

ORDINANCE NO. 17

AN ORDINANCE PROVIDING FOR THE REGULATION AND CONTROL OF SEWAGE DISPOSAL SYSTEMS AND THE CONSTRUCTION, ERECTION, REPAIR AND ALTERATION THEREOF: REQUIRING PERMITS THEREFOR AND THE MANNER OF ISSUANCE THEREOF: PROVIDING FOR DENIAL, SUSPENSION OR REVOCATION OF SUCH PERMITS: PROVIDING FOR FEES FOR PERMITS: REGULATING SEWAGE DISPOSAL SYSTEM AND PROVIDING PENALTIES FOR VIOLATIONS HEREOF, SAID ORDINANCE TO BE APPLICABLE TO ALL OF LINCOLN COUNTY AREA, WHICH AREA IS HEREINAFTER MORE PARTICULARLY DESCRIBED.

THE BOARD OF COMMISSIONERS FOR LINCOLN COUNTY, OREGON DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE: The purpose of this ordinance is to eliminate potential health hazards due to improper selection of building sites and improper installation of sewage systems.

Section 2. DEFINITIONS: As used in the provisions of this ordinance hereafter set forth:

A. "AREA DESCRIBED." That all of Lincoln County, Oregon extending from, and being more particularly described as follows, to wit:

All of the area of Lincoln County as bounded by Tillamook County on the North, Polk and Benton Counties on the East, Lane County on the South and the Pacific Ocean on the West - except thos portions within the corporate limits of the incorporated cities of Lincoln County,

B. "Work" shall refer to and be all inclusive of the following: Locating, moving erecting, constructing, creating, or marking any substantial

change or alteration of the sewage disposal system of any building or dwelling.

C. "Director" is the Lincoln County Health Officer or his authorized representative.

D. "Department" refers to the Lincoln County Health Department.

E. "Board of Commissioners" refers to the Lincoln County Board of Commissioners.

F. "Dwelling" is defined as a residence or abode.

G. "Building" is defined as any structure built for permanent use, and requiring sewage disposal facilities.

H. "Sewage Disposal System" is defined as a properly constructed system for the treatment and disposal of domestic wastes (as separate from the plumbing system which conveys said wastes to the Sewage Disposal System).

Section 3. SCOPE. No person, firm, corporation or government agency shall locate, move, erect, or construct or make any extensive or substantial alteration of any sewage disposal system in the area adscribed without first obtaining a permit for said work from the Director.

Section 4. INFORMATION REQUIRED FOR PERMIT. The owner or his agent applying for a permit required by this ordinance to construct a new sewage disposal system shall present plans and specifications drawn to scale upon substantial paper or cloth. The first sheet of plans shall give the location of the work and the name and address of the owner. Plans shall include a plot plan showing the location of the proposed building, the septic tank and drain field, and the source of water. Other information pertinent to a sewage disposal system as requested on the application or by the Department shall be furnished in full.

Section 5. PERMITS. Permits issued shall cover only the work and materials specified thereon and shall be posted in a conspicuous place and in such a position to allow the Director conveniently to make required entries thereon regarding inspection of the work. Work shall be started within 60 days after the issuance of a permit and all work shall be completed within one year. Time for starting and completion may be extended where unforeseeable circumstances have caused delay.

Section 6. ISSUANCE OR DENIAL OF PERMITS.

A. Issuance of Permits. The Director is hereby authorized and directed to issue permits provided for in this ordinance upon proper application.

B. Permits shall be denied where:

- (1) A subsurface sewage disposal field will be required and the proposed site does not meet the conditions therefore required by State Law or rules and regulations of the Oregon State Board of Health or the Lincoln County Board of Commissioners.
- (2) The proposed sewage disposal system site is located all or partly within any area determined by the Department to be subject to inundation as a result of periodic flooding.
- (3) The applicant, in relation to the proposed site, has not complied with all State laws or regulations and all Lincoln County ordinance and regulations regarding subdivision or platting of land.

