibited.
- (jj) Manufactured Dwelling Standards for Coastal High Hazard Zones. All manufactured dwellings to be placed or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must meet the following requirements:
 - (A) Comply with all of the standards within section (5)(c);
 - (B) The bottom of the longitudinal chassis frame beam must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available); and
 - (C) Electrical crossover connections must be a minimum of twenty four (24) inches above the BFE.
- (kk) Recreational Vehicle Standards for Coastal High Hazard Zones. Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must either:
 - (A) Be on the site for fewer than 180 consecutive days, and

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Bold indicates material being added

~~Strikethrough~~ indicates material being deleted

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- (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 permit requirements of section (4) and the requirements for manufactured homes in section (5)(c)(i)(aa).
- (II) Tank Standards for Coastal High Hazard Zones. Tanks must meet the requirements of section (5)(a)(v).

(Ordinance 20-08, 1.14.2021; Ordinance 21-07, 10.12.21)

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Chapter 10 - FLOODPLAIN COMBINING DISTRICT (/FP)**FP Combining District****10.271 Floodplain Combining District (/FP)**

- (1) Statutory Authority, Findings of Fact, Purpose, and Methods
 - (a) Statutory Authorization. The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Lane County does ordain as follows:
 - (b) Findings of Fact
 - (i) The flood hazard areas of Lane County 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.
 - (ii) 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 flood proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.
 - (c) Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this section are designed to:
 - (i) Protect human life and health
 - (ii) Minimize expenditure of public money and costly flood control projects.
 - (iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - (iv) Minimize prolonged business interruptions.
 - (v) 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 hazards.
 - (vi) Help maintain a stable tax base by providing for the sound use and development of areas as special flood hazard so as to minimize blight areas caused by flooding.
 - (vii) Notify potential buyers that the property is in a special flood hazard area.
 - (viii) Notify those who occupy special flood hazard areas that they assume responsibility for their actions.
 - (ix) Participate in and maintain eligibility for flood insurance and disaster relief.
 - (d) Methods for Reducing Flood Losses. In order to accomplish its purpose, this section includes methods and provisions for:

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- (i) Restricting or prohibiting uses which are 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.
 - (ii) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (iii) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters.
 - (iv) Controlling filling, grading, dredging and other development, which may increase flood damage.
 - (v) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (2) Definitions. Unless specifically defined below, words or phrases used in this ordinance are interpreted so as to give them the meaning they have in common usage.
- (a) "Agricultural structure" means a structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities and livestock; not used for human habitation.
 - (i) The structure is walled and roofed, meaning it has at least two outside rigid walls and fully secured roof.
 - (ii) Includes aquaculture (farming that is conducted in water) structures that are walled and roofed and used exclusively for the production, harvesting, storage, raising or drying of aquatic animals or plants.
 - (b) "Appeal" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.
 - (c) "Area of shallow flooding" means a designated Zone AO, AH, AR/AO, 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.
 - (d) "Area of special flood hazard" means 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, VO, V1-30, VE. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."
 - (e) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
 - (f) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.
 - (g) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
 - (h) "Below-grade crawlspaces" 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 4 feet at any point.

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- (i) "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.
- (j) "Building" see "Structure."
- (k) "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.
- (l) "Critical facility" means any building or location vital to emergency response operations, limited to: Emergency operation centers, 911 centers, police stations, fire stations or hospitals. Any buildings or locations that if damaged, would create secondary disasters, limited to: schools, nursing homes, prison or jail facilities, or installations which produce, use or store hazardous materials.
- (m) "Development" means 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.
- (n) "Elevated building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- (o) "Flood" or "Flooding" means:
 - (i) A general and temporary condition or complete inundation of normally dry land areas from:
 - (aa) The overflow of inland or tidal waters.
 - (bb) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (cc) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (i)(cc) 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.
 - (dd) 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 (i)(aa) of this definition.
- (p) "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.
- (q) "Flood Insurance Rate Map (FIRM)" means 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).
- (r) "Flood Insurance Study (FIS)" see "Flood elevation study."
- (s) "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."

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- (t) "Floodplain administrator" means the Lane County official designated by title to administer and enforce the floodplain management regulations.
- (u) "Floodplain Management" means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
- (v) "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (w) "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.
- (x) "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 a designated height. Also referred to as "Regulatory Floodway."
- (y) "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.
- (z) "Hazardous material" means material identified as hazardous by the Oregon Structural Specialty Code (OSSC) or Oregon Fire Code (OFC) that exceeds the exempt thresholds of the OSSC or OFC.
- (aa) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (bb) "Historic structure" means any structure that is:
 - (i) 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;
 - (ii) 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;
 - (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.
 - (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.
- (cc) "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

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- (i) Conditional Letter of Map Amendment (CLOMA). A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
 - (ii) Conditional Letter of Map Revision (CLOMR). A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
 - (iii) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
 - (iv) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
 - (v) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
 - (vi) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
 - (vii) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
- (dd) "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 non-elevation design requirements of this ordinance.
- (ee) "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."
- (ff) "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.

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- (gg) "Mean sea level" means 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.
- (hh) "New construction" means 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 (this ordinance) adopted by Lane County and includes any subsequent improvements to such structures.
- (ii) "Post-FIRM Structures" means a structure built after the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (jj) "Pre-FIRM Structure" means a structure built prior to the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (kk) "Recreational vehicle" means a vehicle which is: (i) Built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) Designed to be self-propelled or permanently towable by a light truck; and (iv) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ll) "Regulatory floodway" see "Floodway."
- (mm) "Special Flood Hazard Area (SFHA)" see "area of special flood hazard."
- (nn) "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. 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 state of excavation; or the placement of a manufactured home 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 foundation, 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.
- (oo) "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.
- (pp) "Substantial damage" means 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.
- (qq) "Substantial improvement" means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, permitted within the past 5 years, 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: (i) 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 (ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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- (rr) "Variance" means a grant of relief by Lane County from the terms of a flood plain management regulation.
 - (ss) "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 ordinance is presumed to be in violation until such time as that documentation is provided.
 - (tt) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
 - (uu) "Wet Flood proofing" means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter and exit the structure.
- (3) General Provisions.
- (a) Lands to Which this Ordinance Applies. This Ordinance will apply to all Special Flood Hazard Areas (SFHA) within the jurisdiction of Lane County.
 - (b) 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 Lane County, Oregon and Incorporated Areas Volumes 1- 4," dated June 5, 2020, with accompanying Flood Insurance Rate Map (FIRM) panels 0025 through 2975, dated June 2, 1999, and June 5, 2020, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the offices of the Lane County Land Management Division.
 - (c) Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division. Pursuant to the requirement established in ORS 455 that Lane County administers and enforces the State of Oregon Specialty Codes, Lane County 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 ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
 - (d) Compliance and Penalties for Noncompliance.
 - (i) 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.
 - (ii) Penalties for Noncompliance. No structure or land must 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) will constitute an administrative civil penalty subject to administrative enforcement pursuant to Lane Code Chapter 5. Any responsible person who fails to comply with any provision of Lane Code subject to Chapter 5 enforcement may be subject to daily fines. Nothing herein contained will prevent Lane County from taking such other lawful action as is necessary to prevent or remedy any violation.
 - (e) 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 will prevail.

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- (f) 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 will in no way effect the validity of the remaining portions of this Ordinance.
- (g) Interpretation. In the interpretation and application of this ordinance, all provisions are:
 - (i) Considered as minimum requirements;
 - (ii) Liberally construed in favor of the governing body; and
 - (iii) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (h) Warning and Disclaimer of Liability
 - (i) 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.
 - (ii) This ordinance will not create liability on the part of Lane County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (4) Administration.
 - (a) Designation of the Floodplain Administrator. The Planning Director and their designee are 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.
 - (b) Duties and Responsibilities of the Floodplain Administrator. Duties of the local administrator, or their designee, include, but are not limited to:
 - (i) Permit Review. Review all development permits to determine that:
 - (aa) The permit requirements of this ordinance have been satisfied;
 - (bb) All other required local, state, and federal permits have been obtained and approved.
 - (cc) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section (5)(b)(iv) are met; and
 - (dd) 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 section (5)(a)(vii); and
 - (ee) Provide to building officials the Base Flood Elevation (BFE) and freeboard requirement applicable to any building requiring a development permit.
 - (ff) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section (2).

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- (gg) 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 section (5)(a)(i).
- (hh) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
- (ii) Information to be obtained and maintained.
 - (aa) 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 section (5)(a)(vii).
 - (bb) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure proposed in the floodway or Coastal High Hazard Flood Zone prior to the start of construction and the placement of any fill and ensure that the requirements of (5)(b)(iv), (5)(c)(i)(ff), (4)(b)(i)(bb) are adhered to.
 - (cc) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain an Elevation Certificate (EC) recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities in place, and the location and height of all flood openings.
 - (dd) Where base flood elevation data are utilized, 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.
 - (ee) Maintain all Elevation Certificates (EC) required under this ordinance and submitted to Lane County;
 - (ff) 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 section (5)(a)(vii).
 - (gg) Maintain all flood proofing certificates required under this ordinance;
 - (hh) Record and maintain all variance actions, including justification for their issuance;
 - (ii) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section (5)(b)(iv).
 - (jj) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section (4)(b)(iv).
 - (kk) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (iii) Requirement to notify other entities and submit new technical data
 - (aa) Community Boundary Alterations. The Floodplain Administrator must 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

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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.

- (bb) Watercourse Alterations. 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 must be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
 - (A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - (B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance; and
 - (C) The applicant is required to submit a Conditional Letter of Map Revision (CLOMR) when required under section (4)(b)(iii)(cc). Ensure compliance with all applicable requirements in sections (4)(b)(iii)(cc) and (5)(a)(i).
- (cc) 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 must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-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.
 - (A) The Floodplain Administrator must require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - (i-i) Proposed floodway encroachments that increase the base flood elevation; and
 - (ii-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.
 - (B) An applicant must 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 must be provided as a Letter of Map Revision (LOMR).
 - (C) The applicant is responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.
 - (D) The Floodplain Administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.

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- (iv) Conduct Substantial Improvement (SI) (as defined in section (2)) reviews for all structural development proposal applications and maintain record of SI calculations within permit files in accordance with section (4)(b)(ii). Conduct Substantial Damage (SD) (as defined in section (2)) assessments and make SD determinations whenever structures laterally within the Special Flood Hazard Area (as established in section (3)(b)) 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.
- (v) Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation to the Hearings Official as provided in LC 14.080 except for LC 16.080(1)(a).
- (vi) Emergency Permits. The Floodplain Administrator may issue an emergency permit orally or in writing:
 - (aa) If issued orally, a written permit will follow within five days confirming the issuance and setting forth the conditions of operation.
 - (bb) Emergency permits may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.
 - (cc) A representative of Lane County may inspect the project site to verify that an emergency condition exists and that the emergency action will not significantly impact water resources.
 - (dd) Emergency permits will be in effect for the time required to complete the authorized emergency action and must not exceed 60 days.
 - (ee) The emergency permit will be circulated for public information within 10 days of issuance.
 - (ff) The Floodplain Administrator will condition emergency permits to protect and conserve the waters of this County.
- (c) Establishment of Development Permit
 - (i) Floodplain Development Permit Required. A development permit must be obtained before construction or development begins within any area laterally (horizontally) within the special flood hazard area established in section (3)(b). The development permit will be required for all structures, including manufactured dwellings, and for all other development, as defined in section (2), including fill and other development activities.
 - (ii) Application for Development Permit. Application for a development permit must be submitted on a form provided by the Floodplain Administrator, address all applicable standards and criteria, include the materials and information required by Lane Code 14.040(1), and the following information is required:
 - (aa) 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)(b)(ii).
 - (bb) 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

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- floor (excluding pilings and columns) of all structures, and whether such structures contain a basement;
- (cc) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed.
 - (dd) Certification by a registered professional engineer or architect that the flood proofing methods proposed for any nonresidential structure meet the flood proofing criteria for nonresidential structures in section (5)(b)(iii)(bb).
 - (ee) Description of the extent to which any watercourse will be altered or relocated.
 - (ff) Base Flood Elevation data for subdivision proposals or other development when required per sections (4)(b)(i) and (5)(a)(vi).
 - (gg) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
 - (hh) The amount and location of any fill or excavation activities proposed.
- (d) Variance Procedure. The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
- (i) Conditions for Variance
 - (aa) 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)(d)(i)(cc) and (ee), and (4)(d)(ii). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (bb) Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (cc) Variances will not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - (dd) Variances must only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (C) 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;
 - (D) Compliance with LC 10.330.
 - (ee) 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)(d)(i) (bb) – (dd) 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.

