

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 375**

4
5
6 **Relating to land clearing debris; amending LCC 1.1364, 1.1630, and 2.1035; and**
7 **declaring an emergency.**
8

9 The Lincoln County Board of Commissioners ordains as follows:

10 **SECTION 1.**

11 LCC 2.1035 is amended to read:

12 **2.1035 Prohibitions**

13 (1) Unless exempted by subsections (2) through (7) of this section, no person shall
14 solicit, advertise for, or provide service, except as authorized by a franchise issued pursuant to
15 LCC 2.1060 to 2.1075.

16 (2) Nothing in this title requires a franchise of the following persons or for the
17 following business or practices:

18 (a) The collection, transportation, and reuse of repairable or cleanable discards by a
19 private charitable organization regularly engaged in such business or activity including,
20 without limitation, Salvation Army, St. Vincent DePaul, Goodwill, YMCA, and similar
21 organizations.

22 (b) The collection, transportation, and reuse or recycling of totally source separated
23 materials or operation of a collection center for totally source separated materials by a

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1 religious, charitable, benevolent, or fraternal organization, which organization was not
2 organized or operated for any solid waste management purpose and which organizations using
3 the activity for fund raising including, without limitation, scouts and churches.

4 (c) The collection, transportation, or redemption of returnable beverage containers
5 under ORS chapter 459 and that portion thereof commonly known as the "Bottle Bill."

6 (d) The generator or producer who transports and disposes of waste created as an inci-
7 dental part of regularly carrying on the business of: Auto wrecking, to the extent licensed by
8 the State of Oregon; Janitorial service; Gardening or landscaping service. "Janitorial service"
9 does not include primarily or solely accumulating or collecting wastes created, generated, or
10 produced by a property owner or occupant.

11 (e) A contractor employed to demolish, construct, or remodel a building or structure,
12 including, but not limited to, land clearing operation and construction wastes, when hauling
13 waste created in connection with such employment in equipment owned by contractor and
14 operated by the contractor's employees as employees.

15 (f) Transportation by a person of solid waste generated or produced by such person to
16 disposal sites, resource recovery sites, or market so long as such person complies with this title,
17 other county ordinances, and ORS chapter 459 relating to solid waste management and
18 regulations promulgated under any of the foregoing. For purposes of this subsection, waste is
19 "generated or produced by" the individual owner or occupant of a residential dwelling unit,
20 whether the unit is individually owned, nonowner occupied, or grouped through an association
21 or cooperative of property owners, and not by the landlord, property owner, cooperative or

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1 association, or property manager or agent of such landlord, property owner, property manager,
2 cooperative, or association.

3 (g) The collection by county or other subordinate jurisdiction of leaves or similar
4 wastes and transportation to a disposal site, resource recovery site, or market.

5 (3) Nothing in this title requires a franchise for the purchase of totally source separated
6 solid wastes for fair market value.

7 (4) Except as may be provided by agreement with a city, nothing in this title shall apply
8 within the boundaries of any incorporated city.

9 (5) Nothing in this title shall apply to a disposal site which:

10 (a) Is a sludge lagoon, sludge treatment facility, or disposal site for septic tank or
11 cesspool cleanings.

12 (b) Is a landfill which is used by the owner or person in control of the premises to dis-
13 pose of rock, soil, concrete, or other similar non decomposable material.

14 (c) Is a portion of land or a facility specifically operated under the requirements of ORS
15 468B.050 for a waste water discharge permit, and in compliance with all Oregon
16 Environmental Quality Commission regulations on solid waste management.

17 (d) Is land on which solid wastes are used for fertilizer or for other productive purposes
18 in agricultural operations and the growing or harvesting of crops and the raising of fowl or
19 animals.

20 (e) Is specifically exempt from Department of Environmental Quality (DEQ) solid
21 waste permit requirements pursuant to OAR 340-61-020; or is a proposed disposal site that the

1 DEQ has determined pursuant to OAR 340-67-020(4) is not likely to create a public nuisance,
2 health hazard, air or water pollution, or other environmental problems; and has issued a special
3 letter of authorization in accordance with OAR 340-61-027.

4 (6) Nothing in this title requires a franchise for the operations of a collection center for
5 totally source-separated materials operated under a contract with the county.

6 (7) Nothing in this title shall require a person who has a disposal site franchise issued
7 by any city in this county to obtain a disposal site franchise under this title for the same
8 disposal site franchised by the city.