Section 7. SUSPENSION OR REVOCATION. The Director may, in writing, suspend or revoke a permit issued under provisions of this ordinance whenever the permit issued in error or on the basis of incorrect information supplied, or in violation of any of the provisions of this ordinance.

Section 8. INSPECTION. Inspection of the Sewage Disposal System shall be made by the Director as follows:

- A. Any septic tank and subsurface disposal field shall be inspected during construction or before backfilling; all other sewage disposal systems shall be inspected upon completion, provided, however, in all cases inspection will be made as soon as applicant has requested inspection by the Department, and in the absence of inspection within this time limit, then the system shall be adjudged approved and system may be covered.
- B. Pit-type privies may be inspected at any time after installation and shall be installed in accordance with State and Lincoln County laws and regulations.
- C. Community sewer systems (systems serving five or more dwellings or more than fifty persons) are under authority of State Board of Health and are inspected by them provided, however, that the Department shall be notified before work is begun.

Section 9. OCCUPANCY. No person shall occupy any new building in the area described until facilities for sewage disposal equal to the minimum standards of the regulations of the Oregon State Board of Health and the requirements of this ordinance have been installed and approved by the Director.

Section 10. STOP-WORK ORDER. The Director may cause a stop-work order to be posted on any sewage disposal system construction found to be in violation of any of the provisions of Oregon State laws or regulations or this ordinance. Such "stop-work order" must set forth all specific violations of the Oregon State laws or regulations or county ordinance which are cited as basis for such order. Said sewage disposal system shall not be covered or used until

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re-inspected and found to meet the requirements of Oregon State laws or regulations or county ordinance. However, in all cases a request for re-inspection must be made to the Department by appropriate means (by registered mail, return receipt requested, if the applicant desires a written record thereof); and re-inspection shall be made within five judicial days after receipt of request and in absence of inspection within this time limit, then the system shall be adjudged approved and system may be covered.

Section 11. PERMIT FEES FOR SEWAGE DISPOSAL SYSTEM.

A. A fee for issuance of a permit shall be on the following schedule:

- (1) Septic tank and leaching field for permanent dwelling shall be \$7.00.
- (2) Septic tank and leaching field for house trailers or mobile homes shall be \$7.00.
- (3) Sewage disposal system for buildings other than dwellings or residence shall be \$7.00.
- (4) Substantial alteration or change of any sewage disposal system subsequent to original installation shall be \$7.00.
- (5) Sewer connections to any existing community system included under this ordinance shall be \$1.00.

B. EXEMPTIONS.

- (1) Any municipal corporation, political subdivision or agency of the State or of the United States shall be exempt from paying any fee for a sewage disposal permit.
- (2) Pit privies.

Section 12. PENALTIES. If the Director discovers any person, firm, corporation, or government agency doing or causing to be done any of the acts in the area described which are prohibited by this ordinance, he shall notify the violator to cease such act or acts, and such violator shall cease such acts until a permit is secured, or such violator shall be punished upon conviction, by:

- (a) A fine of not more than \$100.00 for each day of violation where the offense is a continuing offense but such fine may not exceed \$1,000.00
- (b) A fine of not more than \$500.00 where the offense is not a continuing offense.

Justices' courts, district courts and circuit courts have concurrent jurisdiction over prosecutions under this section.

Section 13. APPEAL FROM DIRECTOR'S RULING.

A. Notice of Denial. Notice of denial of any permit shall be made in writing by the Director and shall specify reason (s) for denial.

B. Time of Appeal. Any person aggrieved by the issuance or denial

of a permit under Section 6 of this ordinance may appeal from any ruling of the Director to the Board of Commissioners:

- (1) Within 10 days after the issuance of such permit, or 10 days after work has begun where an issuance is appealed from; or-
- (2) Within 10 days after the denial of such permit where a denial is appealed from. A permit shall be deemed to be denied where the application therefore has not been finally acted upon by the Director before the fifteenth day following the date of application, and the time for appeal in such case shall commence on such fifteenth day.

