

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # *395*

4 _____
5
6 **Relating to grading and erosion control; creating new provisions; and declaring an**
7 **emergency.** .
8 _____

9 The Lincoln County Board of Commissioners ordains as follows:

10 **SECTION 1.**

11 Sections 2 through 18 of this Ordinance are added to and made a part of LCC
12 Chapter 3, as indicated.

13 **SECTION 2.**

14 **3.100 Definitions**

15 **As used in LCC 3.100 through 3.195:**

16 (1) **"Clearing"** means any activity that removes vegetative ground cover.

17 (2) **"Engineer"** means the Lincoln County Public Works Director and the
18 **Director's duly appointed designees.**

19 (3) **"Erosion"** and **"soil erosion"** means the wearing away of the land surface by
20 **running water, wind, ice, or other geologic agents, including such processes as**
21 **gravitational creep, and detachment and movement of soil or rock fragments by water,**
22 **wind, ice, or gravity.**

23 ////

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (4) "Erosion Prevention and Control Manual" means the "City of Lincoln City
2 Grading & Erosion Control Ordinance Erosion Prevention and Sedimentation Control
3 Practices Technical Guidance Manual" published by the Lincoln City Public Works
4 Department (Revised November, 1999). Copies of the Manual shall be available for
5 purchase from the Public Works Department.

6 (5) "Excavation" means any act by which organic matter, earth, sand, gravel,
7 rock, or any other material is cut into, dug, uncovered, removed, displaced, relocated,
8 or bulldozed by a person, including the conditions resulting therefrom.

9 (6) "Fill" means any act by which earth, sand, gravel, rock, or any other
10 material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved
11 by a person to a new location, including the conditions resulting therefrom.

12 (7) "Grading" means excavation or fill or any combination thereof.

13 (8) "Land disturbing activity" means any clearing, grading, stripping,
14 excavation, fill, or any combination thereof.

15 (9) "Public Works Department" means the Lincoln County Public Works
16 Department unless expressly identified as the Lincoln City Public Works Department.

17 (10) "Sedimentation" means the depositing of solid material, mineral or
18 organic, that is in suspension, is being transported, or has been moved from its site of
19 origin by air, water, or gravity.

20 (11) "Stripping" means any activity that removes the vegetative surface cover
21 including tree removal, clearing, and storage or removal of top soil.

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1 (12) "Watercourse" means any established channel where water draining from
2 a land area collects and flows on the ground surface.

3 **SECTION 3.**

4 **3.105 Application**

5 The provisions of LCC 3.100 to 3.195 apply to all property lying within the
6 boundaries of the Devils Lake Water Improvement District and outside of the city
7 limits of the City of Lincoln City.

8 **SECTION 4.**

9 **3.110 Adoption of Uniform Building Code Appendix Chapter 33**

10 Appendix Chapter 33 of the Uniform Building Code, 1997 Edition, a copy of
11 which is on file and available for reference at the Public Works Department, is adopted
12 by this reference, subject to the revisions set out in LCC 3.115.

13 **SECTION 5.**

14 **3.115 Revisions to Uniform Building Code Appendix Chapter 33**

15 Revisions to Appendix Chapter 33 of the Uniform Building Code, 1997 Edition,
16 shall be as follows:

17 (1) All references to the "building official" shall be to the engineer. The
18 engineer means the engineer or the engineer's designated representative.