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- (ff) A variance to elevation or flood proofing requirements must only be issued for agricultural structures as defined by (2)(a) that meet the following criteria.
 - (A) The agricultural structure has a low damage potential and is located in an A zone (A, AE, A1-A30, AR, A99).
 - (B) The applicant would incur an exceptional hardship if a variance were not granted.
 - (C) Construction of the agricultural structure must comply with (5)(a)(ii) through (iv), (5)(b)(i), and (5)(b)(iv).
 - (ii) Variance Notification. Any applicant to whom a variance is granted will 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)(b)(ii).
- (5) Provisions for Flood Hazard Reduction.
- (a) General Standards. In all Special Flood Hazard Areas (SFHA), the following standards must be adhered to:
 - (i) Alteration of Watercourses. Require that the flood carry 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)(b)(iii)(bb) and (4)(b)(iii)(cc).
 - (ii) Anchoring.
 - (aa) All new construction and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (bb) All manufactured dwellings must be anchored per section (5)(b)(iii)(dd).
 - (iii) Construction Materials and Methods.
 - (aa) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.
 - (bb) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.
 - (iv) Utilities and Equipment.
 - (aa) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems
 - (A) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
 - (B) New and replacement sanitary sewage systems must 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 must be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

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- (bb) Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must be elevated at or above two (2) feet above base flood level, or three (3) feet above highest adjacent grade where BFE is not available, with the exception of electrical systems, equipment or components; heating, ventilating, and air conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment that are 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 the occurrence of flooding to the design flood elevation. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must:
 - (A) If replaced as part of a substantial improvement must meet all the requirements of this section.
 - (B) Not be mounted on or penetrate through breakaway walls.
- (v) Tanks.
 - (aa) Underground tanks must be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
 - (bb) Above-ground tanks must be installed two (2) feet above the base flood level (three (3) feet above highest adjacent grade where BFE is not available) or must be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
 - (cc) In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms must be cantilevered from or knee braced to the building or must be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.
- (vi) Subdivision and Partition Proposals.
 - (aa) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include within such proposals, Base Flood Elevation data.
 - (bb) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) must:
 - (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 constructed to minimize or eliminate flood damage.
 - (C) Have adequate drainage provided to reduce exposure to flood hazards.
 - (cc) Subdivision and partitioning of land that creates potential for additional residential dwellings in the floodplain or floodway is prohibited.
- (vii) Use of Other Base Flood Data.
 - (aa) When Base Flood Elevation data has not been provided in accordance with section (3)(b) the local floodplain administrator must obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section (5). All new subdivision proposals and other proposed new

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developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section (5)(a)(vi).

- (bb) Base Flood Elevations must 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 must 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 where available. When no base flood elevation data is available, development proposals in located within a riverine unnumbered A zone must be elevated three (3) feet above the highest adjacent grade to be reasonable safe from flooding. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.
- (viii) Structures Located in Multiple or Partial Flood Zones. In compliance with the State of Oregon Specialty Codes.
 - (aa) 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 will apply.
 - (bb) When a structure is partially located in a Special Flood Hazard Area (SFHA), the entire structure must meet the requirements for new construction and substantial improvements.
- (ix) Critical Facilities. Construction of new critical facilities must be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities must be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA must have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- (x) Post-FIRM structures built before the effective date of this ordinance that were constructed in compliance with the floodplain regulations at the time will not be required to be elevated to the freeboard standards of this ordinance when a substantial improvement is proposed, except where the BFE on the adopted FIRM has been revised. Any new construction must comply with this ordinance and must not be allowed to make a building non-compliant with any aspect of the floodplain design standards that was required for compliance when the structure was built.
- (xi) New dwellings, except replacement dwellings and temporary medical hardship dwellings, must be located outside of the SFHA unless the applicant demonstrates that the location is infeasible. Circumstances that make the construction or placement of new dwellings on higher ground infeasible and requiring discretion must be reviewed through a Type II procedure. Circumstances that can be reviewed through a Type I procedure include:
 - (aa) When the dwelling cannot meet the development setbacks of Lane Code Chapter 15 or 16 when located outside of the SFHA;
 - (bb) When a Class I stream regulated by Lane Code 16.253 or wetland regulated by the Department of State Lands prevents the dwelling from being located outside of the SFHA;

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- (cc) Where the clear and objective siting standards of Lane Code 16.210(3)(o), (5)(b) and (6); 16.211(3)(r), (5)(b) and (6); or 16.212(4)(bb) and (15)(b) apply to the siting of the dwelling and prevent the dwelling from being located outside of the SFHA;
 - (dd) In forest zones (F-1 and F-2), where the area outside of the SFHA is within 30 feet of any ravine ridge or slope greater than 40 percent;
 - (ee) When an easement that prohibits structural development prevents the dwelling from being located outside of the SFHA;
 - (ff) When the location of the dwelling within the floodplain has already been approved through a septic installation or sewage disposal site evaluation permit, or a Type I, Type II or Type III land use decision; or
 - (gg) When the dwelling cannot be located at least 15 feet from the toe of 40 feet from the top of a slope that exceeds 20% when located outside of the SFHA.
- (xii) All freeboard requirements set forth in section (5) of this Ordinance will not become effective until September 7, 2023. Until that time, new construction and substantial improvement/damage must be elevated at or above one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available.
- (b) Specific Standards for Riverine (including all non-coastal) Flood Zones. These specific standards will apply in addition to the General Standards contained in section (5)(a) of this ordinance.
- (i) 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 must:
 - (aa) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters;
 - (bb) Be used solely for parking, storage, or building access;
 - (cc) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (A) A minimum of two openings;
 - (B) The total net area of non-engineered openings must be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosed walls;
 - (C) The bottom of all openings must be no higher than one foot above grade;
 - (D) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they must allow the automatic flow of floodwater into and out of the enclosed areas and must be accounted for in the determination of the net open area.
 - (E) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 must be complied with when applicable.

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- (dd) For structures that require building permits under the State of Oregon Specialty Code, flood openings must be installed such that they comply with section (5)(b)(i)(aa) through (cc) and the following provisions:
 - (A) There must be not less than two openings on different sides of each enclosed area; if a building has more than one enclosed area below the Base Flood Elevation, each area must have openings,
 - (B) Openings must be permitted to be installed in doors and windows on the condition that they fully comply with the requirements for flood openings stated in this Section.
- (ii) Garages
 - (aa) 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:
 - (A) If located within a floodway the proposed garage must comply with the requirements of section (5)(b)(iv).
 - (B) The floors are at or above grade on not less than one side;
 - (C) The garage is used solely for parking, building access, and/or storage;
 - (D) The garage is constructed with flood openings in compliance with section (5)(b)(i) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (E) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - (F) The garage is constructed in compliance with the standards in section (5)(a); and
 - (G) 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.
 - (bb) Detached garages must be constructed in compliance with the standards for accessory structures in section (5)(b)(iii)(ff) or nonresidential structures in section (5)(b)(iii)(cc) depending on the square footage of the garage.
- (iii) For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section (5)(a) the following specific standards will apply in Riverine (non-coastal) Special Flood Hazard Areas (SFHA) with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.
 - (aa) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) must 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.
 - (bb) Residential Construction.

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- (A) New construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available.
 - (B) Enclosed areas below the lowest floor must comply with the flood opening requirements in section (5)(b)(i).
- (cc) Non-residential Construction.
- (A) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure must:
 - (i-i) Have the lowest floor, including basement elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available; or
 - (ii-ii) Together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (iii-iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (iv-iv) 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 must be provided to the Floodplain Administrator as set forth section (4)(b)(ii).
 - (B) Non-residential structures that are elevated, not flood proofed, must comply with the standards for enclosed areas below the lowest floor in section (5)(b)(i).
 - (C) Applicants flood proofing non-residential buildings must be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one (1) foot below).
 - (D) Applicants must supply a maintenance plan for the entire structure to include but not limited to: exterior envelop of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide flood proofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components, as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
 - (E) Applicants must supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.
- (dd) Manufactured Dwellings.
- (A) New or substantially improved manufactured dwellings supported on solid foundation walls must be constructed with flood openings that comply with section (5)(b)(i);

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- (B) The bottom of the longitudinal chassis frame beam must be at or above two (2) feet above Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available;
 - (C) New or substantially improved manufactured dwellings must 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 must be a minimum of twenty four (24) inches above Base Flood Elevation (BFE).
- (ee) Recreational Vehicles. Recreational Vehicles placed on sites are required to:
- (A) Be on 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)(b)(iii)(cc), including the anchoring and elevation requirements for manufactured dwellings.
- (ff) Appurtenant (Accessory) Structures. Relief from elevation or flood proofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory 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)(b)(iv).
 - (B) Appurtenant structures must only be used for parking, access, and/or storage and must 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 accessory 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)(b)(i);
 - (G) Appurtenant structures must be located and constructed to have low damage potential;

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- (H) Appurtenant 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 section (5)(a)(v).
- (I) Appurtenant 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.

(gg) 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 can usually be addressed through the required flood openings stated in (5)(b)(i). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (D) Any building utility systems within the crawlspace must be elevated 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 above the BFE or sealed from floodwaters.
- (E) The interior grade of a crawlspace below the BFE must not be more than two (2) 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 (4) 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) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained 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.

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- (H) The velocity of floodwaters at the site must not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- (iv) Floodways. Located within the special flood hazard areas established in section (3)(b) 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, encroachments, including fill, new construction, substantial improvements and other development is prohibited.
- (aa) The following encroachments may be permitted if 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 will not result in an increase in flood levels within the community during the occurrence of the base flood discharge. The proposed encroachment and the analysis required by this subsection must be evaluated through a Type II land use review process.
- (A) The replacement, repair, alteration or modification of a structure that:
 - (i-i) Does not increase the total area of the footprint of the structure that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date. For the purpose of this provision and the following subsection (ii-ii), footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground; or
 - (ii-ii) In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than fifty percent (50%);
 - (iii-iii) In the case of replacement, may be reoriented to be centered on the same footprint as the existing structure or may be relocated upon the highest natural grade possible within the same footprint, or may be relocated outside of the existing footprint to a location with an entirely higher natural ground elevation within the floodway when no areas outside of the floodway are available for replacement consistent with (vii-vii) below;
 - (iv-iv) In the case of repair, alteration, or modification, any reorientation or reconfiguration of the footprint must be located upon the highest natural grade possible;
 - (v-v) Is pre-FIRM or was approved by a Lane County Floodway Development permit;
 - (vi-vi) Is lawfully existing, was in lawful existence five (5) years prior to the adoption date of Ordinance 24-01, or was in lawful existence prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and
 - (vii-vii) For replacement of structures, the applicant demonstrates that no alternative exists on the subject property that would allow the structure to be replaced outside of the floodway. Circumstances that make construction or

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placement of the replacement structure on higher ground infeasible that can be reviewed through a Type I procedure include those listed at (5)(xi)(aa) through (gg). Circumstances requiring discretion must be reviewed through a Type II procedure.

- (B) Quarry and mine extraction as defined in Lane Code 16.216 or development ancillary to quarry and mine extraction that is not a structure as defined in (2)(oo);
 - (C) A locationally dependent public utility, and there is no feasible or practicable location outside of the regulatory floodway for establishing the utility facility;
 - (D) The construction, maintenance, preservation, repair and replacement of a public road and ancillary facilities, including bridges, recreational paths or trails culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of a public agency, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements;
 - (E) Minimal development, such as, but not limited to fences, gazebos, raised gardening beds, signage, retaining walls, bank stabilization, or other landscaping features, and not including habitable structures; or
 - (F) A habitat enhancement or restoration project.
- (bb) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that:
- (A) A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Title 44 of the Code of Federal Regulations, Section 65.12 are fulfilled;
 - (B) The purpose of the project is habitat enhancement or restoration;
 - (C) The project does not involve the placement of any structures as defined in (2)(oo) within the floodway;
 - (D) A feasibility analysis has been completed documenting that habitat enhancement or restoration will be achieved through the proposed project;
 - (E) No existing structures will be negatively impacted by the proposed activity; and
 - (F) The project has received approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency.
- (cc) If the requirements of section (5)(b)(iv)(aa) are satisfied, all new construction, substantial improvements, and other development must comply with all other applicable flood hazard reduction provisions of section (5).
- (v) 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

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AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

- (aa) Standards for AH Zones. Development within AH Zones must comply with the standards in sections (5)(a), (5)(b) and (5)(b)(v)
- (bb) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirement in section (5)(b)(v):
 - (A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones must have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least three (3) 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 and substantial improvements of non-residential structures within AO zones must either:
 - (i-i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least three (3) feet if no depth number is specified); or
 - (ii-ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above two (2) feet above the depth number specified on the FIRM or a minimum of three (3) 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 must be certified by a registered professional engineer or architect as stated in section (5)(b)(iii)(bb)(A)(iv-iv).
 - (C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) must either:
 - (i-i) Be on the site for fewer than 180 consecutive days, and
 - (ii-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-iii) Meet the requirements of (5)(b)(v)(bb)(A) above, including the elevation and anchoring requirements for manufactured dwellings.
 - (D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section (5)(b)(iii)(ee).
 - (E) In AO zones, enclosed areas beneath elevated structures must comply with the requirements in section (5)(b)(i).
- (c) Specific Standards for Coastal High Hazard Flood Zones. Located within special flood hazard areas established in section (3)(b) are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the areas between the Limit of

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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 must apply in addition to the general standards provisions in section (5)(a).

(i) Development Standards.

- (aa) All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) must be elevated on pilings and columns such that:
 - (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of two (2) feet above the base flood level (BFE) (three (3) feet above highest adjacent grade where BFE is not available); and
 - (B) 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 must be those associated with the base flood. Wind loading values used must be those specified by the State of Oregon Specialty Codes;
- (bb) A registered professional engineer or architect must develop or review the structural design, specifications and plans for the construction, and must 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.
- (cc) Obtain the 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 new and substantially improved structures and whether or not such structures contain a basement. The local floodplain administrator will maintain a record of all such information in accordance with section (4)(b)(ii).
- (dd) 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.
 - (A) For the purpose of this section, a breakaway wall must 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-i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii-ii) If breakaway walls are utilized, such enclosed space must be useable solely for parking of vehicles, building access, or storage. Such space will not be used for human habitation.
 - (iii-iii) Walls intended to break away under flood loads must have flood openings that meet or exceed the criteria for flood openings in section (5)(b)(i).