9 (8)(a) **Notwithstanding LCC 2.1000 through 2.1175, a site or facility for**
10 **processing land clearing debris, clean fill, and certain construction demolition debris is**
11 **exempt from the requirement to obtain a disposal site franchise pursuant to this chapter,**
12 **provided that:**

13 (A) **The land, facilities, equipment, processes, and storage meet all requirements**
14 **and regulations of the Oregon Department of Environmental Quality (DEQ) applicable**
15 **to the operation, or are exempt from those requirements and regulations; and**

16 (B) **The operation receives all necessary land use authorizations and permits, and**
17 **complies with the conditions of those authorizations and permits.**

18 (b) **Construction demolition debris processed at the site is limited to that**
19 **generated by the owner or operator of the site in accordance with LCC 2.1035(2)(e).**
20 **Land clearing debris and clean fill processed at the site is limited to that collected in**

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1 accordance with LCC 2.1035(2)(e). The site may not be otherwise be used by the public
2 either directly, indirectly, or through an outside service.

3 (c) Any materials which must be removed from the site shall be collected and
4 disposed of in accordance with the provisions of LCC 2.1060 through 2.1075.

5 (d) As used in this subsection:

6 (A) "Land clearing debris" means stumps and other vegetative materials, but
7 does not include the composting of materials or debris, or the storage of materials or
8 debris for more than six months.

9 (B) "Clean fill" means soil, rock, concrete, brick, building block, tile or asphalt
10 paving, or other similar non-decomposable material, which do not contain contaminants
11 which could adversely impact the waters of the State or public health. This term does
12 not include putrescible wastes, construction and demolition wastes and industrial solid
13 wastes.

14 (C) "Construction demolition debris" means solid waste resulting from the
15 construction, repair or demolition of buildings, roads or other structures. Such waste
16 typically consists of materials including untreated or chemically treated wood, glass,
17 masonry, roofing, siding, plaster, pipes and similar material. This term does not include
18 industrial solid waste and municipal solid waste, as defined under state law, generated in
19 residential or commercial activities associated with construction and demolition
20 activities.

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1 **SECTION 2.**

2 LCC 1.1364 is amended to read:

3 1.1364 Planned Industrial Zone I-P

4 In an I-P zone the following regulations shall apply:

5 (1) Uses Permitted Outright:

6 The following uses and their accessory uses are permitted subject to the applicable
7 provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

8 (a) Farm use.

9 (b) Forestry, including the management, production, and harvesting of forest products
10 and of related natural resources in forest areas and including rock extraction and processing for
11 use in forest access roads.

12 (c) Residence for caretaker or night watchman.

13 (d) Beachfront protective structures.

14 (2) Conditional Uses Permitted:

15 The following uses and their accessory uses may be permitted subject to the applicable
16 provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to
17 1.1999:

18 (a) A use involving manufacture, research, repair, assembly, processing, fabricating,
19 packing, distribution, warehousing, wholesaling, mini-storage, or storage provided that the use
20 does not create a public nuisance, noise, smoke, odor, or dust, or because it constitutes a fire,
21 explosion, or other physical hazard.

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- 1 (b) Heliports and related uses.
- 2 (c) Animal hospital.
- 3 (d) Automobile, truck, or trailer sales, service, storage, rental, or repair.
- 4 (e) Automobile speedway, race track.
- 5 (f) Automobile wrecking yard, junk yard.
- 6 (g) Boat launching or moorage facility, marina, boat charter service.
- 7 (h) Boat or marine equipment sales, service, storage, rental, or repair.
- 8 (i) Extraction and processing of rock, sand, gravel, or other earth product.
- 9 (j) Feed or seed store.
- 10 (k) Governmental structure or use of land.
- 11 (L) Implement, machinery, heavy equipment sales, service, storage, rental or repair.
- 12 (m) Lumber or building materials sales and storage.
- 13 (n) Newspaper office, printing shop.
- 14 (o) Plumbing, heating, electrical, or paint contractors storage, repair, or sales shop.
- 15 (p) Public park, playground, golf course, or similar recreation area.
- 16 (q) Public utility facility.
- 17 (r) Radio or television transmitter or tower.
- 18 (s) Restaurant, bar, or tavern.
- 19 (t) **Solid waste** transfer station.