19 (2) The list of exemptions from the grading permit requirement, set out in
20 section 3306.2 (Exempted Work) shall be expanded by adding the following:

21 "10. Emergency measures taken to clear roadways or to save endangered

1 **property; and**

2 **11. Grading on single-family residential lots when all of the following conditions**
3 **are met:**

4 **a. There is no interference, encroachment, or alteration to any natural drainage**
5 **course to any public drainage improvement; and**

6 **b. There is no apparent danger to any property.**

7 **12. Grading undertaken as part of a forest practice in compliance with Oregon**
8 **Forest Practices Act and administrative rules adopted thereunder."**

9 **(3) Section 3309.2 (Application) is amended by adding the following**
10 **requirements:**

11 **"1. Applications shall be submitted to the Lincoln County or Lincoln City**
12 **Public Works Department, as determined by the Lincoln City Public Works**
13 **Department.**

14 **"2. Before a permit application is accepted as complete by the Lincoln County**
15 **or Lincoln City Public Works Department, the county or city Department's engineer**
16 **shall visit the proposed project site with the applicant or the applicant's representative,**
17 **to aid the applicant in submitting an acceptable grading plan and in noting any special**
18 **conditions."**

19 **(4) The criterion in section 3309.3 (Grading Designation) identifying grading**
20 **that must be "engineered grading," as distinguished from grading that may be**
21 **"regular grading," shall be grading involving 2,000 or more cubic yards rather than**

1 grading involving in excess of 5,000 cubic yards.

2 (5) Section 3309.9 (Issuance) is amended by adding the following requirement:

3 "After receipt of a completed application for a grading permit, the engineer
4 shall review the grading plan submitted with the application to determine whether the
5 grading plan conforms to the provisions of LCC 3.100 to 3.195 and shall, in writing:

6 1. Approve the application, if the grading plan as submitted conforms to the
7 provisions of LCC 3.100 to 3.195;

8 2. Approve the application, subject to such reasonable conditions as may be
9 necessary for the grading plan to conform to the provisions of LCC 3.100 to 3.195; or

10 3. Disapprove the application, if the grading plan, either as submitted or with
11 conditions, does not conform to the provisions of LCC 3.100 to 3.195. A disapproval
12 shall indicate the appeal procedure provided for in LCC 3.100 to 3.195 and the
13 procedure for submitting a revised grading plan."

14 (5) Section 3311 (Bonds) is amended to read:

15 "For any grading for which a permit is required, if the grading involves
16 grading, paving, drainage and erosion control measures, or any of them, with a total
17 cost in excess of \$100,000, the engineer shall require a bond in such form and amount
18 as the engineer deems necessary to assure that the work, if not completed in accord
19 with the approved plans and specifications, will be corrected to eliminate hazardous
20 conditions. In lieu of a surety bond, the applicant may file a cash bond or instrument
21 of credit, in a form approved by the engineer, in an amount equal to that which would

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1 be required in the surety bond.

2 **SECTION 6.**

3 **3.120 Erosion Prevention and Control Findings.**

4 (1) Excessive quantities of soil may erode from areas undergoing development
5 for uses including but not limited to the construction of dwelling units, commercial and
6 other buildings, and industrial plants, the construction of roads and highways, the
7 modification of stream channels and drainage ways, and the creation of recreational
8 facilities.

9 (2) The washing, blowing, and falling of eroded soils across and upon streets
10 and roads endangers the health of users thereof by decreasing vision and reducing
11 traction of road vehicles.

12 (3) Soil erosion necessitates the costly repairing of gullies, washed-out fills, and
13 embankments.

14 (4) Sediment from soil erosion tends to clog storm drains and ditches and to
15 pollute and silt up rivers, streams, wetlands, lakes, and waste-water treatment settling
16 ponds.

17 (5) Sediment limits the use of bays, lakes, and waterways for most beneficial
18 purposes, destroys fish and other desirable aquatic life, leads to excessive growth of
19 undesirable aquatic plants, and is costly and difficult to remove.