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- (ee) The elevated portion of the building and supporting foundation system must 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 must be those associated with the base flood. Maximum wind loading values used must be those specified by the State of Oregon Specialty Codes.
- (ff) Prohibit the use of fill for structural support of buildings.
- (gg) All new construction must be located landward of the reach of mean high tide.
- (hh) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (ii) All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages must comply with all the requirements of section (5)(c)(i) Flood proofing of non-residential structures is prohibited.
- (jj) Manufactured Dwelling Standards for Coastal High Hazard Zones. All manufactured dwellings to be placed or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must meet the following requirements:
 - (A) Comply with all of the standards within section (5)(c);
 - (B) The bottom of the longitudinal chassis frame beam must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available); and
 - (C) Electrical crossover connections must be a minimum of twenty four (24) inches above the BFE.
- (kk) Recreational Vehicle Standards for Coastal High Hazard Zones. Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must either:
 - (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 permit requirements of section (4) and the requirements for manufactured homes in section (5)(c)(i)(aa).
- (ll) Tank Standards for Coastal High Hazard Zones. Tanks must meet the requirements of section (5)(a)(v).

(Ordinance 20-08, 1.14.2021; Ordinance 21-07, 10.12.2021)

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Chapter 10 - FLOODPLAIN COMBINING DISTRICT (/FP)

FP Combining District

10.271 Floodplain Combining District (/FP)

(1) Statutory Authority, Findings of Fact, Purpose, and Methods

(a) Statutory Authorization. The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Lane County does ordain as follows:

(b) Findings of Fact

(i) The flood hazard areas of Lane County 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.

(ii) 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 flood proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

(c) Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this section are designed to:

(i) Protect human life and health

(ii) Minimize expenditure of public money and costly flood control projects.

(iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(iv) Minimize prolonged business interruptions.

(v) 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 hazards.

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

(vii) Notify potential buyers that the property is in a special flood hazard area.

(viii) Notify those who occupy special flood hazard areas that they assume responsibility for their actions.

(ix) Participate in and maintain eligibility for flood insurance and disaster relief.

(d) Methods for Reducing Flood Losses. In order to accomplish its purpose, this section includes methods and provisions for:

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- (i) Restricting or prohibiting uses which are 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.
 - (ii) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (iii) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters.
 - (iv) Controlling filling, grading, dredging and other development, which may increase flood damage.
 - (v) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (2) Definitions. Unless specifically defined below, words or phrases used in this ordinance are interpreted so as to give them the meaning they have in common usage.
- (a) "Agricultural structure" means a structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities and livestock; not used for human habitation.
 - (i) The structure is walled and roofed, meaning it has at least two outside rigid walls and fully secured roof.
 - (ii) Includes aquaculture (farming that is conducted in water) structures that are walled and roofed and used exclusively for the production, harvesting, storage, raising or drying of aquatic animals or plants.
 - (b) "Appeal" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.
 - (c) "Area of shallow flooding" means a designated Zone AO, AH, AR/AO, 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.
 - (d) "Area of special flood hazard" means 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, VO, V1-30, VE. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."
 - (e) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
 - (f) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.
 - (g) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
 - (h) "Below-grade crawlspaces" 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,

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measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

- (i) "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.
- (j) "Building" see "Structure."
- (k) "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.
- (l) "Critical facility" means any building or location vital to emergency response operations, limited to: Emergency operation centers, 911 centers, police stations, fire stations or hospitals. Any buildings or locations that if damaged, would create secondary disasters, limited to: schools, nursing homes, prison or jail facilities, or installations which produce, use or store hazardous materials.
- (m) "Development" means 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.
- (n) "Elevated building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- (o) "Flood" or "Flooding" means:
 - (i) A general and temporary condition or complete inundation of normally dry land areas from:
 - (aa) The overflow of inland or tidal waters.
 - (bb) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (cc) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (i)(cc) 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.
 - (dd) 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 (i)(aa) of this definition.
 - (p) "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.
 - (q) "Flood Insurance Rate Map (FIRM)" means 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).

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- (r) "Flood Insurance Study (FIS)" see "Flood elevation study."
- (s) "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."
- (t) "Floodplain administrator" means the Lane County official designated by title to administer and enforce the floodplain management regulations.
- (u) "Floodplain Management" means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
- (v) "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (w) "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.
- (x) "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 a designated height. Also referred to as "Regulatory Floodway."
- (y) "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.
- (z) "Hazardous material" means material identified as hazardous by the Oregon Structural Specialty Code (OSSC) or Oregon Fire Code (OFC) that exceeds the exempt thresholds of the OSSC or OFC.
- (aa) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (bb) "Historic structure" means any structure that is:
 - (i) 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;
 - (ii) 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;
 - (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.
 - (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

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- (cc) "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:
- (i) Conditional Letter of Map Amendment (CLOMA). A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
 - (ii) Conditional Letter of Map Revision (CLOMR). A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
 - (iii) Conditional Letter of Map Revision based on Fill (CLOMR-F). A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
 - (iv) Letter of Map Amendment (LOMA). An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
 - (v) Letter of Map Revision (LOMR). A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
 - (vi) Letter of Map Revision based on Fill (LOMR-F). A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
 - (vii) A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
- (dd) "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 non-elevation design requirements of this ordinance.
- (ee) "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."

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- (ff) "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.
- (gg) "Mean sea level" means 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.
- (hh) "New construction" means 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 (this ordinance) adopted by Lane County and includes any subsequent improvements to such structures.
- (ii) "Post-FIRM Structures" means a structure built after the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (jj) "Pre-FIRM Structure" means a structure built prior to the adoption of Lane County's first Flood Insurance Rate Map on December 18, 1985.
- (kk) "Recreational vehicle" means a vehicle which is: (i) Built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) Designed to be self-propelled or permanently towable by a light truck; and (iv) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ll) "Regulatory floodway" see "Floodway."
- (mm) "Special Flood Hazard Area (SFHA)" see "area of special flood hazard."
- (nn) "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. 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 state of excavation; or the placement of a manufactured home 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 foundation, 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.
- (oo) "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.
- (pp) "Substantial damage" means 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.
- (qq) "Substantial improvement" means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, permitted within the past 5 years, 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: (i) 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

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official and which are the minimum necessary to assure safe living conditions; or (ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

- (rr) "Variance" means a grant of relief by Lane County from the terms of a flood plain management regulation.
 - (ss) "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 ordinance is presumed to be in violation until such time as that documentation is provided.
 - (tt) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
 - (uu) "Wet Flood proofing" means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter and exit the structure.
- (3) General Provisions.
- (a) Lands to Which this Ordinance Applies. This Ordinance will apply to all Special Flood Hazard Areas (SFHA) within the jurisdiction of Lane County.
 - (b) 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 Lane County, Oregon and Incorporated Areas Volumes 1- 4," dated June 5, 2020, with accompanying Flood Insurance Rate Map (FIRM) panels 0025 through 2975, dated June 2, 1999, and June 5, 2020, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the offices of the Lane County Land Management Division.
 - (c) Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division. Pursuant to the requirement established in ORS 455 that Lane County administers and enforces the State of Oregon Specialty Codes, Lane County 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 ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
 - (d) Compliance and Penalties for Noncompliance.
 - (i) 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.
 - (ii) Penalties for Noncompliance. No structure or land must 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) will constitute an administrative civil penalty subject to administrative enforcement pursuant to Lane Code Chapter 5. Any responsible person who fails to comply with any provision of Lane Code subject to Chapter 5 enforcement may be subject to daily fines. Nothing herein contained will prevent Lane County from taking such other lawful action as is necessary to prevent or remedy any violation.

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- (e) 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 will prevail.
- (f) 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 will in no way effect the validity of the remaining portions of this Ordinance.
- (g) Interpretation. In the interpretation and application of this ordinance, all provisions are:
 - (i) Considered as minimum requirements;
 - (ii) Liberally construed in favor of the governing body; and
 - (iii) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (h) Warning and Disclaimer of Liability
 - (i) 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.
 - (ii) This ordinance will not create liability on the part of Lane County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (4) Administration.
 - (a) Designation of the Floodplain Administrator. The Planning Director and their designee are 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.
 - (b) Duties and Responsibilities of the Floodplain Administrator. Duties of the local administrator, or their designee, include, but are not limited to:
 - (i) Permit Review. Review all development permits to determine that:
 - (aa) The permit requirements of this ordinance have been satisfied;
 - (bb) All other required local, state, and federal permits have been obtained and approved.
 - (cc) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section (5)(b)(iv) are met; and
 - (dd) 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 section (5)(a)(vii); and
 - (ee) Provide to building officials the Base Flood Elevation (BFE) and freeboard requirement applicable to any building requiring a development permit.

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- (ff) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section (2).
- (gg) 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 section (5)(a)(i).
- (hh) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
- (ii) Information to be obtained and maintained.
 - (aa) 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 section (5)(a)(vii).
 - (bb) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure proposed in the floodway or Coastal High Hazard Flood Zone prior to the start of construction and the placement of any fill and ensure that the requirements of (5)(b)(iv), (5)(c)(i)(ff), (4)(b)(i)(bb) are adhered to.
 - (cc) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain an Elevation Certificate (EC) recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement), all attendant utilities in place, and the location and height of all flood openings.
 - (dd) Where base flood elevation data are utilized, 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.
 - (ee) Maintain all Elevation Certificates (EC) required under this ordinance and submitted to Lane County;
 - (ff) 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 section (5)(a)(vii).
 - (gg) Maintain all flood proofing certificates required under this ordinance;
 - (hh) Record and maintain all variance actions, including justification for their issuance;
 - (ii) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section (5)(b)(iv).
 - (jj) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section (4)(b)(iv).
 - (kk) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (iii) Requirement to notify other entities and submit new technical data

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- (aa) Community Boundary Alterations. The Floodplain Administrator must 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.
- (bb) Watercourse Alterations. 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 must be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
 - (A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - (B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance; and
 - (C) The applicant is required to submit a Conditional Letter of Map Revision (CLOMR) when required under section (4)(b)(iii)(cc). Ensure compliance with all applicable requirements in sections (4)(b)(iii)(cc) and (5)(a)(i).
- (cc) 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 must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-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.
 - (A) The Floodplain Administrator must require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - (i-i) Proposed floodway encroachments that increase the base flood elevation; and
 - (ii-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.
 - (B) An applicant must 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 must be provided as a Letter of Map Revision (LOMR).
 - (C) The applicant is responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

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- (D) The Floodplain Administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.
- (iv) Conduct Substantial Improvement (SI) (as defined in section (2)) reviews for all structural development proposal applications and maintain record of SI calculations within permit files in accordance with section (4)(b)(ii). Conduct Substantial Damage (SD) (as defined in section (2)) assessments and make SD determinations whenever structures laterally within the Special Flood Hazard Area (as established in section (3)(b)) 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.
- (v) Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation to the Hearings Official as provided in LC 14.080 except for LC 16.080(1)(a).
- (vi) Emergency Permits. The Floodplain Administrator may issue an emergency permit orally or in writing:
 - (aa) If issued orally, a written permit will follow within five days confirming the issuance and setting forth the conditions of operation.
 - (bb) Emergency permits may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.
 - (cc) A representative of Lane County may inspect the project site to verify that an emergency condition exists and that the emergency action will not significantly impact water resources.
 - (dd) Emergency permits will be in effect for the time required to complete the authorized emergency action and must not exceed 60 days.
 - (ee) The emergency permit will be circulated for public information within 10 days of issuance.
 - (ff) The Floodplain Administrator will condition emergency permits to protect and conserve the waters of this County.
- (c) Establishment of Development Permit
 - (i) Floodplain Development Permit Required. A development permit must be obtained before construction or development begins within any area laterally (horizontally) within the special flood hazard area established in section (3)(b). The development permit will be required for all structures, including manufactured dwellings, and for all other development, as defined in section (2), including fill and other development activities.
 - (ii) Application for Development Permit. Application for a development permit must be submitted on a form provided by the Floodplain Administrator, address all applicable standards and criteria, include the materials and information required by Lane Code 14.040(1), and the following information is required:

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- (aa) 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)(b)(ii).
 - (bb) 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;
 - (cc) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed.
 - (dd) Certification by a registered professional engineer or architect that the flood proofing methods proposed for any nonresidential structure meet the flood proofing criteria for nonresidential structures in section (5)(b)(iii)(bb).
 - (ee) Description of the extent to which any watercourse will be altered or relocated.
 - (ff) Base Flood Elevation data for subdivision proposals or other development when required per sections (4)(b)(i) and (5)(a)(vi).
 - (gg) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
 - (hh) The amount and location of any fill or excavation activities proposed.
- (d) Variance Procedure. The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
- (i) Conditions for Variance
- (aa) 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)(d)(i)(cc) and (ee), and (4)(d)(ii). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (bb) Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (cc) Variances will not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
 - (dd) Variances must only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (C) 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;

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(D) Compliance with LC 10.330.

(ee) 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)(d)(i) (bb) – (dd) 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.

(ff) A variance to elevation or flood proofing requirements must only be issued for agricultural structures as defined by (2)(a) that meet the following criteria.

(A) The agricultural structure has a low damage potential and is located in an A zone (A, AE, A1-A30, AR, A99).

(B) The applicant would incur an exceptional hardship if a variance were not granted.

(C) Construction of the agricultural structure must comply with (5)(a)(ii) through (iv), (5)(b)(i), and (5)(b)(iv).

(ii) Variance Notification. Any applicant to whom a variance is granted will 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)(b)(ii).

(5) Provisions for Flood Hazard Reduction.

(a) General Standards. In all Special Flood Hazard Areas (SFHA), the following standards must be adhered to:

(i) Alteration of Watercourses. Require that the flood carry 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)(b)(iii)(bb) and (4)(b)(iii)(cc).

(ii) Anchoring.