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1 (u) Solid waste debris site or facility complying with LCC 2.1035 (8). A
2 conditional use permit issued pursuant to this paragraph shall be reviewed for
3 compliance by the Planning Division every three years on or about each three year
4 anniversary from the date of issuance. The compliance review shall include, but is not
5 limited to, a site visit and a review of any complaints received. The Planning Division
6 shall refer any non-compliance to the Commission for possible initiation of proceedings
7 to revoke the conditional use permit in accordance with LCC 1.1605. Every conditional
8 use permit issued pursuant to this paragraph shall contain the following statement:
9 **NOTICE: This conditional use permit is subject to a mandatory compliance review**
10 **every three years from the date of issuance.**

11 [(u)] (v) Tire sales, repair, retreading, or vulcanizing.

12 [(v)] (w) Signs, advertising.

13 [(w)] (x) Bank and similar lending institutions.

14 [(x)] (y) Theater/performing arts center.

15 [(y)] (z) Pilings, piers, docks, and similar in-water structures.

16 (3) Prohibited Uses:

17 The following uses are prohibited:

18 (a) Cement, lime gypsum, or plaster of Paris manufacturer.

19 (b) Explosives storage or manufacture.

20 (c) Fertilizer manufacture.

21 (d) Gas manufacture.

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- 1 (e) Glue manufacture.
- 2 (f) Petroleum or petroleum refining.
- 3 (g) Pulp mill.
- 4 (h) Rendering plant.
- 5 (i) Smelting or refining of metallic ore.
- 6 (j) Other uses similar to the above.

7 (4) Standards:

8 Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and
9 1.1901 to 1.1999 the following standards shall apply:

10 (a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

11 (b) No structure shall be located closer than 30 feet from the right-of-way of any State
12 highway or any collector or arterial street.

13 (c) No building height limitation for nonresidential structures.

14 (d) Outdoor storage abutting or facing a street or highway or a lot in a residential zone
15 shall be screened with a sight-obscuring fence.

16 (5) Special Standards:

17 The following procedure shall apply to all conditional uses. The Planning Division or
18 the Planning Commission shall seek to determine whether:

19 (a) A proposed use is suitable for the property in question, considering the long-range
20 industrial potential for the zone, and further considering that piece-meal development of the
21 zone may limit the possibility for meeting this potential.

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1 (b) Setbacks of buildings, parking and loading areas, and storage areas or development
2 should be increased.

3 (c) Special landscaping, screening, and/or fencing requirements are appropriate.

4 (d) Any additional conditions need to be met to insure compatibility of the proposed
5 use with existing and future development in the surrounding area.

6 **SECTION 3.**

7 Subsection (10) of LCC 1.1630 is amended to read:

8 1.1630 Standards and Procedures Governing Conditional Uses

9 In addition to the standards of the zone in which the conditional use is located and the
10 other standards of this chapter, conditional uses shall meet the following standards:

11 * * * * *

12 (10) Standards for solid waste disposal site:

13 (a) Submitted plans and specifications shall contain sufficient information to allow the
14 county staff or Planning Commission to set standards pertaining to:

15 (A) Appropriate use of the land.

16 (B) Setbacks from the property line.

17 (C) Location of vehicular access points and road development standards.

18 (D) Public safety considerations.

19 (E) **Adverse impacts on surrounding properties.**

20 (b) If the solid waste disposal area is located less than 300 feet from a residential zone
21 or a state highway, sight-obscuring screening shall be provided.

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1 (c) All areas used for solid waste disposal shall be located no closer than 100 feet from
2 a property line.

3 (d) The property shall be fenced to prevent blowing paper and debris and to control
4 access to the property by pedestrians and vehicles.

5 (e) **The standards of this subsection apply to all solid waste disposal sites,**
6 **including but not limited to those regulated under LCC chapter 2, and facilities**
7 **exempted from regulation under LCC 2.1035(8).**

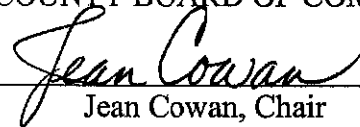
8 * * * * *

9 **SECTION 4.**

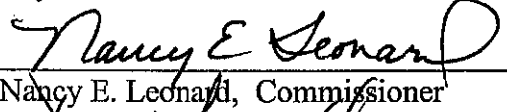
10 This Ordinance being necessary for the immediate preservation of the public peace,
11 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon
12 its passage.

DATED this 4th day of February, 1998.

LINCOLN COUNTY BOARD OF COMMISSIONERS



Jean Cowan, Chair



Nancy E. Leonard, Commissioner



Don Lindly, Commissioner

ATTESTED TO:



Susan Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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