C. Manner of Taking Appeal. Appeal to the Board of Commissioners under this section of this ordinance shall be taken by filing with said Director a written request for hearing and determination on such issuance or denial and setting forth the number officially designated on the application denied or permit issued, as the case may be.

D. Time of Hearing. Not later than 10 days after the taking of appeal pursuant to this section, the Board of Commissioners shall hear the appeal in public session, provided, however, that the time for such hearing may be extended for not more than 10 additional days when such Board of Commissioners determines that such extension is necessary for a fair and thorough hearing of such appeal. At the hearing the Board of Commissioners shall consider evidence presented by the appellant or his agent., together with any reports, comments or information with respect thereto from the Director and any other evidence desired for consideration by the Board of Commissioners and presented at such hearing. Legal rules of evidence need not apply, but all evidence given orally shall be reduced to writing in summary form, and all documentary evidence shall be considered public.

E. Determination of Appeal. Not later than 10 days after the hearing provided for in this section, the Board of Commissioners shall make a final determination on the issuance or denial appealed from, by order entered in the Journal of Administration. Such determination shall be limited to a finding as to whether or not the issuance or denial appealed from was proper.

F. Action on Determination. If the Board of Commissioners determines that the issuance or denial appealed from was not proper, the Department shall immediately grant or revoke the permit, as the case may be, in accordance with the determination of said Board of Commissioners.

G. Appeal to Circuit Court. Any person aggrieved by the action of the Board of Commissioners shall have the right to appeal to the Circuit Court. Any such appeal from the final determination of the Board of Commissioners shall be taken at the time and in the manner provided by law for taking an appeal from a justices' court. The appeal shall be taken to the Circuit Court for Lincoln County and shall be heard and determined in the manner provided by law for the hearing and determining of appeals from Justices' Courts.

Section 14. EXEMPTIONS:

A. This ordinance shall not apply to:

- (1) Territory within the boundaries of incorporated cities.
- (2) Parking and occupancy of a house trailer on a site in a licensed trailer park.
- (3) Work on farm building other than such buildings used or intended to be used as dwellings.
- (4) Pit privies that are used temporarily in the field for farm workers.

B. The B. The exemptions provided for in this section shall be matters of affirmative defense in any litigation, criminal or civil, for the enforcement of this ordinance, where it may be sought to be established that any such exemption is relevant to the facts of the case.

Section 15. MISCELLANEOUS.

A. It is hereby specified that permits issued under this ordinance are a part of public record and will be kept on file at the Lincoln County Health Department.

B. The Director shall be available to aid citizens by rendering his opinion concerning the suitability of a site for a proposed sewage disposal system. The director's opinion shall be rendered on the current situation of the site in question, however, this opinion in no way obligates the Director or the Department to issue a permit for a sewage disposal system if subsequent changes in this site or adjoining sites may invalidate this opinion. A fee shall be charged for this service as follows:

- \$5.00 per site, provided, however, that the fee shall be
- \$5.00 plus \$2.00 per acre of land under consideration for subdivision purposes when such land is to be inspected.

Section 16. AUTHORITY FOR ENACTMENT. This ordinance is enacted pursuant to the authority vested in the counties of the State of Oregon by Oregon Revised Statute Chapter 215.

Section 17. This ordinance shall be applicable to and enforceable in and upon the area described in Section 1, Paragraph A being all of the County of Lincoln, State of Oregon.

Section 18. The effective date of this Ordinance shall nullify ORDINANCE NO. 3, signed by the Board of Commissioners on the 4th day of December, 1968.

Section 19. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after 30 days from the date of its enactment by the Board of Commissioners.

Enactment Date: September 29th, 1970

LINCOLN COUNTY, OREGON

Albert R. Strand
Chairman

Mike Miller
Commissioner

Andy Zedewitz
Commissioner