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

(bb) All manufactured dwellings must be anchored per section (5)(b)(iii)(dd).

(iii) Construction Materials and Methods.

(aa) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.

(bb) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.

(iv) Utilities and Equipment.

(aa) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

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- (A) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
- (B) New and replacement sanitary sewage systems must 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 must be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
- (bb) Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must be elevated at or above two (2) feet above base flood level, or three (3) feet above highest adjacent grade where BFE is not available, with the exception of electrical systems, equipment or components; heating, ventilating, and air conditioning; plumbing appliances and plumbing fixtures; duct systems; and other service equipment that are 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 the occurrence of flooding to the design flood elevation. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities must:
 - (A) If replaced as part of a substantial improvement must meet all the requirements of this section.
 - (B) Not be mounted on or penetrate through breakaway walls.
- (v) Tanks.
 - (aa) Underground tanks must be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
 - (bb) Above-ground tanks must be installed two (2) feet above the base flood level (three (3) feet above highest adjacent grade where BFE is not available) or must be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
 - (cc) In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms must be cantilevered from or knee braced to the building or must be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.
- (vi) Subdivision and Partition Proposals.
 - (aa) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include within such proposals, Base Flood Elevation data.
 - (bb) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) must:
 - (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 constructed to minimize or eliminate flood damage.

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- (C) Have adequate drainage provided to reduce exposure to flood hazards.
- (cc) Subdivision and partitioning of land that creates potential for additional residential dwellings in the floodplain or floodway is prohibited.
- (vii) Use of Other Base Flood Data.
 - (aa) When Base Flood Elevation data has not been provided in accordance with section (3)(b) the local floodplain administrator must obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section (5). All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section (5)(a)(vi).
 - (bb) Base Flood Elevations must 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 must 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 where available. When no base flood elevation data is available, development proposals in located within a riverine unnumbered A zone must be elevated three (3) feet above the highest adjacent grade to be reasonable safe from flooding. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.
- (viii) Structures Located in Multiple or Partial Flood Zones. In compliance with the State of Oregon Specialty Codes.
 - (aa) 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 will apply.
 - (bb) When a structure is partially located in a Special Flood Hazard Area (SFHA), the entire structure must meet the requirements for new construction and substantial improvements.
- (ix) Critical Facilities. Construction of new critical facilities must be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities must be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA must have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- (x) Post-FIRM structures built before the effective date of this ordinance that were constructed in compliance with the floodplain regulations at the time will not be required to be elevated to the freeboard standards of this ordinance when a substantial improvement is proposed, except where the BFE on the adopted FIRM has been revised. Any new construction must comply with this ordinance and must not be allowed to make a building non-compliant with any aspect of the floodplain design standards that was required for compliance when the structure was built.
- (xi) New dwellings, except replacement dwellings and temporary medical hardship dwellings, must be located outside of the SFHA unless the applicant demonstrates that the location is

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infeasible. Circumstances that make the construction or placement of new dwellings on higher ground infeasible and requiring discretion must be reviewed through a Type II procedure. Circumstances that can be reviewed through a Type I procedure include:

- (aa) When the dwelling cannot meet the development setbacks of Lane Code Chapter 15 or 16 when located outside of the SFHA;
 - (bb) When a Class I stream regulated by Lane Code 16.253 or wetland regulated by the Department of State Lands prevents the dwelling from being located outside of the SFHA;
 - (cc) Where the clear and objective siting standards of Lane Code 16.210(3)(o), (5)(b) and (6); 16.211(3)(r), (5)(b) and (6); or 16.212(4)(bb) and (15)(b) apply to the siting of the dwelling and prevent the dwelling from being located outside of the SFHA;
 - (dd) In forest zones (F-1 and F-2), where the area outside of the SFHA is within 30 feet of any ravine ridge or slope greater than 40 percent;
 - (ee) When an easement that prohibits structural development prevents the dwelling from being located outside of the SFHA;
 - (ff) When the location of the dwelling within the floodplain has already been approved through a septic installation or sewage disposal site evaluation permit, or a Type I, Type II or Type III land use decision; or
 - (gg) When the dwelling cannot be located at least 15 feet from the toe of 40 feet from the top of a slope that exceeds 20% when located outside of the SFHA.
- (xii) All freeboard requirements set forth in section (5) of this Ordinance will not become effective until September 7, 2023. Until that time, new construction and substantial improvement/damage must be elevated at or above one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available.
- (b) Specific Standards for Riverine (including all non-coastal) Flood Zones. These specific standards will apply in addition to the General Standards contained in section (5)(a) of this ordinance.
- (i) 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 must:
- (aa) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters;
 - (bb) Be used solely for parking, storage, or building access;
 - (cc) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (A) A minimum of two openings;
 - (B) The total net area of non-engineered openings must be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosed walls;
 - (C) The bottom of all openings must be no higher than one foot above grade;

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- (D) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they must allow the automatic flow of floodwater into and out of the enclosed areas and must be accounted for in the determination of the net open area.
- (E) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 must be complied with when applicable.
- (dd) For structures that require building permits under the State of Oregon Specialty Code, flood openings must be installed such that they comply with section (5)(b)(i)(aa) through (cc) and the following provisions:
 - (A) There must be not less than two openings on different sides of each enclosed area; if a building has more than one enclosed area below the Base Flood Elevation, each area must have openings,
 - (B) Openings must be permitted to be installed in doors and windows on the condition that they fully comply with the requirements for flood openings stated in this Section.
- (ii) Garages
 - (aa) 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:
 - (A) If located within a floodway the proposed garage must comply with the requirements of section (5)(b)(iv).
 - (B) The floors are at or above grade on not less than one side;
 - (C) The garage is used solely for parking, building access, and/or storage;
 - (D) The garage is constructed with flood openings in compliance with section (5)(b)(i) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (E) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - (F) The garage is constructed in compliance with the standards in section (5)(a); and
 - (G) 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.
 - (bb) Detached garages must be constructed in compliance with the standards for accessory structures in section (5)(b)(iii)(ff) or nonresidential structures in section (5)(b)(iii)(cc) depending on the square footage of the garage.
 - (iii) For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section (5)(a) the following specific standards will apply in Riverine (non-coastal) Special Flood Hazard Areas (SFHA) with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

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- (aa) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) must 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.
- (bb) Residential Construction.
 - (A) New construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available.
 - (B) Enclosed areas below the lowest floor must comply with the flood opening requirements in section (5)(b)(i).
- (cc) Non-residential Construction.
 - (A) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure must:
 - (i-i) Have the lowest floor, including basement elevated at or above two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available; or
 - (ii-ii) Together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (iii-iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (iv-iv) 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 must be provided to the Floodplain Administrator as set forth section (4)(b)(ii).
 - (B) Non-residential structures that are elevated, not flood proofed, must comply with the standards for enclosed areas below the lowest floor in section (5)(b)(i).
 - (C) Applicants flood proofing non-residential buildings must be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one (1) foot below).
 - (D) Applicants must supply a maintenance plan for the entire structure to include but not limited to: exterior envelop of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide flood proofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components,

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as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

- (E) Applicants must supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

(dd) Manufactured Dwellings.

- (A) New or substantially improved manufactured dwellings supported on solid foundation walls must be constructed with flood openings that comply with section (5)(b)(i);
- (B) The bottom of the longitudinal chassis frame beam must be at or above two (2) feet above Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available;
- (C) New or substantially improved manufactured dwellings must 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 must be a minimum of twenty four (24) inches above Base Flood Elevation (BFE).

(ee) Recreational Vehicles. Recreational Vehicles placed on sites are required to:

- (A) Be on 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)(b)(iii)(cc), including the anchoring and elevation requirements for manufactured dwellings.

(ff) Appurtenant (Accessory) Structures. Relief from elevation or flood proofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory 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)(b)(iv).
- (B) Appurtenant structures must only be used for parking, access, and/or storage and must 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 accessory 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.

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- (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)(b)(i);
 - (G) Appurtenant structures must be located and constructed to have low damage potential;
 - (H) Appurtenant 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 section (5)(a)(v).
 - (I) Appurtenant 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.
- (gg) 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 can usually be addressed through the required flood openings stated in (5)(b)(i). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - (B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
 - (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - (D) Any building utility systems within the crawlspace must be elevated 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 above the BFE or sealed from floodwaters.
 - (E) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

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- (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 (4) 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) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained 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 must not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- (iv) Floodways. Located within the special flood hazard areas established in section (3)(b) 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, encroachments, including fill, new construction, substantial improvements and other development is prohibited.
- (aa) The following encroachments may be permitted if 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 will not result in an increase in flood levels within the community during the occurrence of the base flood discharge. The proposed encroachment and the analysis required by this subsection must be evaluated through a Type II land use review process.
- (A) The replacement, repair, alteration or modification of a structure that:
- (i-i) Does not ~~increase~~ ~~expand~~ the **total area of the** footprint of the structure ~~;~~ **that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date. For the purpose of this provision and the following subsection (ii-ii), footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground; or**
 - (ii-ii) **In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than fifty percent (50%);**
 - (iii-iii) **In the case of replacement, may be reoriented to be centered on the same footprint as the existing structure or may be relocated upon the highest natural grade possible within the same footprint, or may be relocated outside of the existing footprint to a location with an entirely higher natural ground elevation within the floodway when no areas**

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Lane Code

outside of the floodway are available for replacement consistent with (vii-vii) below;

(iv-iv) In the case of repair, alteration, or modification, any reorientation or reconfiguration of the footprint must be located upon the highest natural grade possible;

~~(v-vii-ii)~~ Is pre-FIRM or was approved by a Lane County Floodway Development permit;

~~(vi-viii-iii)~~ Is lawfully existing, ~~or~~ was in lawful existence **five (5) years prior to the adoption date of Ordinance 24-01, or was in lawful existence** prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and

~~(iv-ivvii-vii)~~ For replacement of structures, the applicant demonstrates that no alternative exists on the subject property that would allow the structure to be replaced outside of the floodway. Circumstances that make construction or placement of the replacement structure on higher ground infeasible that can be reviewed through a Type I procedure include those listed at (5)(xi)(aa) through (gg). Circumstances requiring discretion must be reviewed through a Type II procedure.

(B) Quarry and mine extraction as defined in Lane Code 16.216 or development ancillary to quarry and mine extraction that is not a structure as defined in (2)(oo);

(C) A locationally dependent public utility, and there is no feasible or practicable location outside of the regulatory floodway for establishing the utility facility;

(D) The construction, maintenance, preservation, repair and replacement of a public road and ancillary facilities, including bridges, recreational paths or trails culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of a public agency, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements;

(E) Minimal development, such as, but not limited to fences, gazebos, raised gardening beds, signage, retaining walls, bank stabilization, or other landscaping features, and not including habitable structures; or

(F) A habitat enhancement or restoration project.

(bb) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that:

(A) A Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Title 44 of the Code of Federal Regulations, Section 65.12 are fulfilled;

(B) The purpose of the project is habitat enhancement or restoration;

(C) The project does not involve the placement of any structures as defined in (2)(oo) within the floodway;

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- (D) A feasibility analysis has been completed documenting that habitat enhancement or restoration will be achieved through the proposed project;
 - (E) No existing structures will be negatively impacted by the proposed activity; and
 - (F) The project has received approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency.
- (cc) If the requirements of section (5)(b)(iv)(aa) are satisfied, all new construction, substantial improvements, and other development must comply with all other applicable flood hazard reduction provisions of section (5).
- (v) 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.
- (aa) Standards for AH Zones. Development within AH Zones must comply with the standards in sections (5)(a), (5)(b) and (5)(b)(v)
- (bb) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirement in section (5)(b)(v):
- (A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones must have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least three (3) 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 and substantial improvements of non-residential structures within AO zones must either:
 - (i-i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above two (2) feet above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least three (3) feet if no depth number is specified); or
 - (ii-ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above two (2) feet above the depth number specified on the FIRM or a minimum of three (3) 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 must be certified by a registered professional engineer or architect as stated in section (5)(b)(iii)(bb)(A)(iv-iv).
 - (C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) must either:

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- (i-i) Be on the site for fewer than 180 consecutive days, and
- (ii-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-iii) Meet the requirements of (5)(b)(v)(bb)(A) above, including the elevation and anchoring requirements for manufactured dwellings.
- (D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section (5)(b)(iii)(ee).
- (E) In AO zones, enclosed areas beneath elevated structures must comply with the requirements in section (5)(b)(i).
- (c) Specific Standards for Coastal High Hazard Flood Zones. Located within special flood hazard areas established in section (3)(b) are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the areas 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 must apply in addition to the general standards provisions in section (5)(a).
- (i) Development Standards.
 - (aa) All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) must be elevated on pilings and columns such that:
 - (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of two (2) feet above the base flood level (BFE) (three (3) feet above highest adjacent grade where BFE is not available); and
 - (B) 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 must be those associated with the base flood. Wind loading values used must be those specified by the State of Oregon Specialty Codes;
 - (bb) A registered professional engineer or architect must develop or review the structural design, specifications and plans for the construction, and must 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.
 - (cc) Obtain the 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 new and substantially improved structures and whether or not such structures contain a basement. The local floodplain administrator will maintain a record of all such information in accordance with section (4)(b)(ii).
 - (dd) 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

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Lane Code

water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

- (A) For the purpose of this section, a breakaway wall must 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-i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii-ii) If breakaway walls are utilized, such enclosed space must be useable solely for parking of vehicles, building access, or storage. Such space will not be used for human habitation.
 - (iii-iii) Walls intended to break away under flood loads must have flood openings that meet or exceed the criteria for flood openings in section (5)(b)(i).
- (ee) The elevated portion of the building and supporting foundation system must 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 must be those associated with the base flood. Maximum wind loading values used must be those specified by the State of Oregon Specialty Codes.
- (ff) Prohibit the use of fill for structural support of buildings.
- (gg) All new construction must be located landward of the reach of mean high tide.
- (hh) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (ii) All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages must comply with all the requirements of section (5)(c)(i) Flood proofing of non-residential structures is prohibited.
- (jj) Manufactured Dwelling Standards for Coastal High Hazard Zones. All manufactured dwellings to be placed or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must meet the following requirements:
 - (A) Comply with all of the standards within section (5)(c);
 - (B) The bottom of the longitudinal chassis frame beam must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE), or three (3) feet above highest adjacent grade where BFE is not available); and
 - (C) Electrical crossover connections must be a minimum of twenty four (24) inches above the BFE.
- (kk) Recreational Vehicle Standards for Coastal High Hazard Zones. Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) must either:

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Lane Code

- (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 permit requirements of section (4) and the requirements for manufactured homes in section (5)(c)(i)(aa).
- (II) Tank Standards for Coastal High Hazard Zones. Tanks must meet the requirements of section (5)(a)(v).