20 **SECTION 7.**

21 **3.125 Purpose and General Requirement**

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1 **(1) It is the purpose of LCC 3.100 to 3.195 to regulate land disturbing activities**
2 **that may lead to soil erosion and sedimentation into watercourses, wetlands, riparian**
3 **areas, and public and private property.**

4 **(2) No land disturbing activity shall be conducted so as to cause slides of mud,**
5 **soil, rock, vegetative material, or any erosional or depositional material to be pushed**
6 **onto, deposited upon, or gravitated to the property of another, either public or private.**

7 **SECTION 8.**

8 **3.130 Erosion Prevention and Control Plan Required**

9 **(1) Plan Required**

10 **Except as otherwise provided in subsection (2) of this section, no person shall**
11 **commence or perform any of the following activities without first receiving the**
12 **engineer's approval of an erosion control plan:**

13 **(a) Any land disturbing activity that will affect an area in excess of 1,000 square**
14 **feet.**

15 **(b) Any land disturbing activity that will affect an area in excess of 500 square**
16 **feet if the activity is within 25 feet of a river, stream, lake bay watercourse, or wetland.**

17 **(c) Any grading, excavation, fill, or any combination thereof that will exceed 50**
18 **cubic yards on a lot or parcel.**

19 **(2) Exceptions**

20 **The following activities are exempt from the requirements of subsection (1) of**
21 **this section:**

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1 **(a) Cutting brush where ground cover will remain intact.**

2 **(b) Maintenance of public infrastructure by state or local government agencies.**

3 **State and local government agencies, however, shall implement best management**
4 **practices to prevent erosion and control sediment; and shall make regular inspections**
5 **to ascertain that erosion and sediment control measures consistent with best**
6 **management practices have been implemented and are being effectively maintained.**

7 **(c) Emergency measures taken to clear roadways or to save endangered**
8 **property.**

9 **(d) Forest practices undertaken in compliance with the Oregon Forest Practices**
10 **Act and administrative rules adopted thereunder.**

11 **(e) Farming practices as defined in ORS 30.930.**

12 **SECTION 9.**

13 **3.135 Submission of Erosion Control Plan**

14 **In the event an erosion control plan is required by LCC 3.130, the owner of the**
15 **land or the owner's agent shall submit an erosion control plan to the Lincoln County**
16 **or Lincoln City Public Works Department, as determined by the Lincoln City Public**
17 **Works Department, on a site plan at a scale sufficient to indicate the nature and extent**
18 **of the work. The plan shall be prepared in accordance with LCC 3.100 through 3.195,**
19 **using methods and standards shown in the Erosion Prevention and Control Manual. If**
20 **an engineered grading plan is required for the project under LCC 3.110 and 3.115,**
21 **then the erosion control plan shall be prepared by the same person who prepared the**

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1 **engineered grading plan. Each erosion control plan shall include a certification that**
2 **any land disturbing activity will be in accord with the submitted and approved erosion**
3 **control plan. The erosion control plan shall contain the following information:**

4 **(1) The location of the development site showing adjacent roads and streets and**
5 **the development site boundaries.**

6 **(2) Indication of north direction.**

7 **(3) Any lakes, bays, rivers, streams, wetlands, channels, ditches, or other**
8 **watercourses on and immediately adjacent to the development site.**

9 **(4) Areas where existing vegetative cover will be retained and measures to**
10 **protect vegetation from damage.**

11 **(5) Accurate location, size, and shape of proposed and existing structures.**

12 **(6) Direction of surface water flows.**

13 **(7) Indication of slope steepness or existing and proposed contours at intervals**
14 **of two feet or as approved by the engineer.**

15 **(8) Location of construction access driveways and designated vehicle parking**
16 **areas.**

17 **(9) Location of soil stockpiles.**

18 **(10) Type and location of temporary and permanent erosion and sediment**
19 **control measures, such as, but not limited to, silt fencing, matting, straw bales,**
20 **mulching, seeding, and sodding.**

21 **(11) A schedule of construction operations and phasing.**

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1 (12) The name, address, and telephone number of each of the owners of the
2 land, the developer of the site, and the person responsible for placement and
3 maintenance of temporary and permanent erosion control measures.

4 (13) The general slope characteristics of adjacent property.