(Ordinance 20-08, 1.14.2021; Ordinance 21-07, 10.12.2021)

Findings of Fact & Conclusions

LC 12.100.005 Purpose. The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The amendments will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

LC 12.100.050 Method of Adoption and Amendment

A. The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.

The proposed amendments will be adopted by ordinance when enacted by the Board.

B. The Board may amend or supplement the comprehensive plan upon a finding of:

- 1. An error in the plan; or***
- 2. Changed circumstances affecting or pertaining to the plan; or***
- 3. A change in public policy; or***
- 4. A change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.***

The proposed amendments follow those previously adopted by the Board with Ordinance 20-08 and 21-07, which implemented minimum standards for participation of Lane County in the NFIP and were a result of Board policy direction. The proposed updates aim to further clarify code language adopted at the Board's direction with Ordinance 20-08 and 21-07. As such, the proposed amendments meet (c) and (d) above upon adoption by the Board.

LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.

(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

The proposed amendments follow those previously adopted by the Board with Ordinance 20-08 and 21-07, which adopted floodplain development standards at the direction of the Board that are designed to better protect life and private property from flood hazard. The proposed amendments aim to further

Findings of Fact & Conclusions

clarify the intent of the standards adopted with Ordinance 20-08 and 21-07. The proposed amendments were drafted at the direction of the Board and considering public input. Therefore, they are not contrary to the public interest and promote the will of the people through better protection from flood hazard.

Lane County Rural Comprehensive Plan Goal Seven: Areas Subject to Natural Disasters and Hazards

(1) The Natural Hazards Inventory, as contained in the 1982 Natural Hazards Working Paper and associated materials, shall be used as a guide for general land use decisions. Specific land use decisions shall be based upon inventory and upon on-site or other evaluation as appropriate.

The 1982 Natural Hazards Working Paper does not inventory flood hazard. The adopted Federal Emergency Management Agency Flood Insurance Study and corresponding Flood Insurance Rate Maps for Lane County inventory flood hazard. Land use decision and development proposals are reviewed against this study and appropriate standards are applied to prevent structural damage and protect lives from flooding.

(2) Development shall be commensurate with the type and degree of any natural hazards(s) present and appropriate safeguards against flooding, ponding, landslides, land slippage, erosion or other natural hazards applicable shall be assured. For purposes of evaluation and in the absence of any specific proposal, the provisions of the Oregon State Building Code shall be assumed to be the sole means of safeguard against natural hazards.

The floodplain standards are a result of adopting the Federal Emergency Management Agency Flood Insurance Study and corresponding Flood Insurance Rate Maps for Lane County. The study identifies special flood hazard areas and development proposals are considered in their relation to the mapped special flood hazard areas. If a development proposal lies within a special flood hazard area, the proposal is subject to the standards at Lane Code 16.244 or 10.271. The proposed code amendments revise these floodplain development standards to be commensurate with the level of risk associated with flooding by further clarifying the intent of higher regulatory standards adopted by the Board of County Commissioners with Ordinance 20-08 and 21-07.

(3) When extensive or drastic safeguards must be employed in conjunction with development proposals, the immediate and ultimate impact, (including financial and economic considerations) of such safeguards on the environment and the public shall be considered.

The proposed code amendments do not allow extensive or drastic safeguards for development within the special flood hazard area. The proposed standards for development in the special flood hazard area are consistent with those required or allowed by the Federal Emergency Management Agency and the National Flood Insurance Program.

(4) Lane County shall continue as a qualified participant in the Federal Flood Insurance Program through application of comprehensive flood hazards analysis and floodplain management data to general and specific land use decision.

Findings of Fact & Conclusions

The purpose of the proposed code amendments is to clarify the intent of standards adopted by the Board of Commissioners with Ordinance 20-08 and 21-07. The proposed amendments do not alter any floodplain development standards that are required as minimum standards for Lane County's participation in the National Flood Insurance Program. Therefore, the proposed amendments will not disqualify or affect Lane County's participation in the National Flood Insurance Program.

Oregon's Statewide Planning Goals and Guidelines Goal Seven: Areas Subject to Natural Hazards.

B. Implementation

5. Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:

- a. limiting placement of fill in floodplains;***
- b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials; and***
- c. elevating structures to a level higher than that required by the NFIP and the state building code. Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.***

The purpose of the proposed code amendments is to clarify the intent standards adopted by the Board of Commissioners with Ordinance 20-08 and 21-07. The proposed amendments do not affect regulations relating to placement of fill, storage of hazardous materials or elevation of structures.

SERSLEV Rachel

From: BELL Amber R
Sent: Monday, January 8, 2024 9:02 AM
To: SERSLEV Rachel
Subject: FW: Replacement Rights for Home Owners in the Mobile Life Community

From: TRIEGER Laurie <Laurie.TRIEGER@lanecountyor.gov>
Sent: Friday, January 5, 2024 10:50 AM
To: BELL Amber R <amber.bell@lanecountyor.gov>
Cc: HURLEY Daniel M <dan.hurley@lanecountyor.gov>; BUCH Heather H <Heather.BUCH@lanecountyor.gov>
Subject: FW: Replacement Rights for Home Owners in the Mobile Life Community

Hi Amber

Has this person reached out to you for clarification or has there been other communications about this recently?
Including Commissioner Buch here as I believe this is in her district.

Laurie Trieger
Lane County Commissioner, District 3
Board Vice Chair
Pronouns: she/her
Desk Phone: 541-682-3721
Cell Phone: 541-556-0607

ENGAGE! Sign up for meeting notifications, review agendas, watch current and past commissioner meetings on line, or register to give public comment HERE: <https://lanecounty.org/cms/one.aspx?pageId=4082662>

From: Daniel O'Connell
Sent: Thursday, January 4, 2024 10:34 PM
To: FARR Pat M (LC) <pat.farr@lanecountyor.gov>; TRIEGER Laurie <Laurie.TRIEGER@lanecountyor.gov>; CENIGA Ryan A <Ryan.CENIGA@lanecountyor.gov>; BUCH Heather H <Heather.BUCH@lanecountyor.gov>; LOVEALL David B <David.LOVEALL@lanecountyor.gov>
Cc: Sherrilyn <sbjorkgren@yahoo.com>
Subject: Replacement Rights for Home Owners in the Mobile Life Community

[EXTERNAL 

Dear Lane County Commissioners,

I am writing today in support of my neighbors in the Mobile Life community where many good folks have a desperate need to replace their dilapidated and unsafe manufactured homes. Most of those old homes are over a half century old. Unfortunately for them, the Lane County Zoning department has placed a moratorium on any dwelling replacements in that neighborhood. That moratorium needs to be removed and the homeowners should be supported in replacing their older, unsafe, uninsurable and hazardous homes with affordable, modern and safe housing.

I hope that you will react to this crisis because safe housing is a basic human need that should not be denied to anyone. In addition to those individual and family needs, there are concerns that affect the greater surrounding community. We live amongst hay fields, grasslands and the associated threat of wildfires. Many of those older manufactured homes are wired with aluminum and other outdated, electrical practices that are no longer considered safe. It will only take one of those unsafe homes to ignite the whole area. Preventing fire is always better than fighting it once ignited.

This prohibition against home replacement will cause many of the good people of that small community to face a bleak choice; to abandon their homes and perhaps join those living rough, or to continue inhabiting their existing, cold, leaky, mold infested, and often unsafe dwellings. Allowing this to occur is setting a shameful precedent that can have far reaching effects on the continued deterioration and shrinking of affordable housing in Lane County.

On behalf of myself and that of my good neighbors, I thank you for considering this issue.

Respectfully,

Daniel O'Connell
34834 Seavey Loop Rd
Eugene OR 97405

From: Pisgah Vision
To: [SERSLEV Rachel](#)
Subject: Pisgah Clarification and Proposal for Home Size Regulations
Date: Thursday, January 11, 2024 12:25:45 PM

[EXTERNAL]

Rachel and staff,

I am writing to address certain aspects regarding the regulations on the size of manufactured homes within our community. The Planning Committee voted against increasing the size and I believe some clarity in the language used may help facilitate a more informed discussion.

The term "structure" appears to have caused unease among some committee members in that it is too broad. Given that we are discussing people's homes and families, I suggest using the term "dwellings" in the codes to eliminate any ambiguity. Is this possible?

The suggested 55% increase appears arbitrary, especially given the diverse range of homes in the neighborhood, ranging from 400 sq feet to larger sizes. I recommend implementing a maximum cap of 1500 sq feet for replacement homes that fall below this size (excluding pre-existing larger homes already in place).

Encouraging more extensive living spaces dissuades residents from parking RVs and motorhomes on county streets or in front of their houses, thereby mitigating various associated problems.

Placing a motorhome on the street for a family member to live in poses significantly greater environmental risks than permitting additional square footage. The likelihood of that RV ending up in someone's front room a mile away during a flood is much higher compared to a securely anchored, HUD-approved home even if it is slightly larger.

In the face of an earthquake, flood, or fire, the aged homes in this neighborhood pose a looming threat, likely to unleash a cascade of asbestos, formaldehyde, and other toxins.

The aftermath could lead to a prolonged and uncertain contamination of the air and rivers, underscoring the urgent need for building new homes that prioritize safety and environmental well-being. Ignoring this reality may leave our communities vulnerable to the detrimental consequences of such disasters.

Wise decision-making supports the replacement of these homes. Even with an increase in size for enhanced safety concerning both the natural environment and human well-being they will be safer for the environment and for humans.

As an ardent environmentalist and a past volunteer at Greenpeace, I advocate for this cautious progress. We should not shy away from the gradual advancement of human rights and careful land use but instead resist holding onto outdated environmental perspectives that are incompatible with a growing population and homelessness.

I believe in teamwork and this community will welcome environmental groups to join us in

restoring native plants, planting trees, and promoting awareness of the delicate balance of nature. We are actively planning to plant native clovers around our community pump house as part of our environmental initiatives.

Allowing slightly larger and HUD approved residences, we not only improve the overall safety of our community but also address environmental issues related to outdated dwellings.

I appreciate your time and consideration in reviewing these points.

Thank You, Sherrlyn Borkgren and Pisgah Neighbors

--

Mount Pisgah Neighbors

SERSLEV Rachel

From: JONES Diana L (CAO)
Sent: Friday, January 19, 2024 9:59 AM
To: SERSLEV Rachel
Subject: Fwd: Testimony on Floodplane Building Structure Footprint Size tB 1.16.2024.docx
Attachments: Testimony on Floodplane Building Structure Footprint Size tB 1.16.2024.docx

Sent from my iPhone

Begin forwarded message:

From: Tom Bowerman <tbowerman001@gmail.com>
Date: January 19, 2024 at 8:56:57 AM PST
To: "JONES Diana L (CAO)" <Diana.JONES@lanecountyor.gov>
Subject: Testimony on Floodplane Building Structure Footprint Size tB 1.16.2024.docx

[EXTERNAL 

Please see attached doc for LC 509-PA23-05424.

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This email has been checked for viruses by Avast antivirus software.

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.avast.com%2F&data=05%7C02%7Cdiana.jones%40lanecountyor.gov%7C3c6ca8f5ed3c4eb283aa08dc190f8cfa%7C74df5a22826e49429a741d199974dedf%7C0%7C0%7C638412802171652613%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=DEGrPBK93X5GcA1x8sWYaNZQVK4%2FWspvPIGr%2BGcuRhY%3D&reserved=0>

Testimony on Building Structure Footprint Size in River Floodways
LC file # 509-PA23-05424

To: Lane County Commission
From: Tom Bowerman, Rural Lane County Resident
Date of Hearing: January 23, 2024

Dear Lane County Commissioners

I. Footprint Definition & Configuration: The definition of Footprint in the staff report is consistent with standards of practice in the building & planning codes I have studied.

Floodways are high hazard areas for many reasons. While it is bad public policy to put residences in a river's floodway, it is fiscally impractical to buy-out existing properties already there. The reconfiguration of the footprint on an individual parcel in floodway classification can improve site flexibility and safety. However, for the sake of safety and other impacts within the floodplain, footprint expansions should not be permitted. Replacing a 12x60 (720SF) manufactured single-wide house with double wide 24x30 (720SF) potentially can reduce flood hydraulic force against a dwelling by 50%. Changing building orientation to reduce floodwater displacement can reduce risk as well as improve site utilization. Rulemaking on reconfiguration should specify that buildings do not encroach closer to the normal water channel. Reconfiguration also should not be permitted to remove existing healthy riparian vegetation, which typically reduces water velocity, flood debris and provides soil stabilization.

II. Footprint size: The Staff Memorandum on this topic seems curiously biased toward a 50% allowable increased floodway development. I strongly believe that increased footprint size should not be adopted for the following reasons:

1. Safety to the public and rescue services: The staff's recommendation functionally increases development in the floodway. Your deliberation on this proposal must consider that the floodway is defined as high risk, involving high volumes of fast moving waters capable of causing significant damage to life and property.

FEMA states: Since floodways include the stream channel and the adjacent areas of the floodplain, they tend to include **the most hazardous areas of the floodplain with the greatest depths and velocities of floodwaters and amount of debris.**

Other jurisdictions state language like this: The Floodway is the channel of the river or stream and the adjacent land that must remain free from obstruction so that the 100-year flood can be conveyed downstream.

FEMA and the federal flood insurance program discourages development in the floodway, in part by incentives of lower flood insurance premiums for jurisdictions which limit or prohibit floodway development. Increasing catastrophic weather events are driving up insurance and/or resulting in outright policy cancelations. Some instances of outright buy-outs of properties in high risk zones would

be more common if not for costs. Consequently, the most practical solution is to prevent development in the floodway, which Lane County wisely adopted a few years ago. The staff Memorandum mentions this:

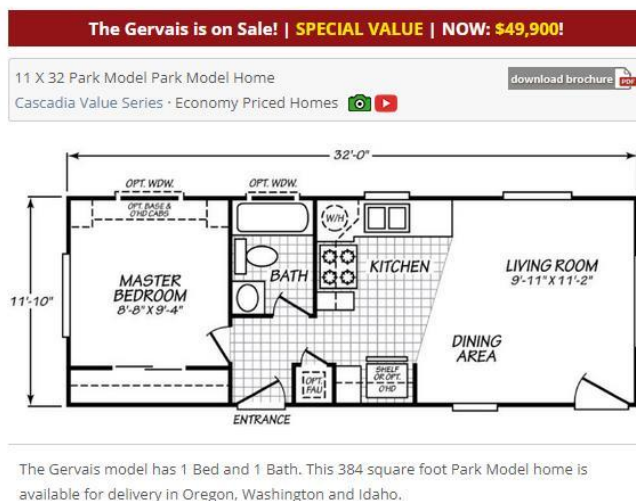
Through the adoption of Ordinances 20-08 and 21-07, the Board elected to adopt higher regulatory standard for floodway development given the risk that this highly hazardous flood zone poses to life and property. Through these past code amendments, the Board elected to prohibit development from the floodway entirely. (Page 2, Staff Memorandum)

The current staff proposal to allow increased development in a floodway zone by 50% is inconsistent with these past ordinances, contemporary risk management, increasing catastrophic flooding and best public policy. The Planning Board's recommendations appear more cognizant of floodway risks.

2. Affordable housing: The staff report attempts to correlate the need for affordable housing with increasing the size of a structure footprint by 50%. However, in practice, replacing a smaller residence with a bigger residence almost always yields less affordable housing. Moreover, conversations with experts of housing affordability report that the data and waiting lists for affordable housing is most extreme for singles and couples seeking studio or one bedroom dwellings. In the 1950 the average new house was under 1000 SF while the current average size is over 2500 SF, Over the same period, the average occupancy per household has fallen by 50%, now averaging 2.5 per household. Therefore, houses are now about four times larger per occupant than in 1950, a prime cause of unaffordability for

entry level or modest income people. The director of one of our low income housing providers told me two days ago that there is a six year waiting list for studio and one bedroom houses. St. Vincent De Paul housing programs have been acquiring mobile home parks to repair or replace dilapidated units with small modest types of units to retain affordable housing. In rural areas in particular, younger people and singles provide much of the affordable workforce, but they are simultaneously unable to find more modestly sized and priced housing. The Memorandum representation that 50% footprint increase will yield more affordable housing is unsupported by evidence while it is predictable that increase will worsen critically needed smaller unit sizes.

Gervais | 1 Bed · 1 Bath · 384 SqFt



3. Available alternatives: The staff report appears to accept without question one of the three letters in the record arguing that they cannot replace their existing twelve foot home with a similar size. In a quick web search I was able to find single-wide manufactured dwellings in incremental widths of 8', 10', 12', 14', and 17', manufactured close by in Woodburn and Albany, and priced affordably. Affordable housing is a priority, is available in various sizes and options, irrespective of claims to the contrary.

3. River Ecology: The goals of good planning are to meld multiple community goals, needs, laws and solutions. One aspect for planners, consistently supported by the general public, is protection of

Oregon's spectacular natural heritage. FEMA and the flood insurance program does not mandate consideration of ecological functions per se but it incentivizes and encourages jurisdictions do so. Rivers are sometimes referred to the life blood of our ecosystem, corridors for connecting the clouds to the sea across the landscape with all manner of life forms involved. It is well established that humans have vastly degraded the vitality of our historic river systems. It is said that rivers are just loved to death, with overcrowding and impacts from lack of understanding and disrespect of the critical functions which rivers serve, a topic of thousands of books. The staff memorandum makes a single obligatory mention of this factor, yet quickly pivots with recommending increasing building footprints in the floodway by 50%. Almost unbelievable if not for an ongoing pattern. In this circumstance, the Lane County Planning Commission has the responsibility to look at the bigger picture instead of the narrow staff Memorandum recommendation.

4. Water quality & sewerage treatment implications: The staff memorandum seems to largely focus on a particular property [name specifically] in endorsing a recommended 50% increase in building footprint, however the eventual outcome will apply to all buildings and dwellings in floodways throughout Lane County. Since LC staff has used a particular group of parcels as exemplar, I observe that this subdivision in the statutory floodway amounts to a hundred lots each of approximately 1/10th acre each, approximately 40' x 100' in size, or about 4000 SF. A hypothetical 1300 square foot dwelling footprint, as one of the letters in this matter proposed, and a minimum 1600 SF for a drain field, would be 2900 SF on a 4000 SF lot. Most exemplar lots may actually fail redevelopment approval on other development standards than footprint size, but the critical component here is that the floodway is actually directly connected to a water course or river and sewage treatment is already a known problem. Because a code amendment of this type will impact all floodways through Lane County, the staff recommendation should not be adopted.

5. Structure & Dwelling are not clearly differentiated: The staff Memorandum logic discusses *dwelling* footprint although repeatedly uses the term "structure" in much of the discussion. A dwelling is a structure, but many structures are not dwellings. Inevitably, rural dwellings often have outbuildings. Does staff intend to sweep all existing structures into a 50 percent increase in allowable footprint? Although I do **not** agree with staff's dwelling rationales, whatever the Board decides on dwelling size, the Board should direct the staff to be objectively clear between "structure" and "dwelling." The ambiguity would be resolved if there is no net increase in footprint size.

Recommendation 1: Allow reconfiguration of dwelling orientation if it lessens flood hydraulics on a dwelling based on qualified professional assessment, improves site utilization, and does not increase encroachment on the adjoining normal river channel or remove established riparian vegetation.

Recommendation 2: In keeping with the Lane County Board's passage of Ordinances 20-08 and 21-07, do not increase development (footprint) size of a building built in a Lane County floodway, for the reasons described above.

Thank you for your careful consideration.

[End]

SERSLEV Rachel

From: Rose Peterson <rose.p@comcast.net>
Sent: Sunday, January 21, 2024 6:23 PM
To: SERSLEV Rachel; Pisgah Vision
Subject: Land County hearing on Jan 34 re: Mobilife housing footprint

[EXTERNAL 

Hello Rachel,

I suppose the committee is aware that this area has just had Comcast services restored, and that sending in our contributions has been impossible until this date.

Both my husband and I have employment hours that prevent us from attending the meeting in person. This is the material we would present if we were there:

1. The committee has expressed concern that allowing single-wide homes to double their size would create an "overpopulation" in this area. To the committee: you must quote the sections in either the State Constitution or by-laws that gives a committee the right to limit population density.

2. The committee has expressed concern that if the flood plain were to become covered in flood water, that the flood would be contaminated with septic tank content, which has somehow become more vulnerable to cracks because more residents are using the septic system on their property. The committee must present evidence-based data from an authorized septic system authority to substantiate this notion.

This assumption completely ignores the fact that if a resident has an overfilled septic tank/system, the bath and toilet would not function. So there is no possibility that the resident would be unaware of an overfilled tank, and could ignore the pumping that is needed.

3. The safety of the water table: if in fact there is a real concern about the safety of the water table during a flood, why is the field behind Mobilife allowed to house a herd of cattle and their feed lot? Why is the same property not inspected for innumerable empty, or not empty chemical containers, rusting equipment, and piles of manure? In the summer, this property stinks to the point one cannot endure the smell in their own backyard. Should flood water ever cover this section of property, it would become a sea of manure, draining back into all the surrounding sloughs and the Middle Fork. Why are these visible, now-present facts, of no concern to the committee?

4. The committee has put forth the speculation that in a flood, the increased number of motor homes (due to the increased size of driveways) would be floating down the streets. Even in the 100 year flood of 1996, no motor homes or cars were floating down the streets. Where is the evidence-based proof that this is now a possibility, defying the laws of physics. This is not a joke.

5. Due to the preposterous claims made by the committee, without so much as one scrap of authentication, Lane County should revise the allowed footprint of residences, which of course will comply with easements.

Thank you for your time and attention,

Rose and Karmin Peterson
34123 Del Monte Ave.

From: [JONES Diana L \(CAO\)](#)
To: [SERSLEV Rachel](#)
Subject: FW: Testimony on Ordinance No. 24-01; Amending the Term "Footprint" in Flood Hazard Ordinance
Date: Tuesday, January 23, 2024 2:04:23 PM

FYI

Diana Jones

Board Supervisor | Board of County Commissioners
County Administration

Hours: M-Th, off on Friday

Ph: 541-682-3706

Diana.Jones@lanecountyor.gov

Web: www.lanecounty.org

Our Purpose: **To Improve Lives**

Our Core Behaviors: **Passion to Serve | Driven to Connect | Focused on Solutions**

From: Bill Kloos
Sent: Tuesday, January 23, 2024 2:02 PM
To: JONES Diana L (CAO) <Diana.JONES@lanecountyor.gov>
Cc: Bill Kloos <billkloos@landuseoregon.com>
Subject: Testimony on Ordinance No. 24-01; Amending the Term "Footprint" in Flood Hazard Ordinance

[EXTERNAL 

Commissioners –

Please accept this email related to this matter.

The staff report is candid in saying that the proposed amendment goes beyond what is required for the County to comply with federal law. It also explains that the County has a recent track record of adopting regulations that are more stringent than required by federal law.

Before adopting this latest restriction, I suggest the Board should address a basic question: As a matter of policy, should the county be adopting a flood hazard program that is the minimum required by federal law, or does it wish to be more stringent. If the policy is the latter, how much more stringent does the county wish to be. It is worth noting, of course, that if the county allows no development in the floodway, and the property has no remaining reasonable economic use (because it is all cobbles and riverwash), then the County will be required under current the law to pay for the property because the County would have “taken” it by inverse condemnation.

Thank you.

Bill Kloos
Law Office of Bill Kloos PC

375 W. 4th Ave., Suite 204
Eugene, OR 97401
Phone: 541-954-1260
Email: Bill Kloos@LandUseOregon.com
Web: www.LandUseOregon.com

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From: Sean Malone
To: [SERSLEV Rachel](#); [BELL Amber R](#); [Hope S](#)
Subject: Re: LandWatch Testimony on Floodway Ordinance Amendments ORDINANCE NO. 24-01
Date: Tuesday, January 23, 2024 1:14:16 PM
Attachments: [Malone to Lane County re Floodway Amendments 1.23.24 corrected.pdf](#)

[EXTERNAL]

Rachel,

I found a typo in my testimony. Please use this corrected version.

Thank you,

Sean Malone
Attorney at Law
PO Box 1499
Eugene, OR 97440
ph. 303.859.0403
seanmalone8@hotmail.com

From: Sean Malone <seanmalone8@hotmail.com>
Sent: Tuesday, January 23, 2024 11:04 AM
To: rachel.serslev@lanecountyor.gov <rachel.serslev@lanecountyor.gov>; BELL Amber R <amber.bell@lanecountyor.gov>; Hope S <lsv1953@gmail.com>
Subject: LandWatch Testimony on Floodway Ordinance Amendments ORDINANCE NO. 24-01

Rachel,

Please find attached LandWatch Lane County testimony for the Floodway Ordinance 24-01.
Please add to the record and transmit to the Board.

Thank you,

Sean Malone
Attorney at Law
PO Box 1499
Eugene, OR 97440
ph. 303.859.0403
seanmalone8@hotmail.com

Sean T. Malone
Attorney at Law

PO Box 1499
Eugene, OR 97401

Tel. (303) 859-0403
seanmalone8@hotmail.com

January 23, 2024

Via Email

Lane County Board of Commissioners
c/o Rachel Serslev, Senior Planner
Land Management Division
3050 North Delta Highway
Eugene OR 97408
Rachel.serslev@lanecountyor.gov

Re: LandWatch Lane County Comments for ORDINANCE NO. 24-01 / In the Matter of Amending Lane Code 16.244(5)(b)(iv) and 10.271(5)(b)(iv) to Define the Term “Footprint” as Used in Regards to the Replacement, Repair, Alteration, or Modification of a Structure in the Floodway; and Adopting a Savings and Severability Clause (File No. 509-PA23-05424).

On behalf of LandWatch Lane County, please accept this testimony on proposed amendments to the floodway provisions in Lane County.

The proposed amendments are inconsistent with state law. The Planning Commission voted to include a provision that allows replacement of dwellings removed five years prior:

“the LCPC motioned for staff to revise the draft floodway code to include language that allowed for a 5-year lookback period from the date of Ordinance adoption. Meaning that structures removed 5 years prior to adoption of this revised code could be replaced.”

December 18, 2023, Staff Memorandum; *id.* (“the proposed code with Ordinance 24-01 includes a look-back period for structures removed 5 years prior to the adoption of this code.”). This amendment appears to be implemented at proposed LC 16.244(2)(qq):

“‘Substantial improvement’ means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, permitted within the past 5 years, 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: (i) 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 (ii) Any alteration of a ‘historic structure,’ provided that the alteration will not preclude the structure's continued designation as a ‘historic structure.’”

(emphasis added). As noted in the December 20, 2023, memorandum, in HB 2192, limits replacement dwellings to those that retained the characteristics of a dwelling within the last three years:

“Changes to State Law Made by House Bill 2192 (2023). Oregon House Bill (HB) 2192 aligns statutory requirements¹ for the alteration, restoration, and replacement of dwellings in farm and forest zones (in Lane County: EFU, F-2, and F-1 zones). The applicable provisions become effective on January 1, 2024. The provisions expand current opportunities for alteration and replacement of dwellings in the F-1 and F-2 zones and expand the opportunities that would have become operational in EFU zones on January 2, 2024 after the sunset of temporary statutes in effect since 2014. The bill also adds requirements for construction and commencement of replacement dwellings. For alteration, restoration or replacement of lawfully established dwellings in F-1, F-2, and EFU zones, HB 2192:

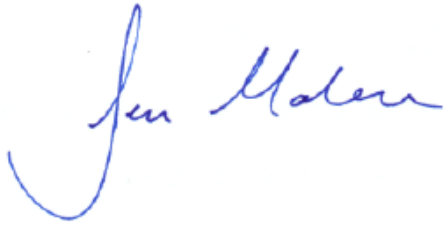
- Allows lawfully established dwellings to be altered, restored, or replaced that have or “formerly had” structural integrity when an application for a replacement building is filed within three years following the date that the

¹ “HB 2192 changes the replacement provisions of ORS 215.213(1)(q), ORS 215.291, and ORS 215.755. The bill does not address provisions for historic replacement dwellings under ORS 215.213(1)(n) or restoration and alteration of nonconforming uses under ORS 215.130. ii ‘New site’ means outside of the ‘same site’ area, defined as a square with dimensions of 200-feet, which is centered on the footprint of an established, lawful dwelling. In implementation, the ‘same site’ is often described as a 142-foot radius circle centered on the footprint of an established dwelling. See Lane Code 16.210(3)(o), 16.211(3)(r), 16.212(4)(bb).”

dwelling last possessed all the required qualifying features if certain standards are met.”

December 20, 2023, Memorandum. The proposed amendments are inconsistent with HB 2192 and the maximum period of three years allowed in statute for replacement of dwellings in the farm and forest zones. It would be more efficient to cure this error here than waste resources in going to LUBA to overturn the ordinance, especially when the issue is as obvious as is here.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sean Malone". The signature is fluid and cursive, with a large initial "S" and "M".

Sean T. Malone
Attorney for LandWatch Lane County

Cc:
Client

From: [JONES Diana L \(CAO\)](#)
To: mark@peakchoice.org
Subject: FW: PUBLIC COMMENT FOR MEETING DATE 2/6/2024
Date: Monday, February 5, 2024 8:28:15 AM

Hello,

Thank you for submitting your public comments for the February 6th, 2024 Board of Commissioners Meeting.

Your comments have been forwarded to the Board of Commissioners and are included as a link on our agenda. The material can be viewed by clicking the view material link below.

#PUBLIC COMMENTS ([view material](#))

Diana Jones

Board Supervisor | Board of County Commissioners
County Administration

Hours: M-Th, off on Friday

Ph: 541-682-3706

Diana.Jones@lanecountyor.gov

Web: www.lanecounty.org

Our Purpose: **To Improve Lives**

Our Core Behaviors: **Passion to Serve | Driven to Connect | Focused on Solutions**

From: mark@peakchoice.org
Sent: Sunday, February 4, 2024 10:20 PM
To: JONES Diana L (CAO) <Diana.JONES@lanecountyor.gov>
Subject: PUBLIC COMMENT FOR MEETING DATE 2/6/2024

[EXTERNAL 

Dear Commissioners:

If you make it easier to build buildings and other stuff in floodways, I hope the County's legal eagles have considered the liabilities this would risk for the County when the next floods inundate these areas after the County gave the plans their blessings.

Mark Robinowitz

McKenzie River - Willamette River Confluence

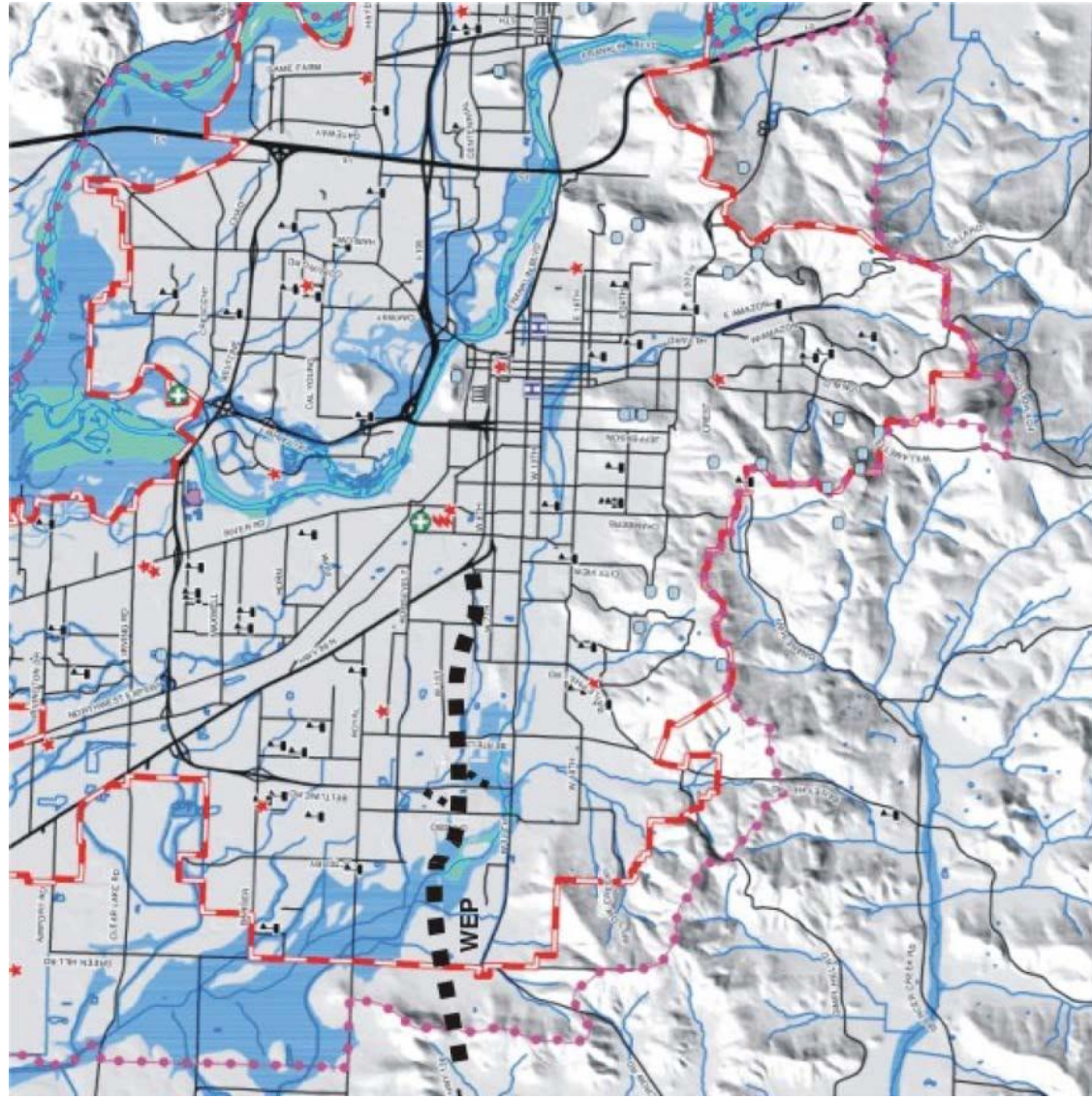


166-105

12-24-64



McKENZIE RIVER
1945



Legend

- 911 Comm. Centers
- Hospitals and Urgent Care
- Schools
- Fire Stations
- Jails, Police Depts., City Halls
- Public Water Treatment/Storage
- Municipal Wastewater Facility
- Public Works Shops
- Urban Growth Boundaries
- Metro Plan Boundary
- Rivers and Streams
- FLOOD HAZARD ZONES**
 - Floodway (where mapped)
 - 100-Year Flood Zone

Source:
Flood Hazard Zones are from FEMA OFIRM data.

Flood Hazard Areas in Eugene



Maps produced for the City of Eugene
by Lane County of Governments,
under a grant from the Federal
Emergency Management Agency

SERSLEV Rachel

From: JONES Diana L (CAO)
Sent: Monday, February 5, 2024 9:45 PM
To: SERSLEV Rachel
Subject: Fwd: Public comment for afternoon session 2-6-24
Attachments: The NFIP is asking for government bodies to write and submit a permit program that will be adapted for homeowners to apply to the NFIP to get reduced flood insurance.docx

For you I think :-)

Diana Jones
Board Coordinator
Lane County Board of Commissioners
County Administration
542-682-3706
Diana.Jones@lanecountyor.gov

From: Grace Grace <grace@oregonhouseflippers.com>
Sent: Monday, February 5, 2024 9:16:39 PM
To: JONES Diana L (CAO) <Diana.JONES@lanecountyor.gov>
Subject: Public comment for afternoon session 2-6-24

[EXTERNAL 

Hi Diana,
I submit the attached document to the Lane County Board of Commissioners to consider these points in making decisions regarding the permit program being worked on to submit to the NFIP, under FEMA.

Grace Widdicombe

To the Lane County Board of Commissioners regarding structuring permits for homeowners to apply for NFIP reduced insurance in floodplains

The NFIP is asking for government bodies to write and submit a permit program that will be adapted for homeowners to apply to the NFIP to get reduced flood insurance. It is not asking for government bodies to restrict building, but to come up with common sense solutions to make it less likely that our waters will be contaminated by noxious chemicals and materials.

If the goal really is to protect the waters from floods raging through residential properties...

We should be making it easier for homeowners to replace their old homes, homes that were manufactured with poisonous materials, such as asbestos, lead-based paint and formaldehyde, with new homes that are not going to contaminate the waters should their home be flooded and passed into the river system.

I drove the Seavey Loop area and counted the old singlewide mobile homes that are on real estate. According to my count there are 27 old single-wide mobile homes that were built with asbestos, possibly lead-based paint, and possibly formaldehyde.

I suggest that instead of restricting landowners and home owners on floodplains in Lane county from building new structures, that we could and should consider the following:

1. Grant permits to homeowners to replace old, manufactured homes harboring poisonous materials with new manufactured or stick built structures and homes, no matter the size of the new structure, if it meets today's building codes.

To the Lane County Board of Commissioners regarding structuring permits for homeowners to apply for NFIP reduced insurance in floodplains

2. Make it easy for homeowners to apply and pass the permit process by making it free, or at a low-cost barrier for homeowners to apply and be granted approval to replace their old, manufactured home.
3. Free disposal of the currently old structure for those that follow the rules and guidelines, such as properly bagging asbestos materials and delivering to dump sites equipped to take these.

Grace Widdicombe

Resident in Lane County

SERSLEV Rachel

From: Hope S <lsv1953@gmail.com>
Sent: Tuesday, February 6, 2024 12:32 PM
To: SERSLEV Rachel; *LC Board of County Commissioners
Cc: BELL Amber R
Subject: ORDINANCE 24-01 PUBLIC HEARING COMMENTS
Attachments: FLOODWAY CODE AMENDMENTS - ORDINANCE 24-01- Lane County BCC February 2024 TESTIMONY.pdf

[EXTERNAL 

Attached below are comments from LandWatch Lane County related to proposed Ordinance 24-01.

Lauri Segel
LWLC



*Protecting Our Natural Heritage
From the Coast to the Cascades*

P.O. Box 5347 • Eugene, OR 97405 • (541) 741-3625 • www.landwatch.net

February 6, 2024

Lane County Board of Commissioners
c/o Lane County Planning Director
3050 North Delta Highway
Eugene OR 97408

RE: ORDINANCE 24-01 - PROPOSED LC 16.244 FLOODWAY AMENDMENTS

Commissioners:

This is the third time in three years that proposed amendments to LC 16.244 have been proposed. While this proposal includes two amendments, only one of the two, defining footprint, is related to prior Board or any other official direction, based on a review of the public record of the two previous related actions.¹

EXHIBIT B – FINDINGS

The December 18, 2023 staff report for the January 23, 2024 Second Reading includes the following:

“The proposed amendments follow those previously adopted by the Board with Ordinance 20-08 and 21-07, which adopted floodplain development standards **at the direction of the Board that are designed to better protect life and private property from flood hazard.**

- Response: The current proposal that redefines footprint to include any and all structures in the square footage will not better protect life and private property from flood hazard; **however, as noted by staff, both Ordinance 20-08 and 21-07 included provisions expected to be more restrictive than required by state law**

“The proposed amendments aim to further clarify the intent of the standards adopted with Ordinance 20-08 and 21-07. “

- Response: The proposed replacement dwelling language was not directed by any Board and is not related to either Ordinance 20-08 or 21-07; it came from a last-minute amendment to a Planning Commission motion. The definition of footprint that was proposed by Staff in the

¹ Ordinance 20-08 (2020) & 21-07 (2021)

Planning Commission materials was less restrictive than the existing definition and was rejected by the PC.

“The proposed amendments were drafted at the direction of the Board and considering public input. Therefore, they are not contrary to the public interest and promote the will of the people through better protection from flood hazard.”

- The proposed replacement dwelling language was not directed by any Board and is not related to either Ordinance 20-08 or 21-07; there was no public testimony related to the five year lookback before the language was recommended for approval by the Planning Commission and it is not true that just because a political body directs staff to draft amendments those amendments are not contrary to the public interest or better protect people from flood hazard as stated.

GOAL 7

Although the draft Ordinance makes findings regarding Goal 8 of the RCP, staff's position with respect to applicability of the 1982 Working Paper, a component of the RCP, is to disregard it:

“The 1982 Natural Hazards Working Paper does not inventory flood hazard” (staff finding)

- **Response:** The 1982 WP inventoried soil properties and their suitability and **limitations for septic tanks, dwellings, and roads**. Appendix A, Development Suitability Maps, states “***soil properties can dictate whether a development will be sound or subject to environmental problems. The development suitability rating as opposed to the agricultural capability classification used by the soil conservation service is specifically designed to identify soils problems for nonagricultural land uses.”
- The WP ‘Natural Hazards Inventory’ , Section IV, includes the following:

“Information on geology, slopes, soils and floodplains is included in technical reports prepared for each subarea plan. Maps depicting development suitability of soils and for flood hazard are also included in the natural environment chapter of each report. The Land Use Constraints chapter of each report contains development constraint maps which are composites of development constraints including soils, slopes, flood hazards, groundwater and agricultural lands. The development suitability maps assign a development suitability rating (DSR) to each area based on soil properties as they affect 1) septic tank disposal fields; 2) dwelling; and 3) roads and streets. The DSR assigned (1 through 4) reflects the degree of natural hazards present and the limitations imposed on development parameters. Extensive soils information is contained in the Lane County Soils Association Map and detailed soils information is available from the USDA Soil Conservation Service.”

“The development suitability maps and development constraint maps together with Lane County Soils Association Maps, SCS Soils Maps, Flood Insurance Rate Maps and Lane County Flood Hazard Boundary Maps constitute a substantial natural hazards inventory.***”

- The WP also includes goals, policies, and implementation measures related to development in areas known to be subject to natural hazards, such as the floodplain and floodway.

DEFINITION OF FOOTPRINT

The part of the present proposal that is based on previous Board direction² is the proposed definition of “footprint.” While LW sees no problem with staff’s proposed definition on its face, it is not clear how “footprint” is to be interpreted when a lot or parcel is developed with multiple structures. The proposed definition does not appear to be limited to the footprint of a manufactured dwelling, or any dwelling for that matter.

The proposed language includes the following {bolded and underlined portions below}:

“(A) The replacement, repair, alteration, or modification of a structure that:
(i-i) Does not expand the footprint of the structure **that lawfully existed at the time of adoption of this Ordinance by more than 50 percent. For the purpose of this provision, footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground;**

In other words, if one or more structures (dwelling, carport, shed, ag structure, etc.) exist on a lot or parcel, does each have its own footprint that can be expanded by up to 50%? If this is staff’s intended interpretation, LWLC believes it is overly lenient considering the nature and danger associated with development in the floodway.

EXPANSION OF FOOTPRINT

Prior to the introduction of Ordinance 24-01, the PD’s previous recommendation related to footprint expansion was ‘between 5% and 15%, but not to exceed 20%.’ The proposal rejected by the PC, ‘up to 50% expansion of the footprint’ appears to have originated with current staff.

Staff’s stated justification for their proposal to allow up to a 50% larger footprint for redevelopment in the floodway did not provide a sufficient basis for such a broad proposal.

Reliance on letters from no more than three or four separate families within an area developed with a density of at least 100 lots and dwellings, in the floodway, is not a basis for a proposal expected to apply countywide.

The staff have never provided a permit review to help identify the number of existing dwellings located within the regulatory floodway.

It has also been stated, without evidence, that new, smaller sized manufactured homes are not available. A quick google search for “small manufactured homes” returns several websites, including, for example: Homes Direct - *“20 Best Small Mobile Homes Desired During 2022”* -

² In discussions related to Ord. 21-07

- “Here at Homes Direct (<https://www.thehomedirect.com/blog/best-small-mobile-homes>), we have a range of small mobile homes that provide a wealth of advantages. These homes are typically lower in costs (**some are under 50K**) than a traditionally built home yet are constructed with the same materials. These tiny mobile homes can be beautifully customized and adjusted to the customer's needs. “

A few examples include the following:

- [The Loft Home](#): 1,140-square foot home features 2 bedrooms and 2 baths with a rectangular floor plan that perfect for narrow plots of land.
- [The River's Edge Home](#): Only 972-square feet, think of this Palm Harbor home as a cottage style or starter home with every room in the right place.
- [Paradise Home](#): The Paradise home is a dream come true. As one of the [best manufactured homes](#) on the market featuring a large optional front porch area, couples and individuals can sit out and enjoy a drink while being closer to nature. This 586-square foot space costs under 50K.
- [LE4483R Home](#): At 1,280 square feet, the LE4483R home is one of the larger, small mobile homes that's available for small families.

AFFORDABLE HOUSING

LandWatch agrees with staff’s statement that “it is important to maintain a livable and affordable housing stock.” However, this does not mean that enabling more development encroachment in a hazardous area such as the regulatory floodway serves the so-called “housing crisis.” After all, loss of life and property comes at a very high cost. Also, how do “flippers” such as the person self-identified as such at the January hearing, contribute to the affordable housing need? Flippers typically buy low, make a few band-aid type improvements, and then attempt to resale for a generous profit.

It is also important to acknowledge that the County has no way to ensure old MH’s are replaced, or that dilapidated structures posing fire hazard or other danger be removed or demolished. Nor can the County ensure that real estate developers and flippers won’t buy up ‘cheaper’ properties in the hopes of an easy profit.

It is an unsupported assumption that restricting the footprint size for structures located in the regulatory floodway will result in “barriers for establishing an important affordable housing option.”

If the County is serious about taking action to address housing issues throughout rural Lane County, it should plan for a review and update of the Goal 10 element of the Rural Comprehensive Plan (RCP) which has not been updated since it was adopted forty plus years ago.

The entirety of the Goal County’s Goal 10 compliance is stated in the RCP:

GOAL TEN: HOUSING

1. The adopted Lane County Housing Plan is a special function plan concerned with Goal 10 requirements and containing a number of policy statements specifying the County’s position toward these requirements. The 1978 Housing Plan, as amended, shall continue to be used as the primary guideline toward housing matters, and policy statements within it shall be considered to be mandatory actions which are ultimately binding on the County.

Lane Code 16.244/10.271 Floodway Code Amendments

Lane County Board of Commissioners
Continued Public Hearing

509-PA23-05424

March 12, 2024

Rachel Serslev, Senior Planner

Motions

- 1) MOVE TO APPROVE THE FOURTH READING, CLOSE THE PUBLIC HEARING AND SET A FIFTH READING FOR APRIL 2, 2024, TO ADOPT ORDINANCE NO. 24-01 AS PRESENTED;
- 2) MOVE TO APPROVE THE FOURTH READING, CLOSE THE PUBLIC HEARING AND SET A FIFTH READING FOR APRIL 2, 2024, TO ADOPT ORDINANCE NO. 24-01 WITH INCLUSION OF A 1,500 SQUARE FOOT LIMITATION ON THE EXPANSION OF REPLACEMENT DWELLINGS IN THE FLOODWAY.
- 3) MOVE TO APPROVE THE FOURTH READING, SET A FIFTH READING, AND CONTINUE THE PUBLIC HEARING TO APRIL 2, 2024, AT 1:30 PM, AND DIRECT STAFF TO REVISE ORDINANCE NO. 24-01 AS DIRECTED BY THE BOARD (SUMMARIZE REVISIONS).

Options

- ▶ Close the public hearing or continue the hearing
- ▶ Include 1,500 square foot limitation to 50% expansion of replacement dwellings at Lane Code 16.244(5)(b)(iv)(aa)(A)(ii-ii) and 10.271(5)(b)(iv)(aa)(A)(ii-ii)
- ▶ Motion other revisions to the proposed code and return for a continued hearing and two more readings

Expansion Limit Language

- *(ii-ii) In the case of replacement dwellings, does not increase the total area of the footprint that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date by more than 50 percent, not to exceed 1,500 square feet;*

Proposed Draft Code

1. Defines the term “footprint”
2. Includes allowance to reconfigure or reorient footprint of structure
3. Allows a 5-year period for replacement of structures previously removed from the floodway

*allowance to expand the footprint has been removed from draft code

Current Floodway Development Requirements

- ▶ NFIP minimum requirement that no encroachment be allowed without an engineer's analysis and no-rise certification
- ▶ Higher regulatory standard to restrict uses allowed in the floodway
 - ▶ Engineer's analysis and certification still needed
- ▶ Replacement of a structure within the same footprint is permitted

Public Comment

- ▶ In support of the 50% footprint increase:
 - ▶ Ability to replace manufactured homes with larger homes
- ▶ Opposed to 50% footprint increase:
 - ▶ Public safety
 - ▶ Negative ecological impacts
 - ▶ Deterioration of water quality
 - ▶ Exacerbated flooding
- ▶ Support reconfiguration/reorienting of footprint

Implications of Proposed Amendments

- ▶ Defines the term “footprint”
- ▶ Does not allow expansion
- ▶ 5-year look back period
- ▶ Proposed code language:

(A) The replacement, repair, alteration, or modification of a structure that:

(i-i) Does not increase ~~expand~~ the total area of the footprint of the structure that lawfully existed at the time of adoption of Ordinance 24-01 on [date to be added when Ordinance 24-01 is passed by the BCC] or that existed five (5) years prior to the adoption date. For the purpose of this provision, footprint means one or more of the following: where the foundation of a structure, the skirting for a manufactured dwelling, or an enclosed area meets the ground;

Implications of Proposed Amendments

- ▶ Allows reorientation centered on the same footprint or touching the same footprint if on higher ground or in an entirely new location if that location is higher ground.

(ii-ii) In the case of replacement, may be reoriented to be centered on the same footprint as the existing structure or may be relocated upon the highest natural grade possible within the same footprint, or may be relocated outside of the existing footprint to a location with an entirely higher natural ground elevation within the floodway when no areas outside of the floodway are available for replacement consistent with (vi-vi) below.

(iii-iii) In the case of repair, alteration, or modification, any reorientation or reconfiguration of the footprint must be located upon the highest natural grade possible;

Implication of Proposed Amendments

- Provide a look-back period for replacement of removed structures from the floodway

~~(iii-iii)~~ (v-v) Is lawfully existing, ~~or~~ was in lawful existence five (5) years prior to the adoption date of Ordinance 24-01, or was in lawful existence prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and

MH Replacement Stats

- Most manufactured homes available for purchase were between 1,000 and 1,500 square feet. The average size of the manufactured homes in the Seavey Loop subdivision is 1,012 square feet, meaning that most existing manufactured homes could be replaced without an increase in the size of the manufactured home.

	Size of Available MHs (sq. ft.)	Size of Seavey Loop Subdivision MHs (sq. ft.)
Mean	1,347	1,012
Median	1,333	1,060
Minimum	357	420
Maximum	2,646	1,782

	Number of MH
Under 500 sq. ft.	9
500 to 1,000 sq. ft.	58
1,000 to 1,500 sq. ft.	116
1,500 to 2,000 sq. ft.	68
Over 2,000 sq. ft.	28

Benefits of Higher Regulatory Standards

- ▶ Better protect life and property from flood hazard
- ▶ Increased discount on flood insurance in Lane County
 - ▶ Community Rating System Class 7 to 6 (15% to 20% discount)

Current Code

- ▶ (aa) The following encroachments may be permitted if certification by a registered professional civil engineer....
 - ▶ (A) The replacement, repair, alteration, or modification of a structure that:
 - ▶ (i-i) Does not expand the footprint of the structure;
 - ▶ (ii-ii) Is pre-FIRM or was approved by a Lane County Floodway Development permit;
 - ▶ (iii-iii) Is lawfully existing or was in lawful existence prior to being substantially damaged by the Holiday Farm Fire on September 7, 2020; and
 - ▶ (iv-iv) For replacement of structures, the applicant demonstrates that no alternative exists on the subject property that would allow the structure to be replaced outside of the floodway. Circumstances that make construction or placement of the replacement dwelling on higher ground infeasible that can be reviewed through a Type I procedure include those listed at (5)(xi)(aa) through (gg). Circumstances requiring discretion must be reviewed through a Type II procedure.
 - ▶ (B) Quarry and mine extraction as defined in Lane Code 16.216 or development ancillary to quarry and mine extraction that is not a structure as defined in (2)(oo);
 - ▶ (C) A locationally dependent public utility, and there is no feasible or practicable location outside of the regulatory floodway for establishing the utility facility;
 - ▶ (D) The construction, maintenance, preservation, repair and replacement of a public road and ancillary facilities, including bridges, recreational paths or trails culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of a public agency, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements;
 - ▶ (E) Minimal development, such as, but not limited to fences, gazebos, raised gardening beds, signage, retaining walls, bank stabilization, or other landscaping features, and not including habitable structures; or
 - ▶ (F) A habitat enhancement or restoration project.