5 SECTION 10.

6 **3.140 Review and Approval.**

7 The engineer shall review each erosion control plan to determine whether it
8 conforms to the provisions of LCC 3.100 through 3.195. After receipt of a complete
9 erosion control plan and following final review of the plan, the engineer shall, in
10 writing:

11 (1) Approve the plan, if the plan conforms to the provisions of LCC 3.100
12 through 3.195;

13 (2) Approve the plan, subject to such reasonable conditions as may be necessary
14 for the plan to conform to the provisions of LCC 3.100 through 3.195; or

15 (3) Disapprove the plan if the plan, either as submitted or with conditions, does
16 not conform to the provisions of LCC 3.100 through 3.195. A disapproval shall
17 indicate the appeal procedure provided for in LCC 3.100 to 3.195 and the procedure
18 for submitting a revised erosion control plan.

19 SECTION 11.

20 **3.145 Design and Operation Standards and Requirements.**

21 All land disturbing activities that are subject to the erosion control plan

1 approval requirements of LCC 3.130 shall be subject to the following standards and
2 requirements:

3 (1) Prior to initiation of land disturbing activities, on-site sediment barriers,
4 including sediment fences or equivalent measures, shall be constructed and functional
5 to control off-site runoff, as specified in the Erosion Prevention and Control Manual.
6 Vegetated strips with a minimum width of 25 feet may be used as an alternative only
7 where runoff in sheet flow is expected.

8 (2) Disturbed areas shall be stabilized with temporary or permanent measures
9 within 7 calendar days, or as otherwise required by the engineer, following the end of
10 active disturbance, or redisturbance, consistent with the following criteria:

11 (a) Appropriate temporary or permanent stabilization measures shall include
12 matting, seeding, mulching, sodding, or non-vegetative measures, or a combination
13 thereof.

14 (b) Areas having slopes greater than 12 percent shall be stabilized with sod,
15 mat, or blanket in combination with seeding, or an equivalent thereto.

16 (3) Land disturbing activities in stream channels and riparian areas shall be
17 avoided unless the engineer determines there are no other points of access. If the
18 engineer determines such activities cannot be avoided, the following requirements shall
19 be met:

20 (a) Construction vehicles shall be kept out of the stream channel to the
21 maximum extent possible. Where construction crossings are necessary, temporary

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1 crossings shall be constructed of non- erosive material, such as rip-rap or gravel.

2 (b) The riparian area shall have erosion protection measures in place within 24
3 hours of disturbance, which time may be extended to a maximum of 48 hours at the
4 discretion of the engineer.

5 (c) All required local, state, and federal permits shall be received prior to the
6 activity.

7 (4) Storm sewer inlets and culverts shall be protected by sediment traps or filter
8 barriers meeting design standards and specifications approved by the engineer.

9 (5) Soil storage piles containing more than 10 cubic yards of material shall not
10 be located with a down slope drainage length of less than 25 feet to a roadway or
11 drainage channel. Filter barriers or impervious covering shall be installed to prevent
12 or contain sediment runoff.

13 (6) Each site shall have a graveled, or equivalent, entrance road or roads of
14 sufficient length, depth, and width to prevent sediment from being tracked onto public
15 or private roadways. Any sediment reaching a public or private roadway shall be
16 removed by shoveling or street cleaning (not flushing) before the end of each workday
17 and transported to a controlled sediment deposit area.

18 (7) All temporary erosion and sediment control measures shall be disposed of
19 within 30 days after final site stabilization is achieved with permanent soil stabilization
20 measures. Trapped sediment and other disturbed soils resulting from the disposed of
21 temporary measures shall be permanently stabilized to prevent further erosion and

1 **sedimentation.**

2 **SECTION 12.**

3 **3.150 Maintenance of Control Measures**

4 **(1) The owner of land on which land disturbing activities are occurring, or the**
5 **owner's agent, shall maintain all erosion and sediment control measures necessary to**
6 **meet the requirements of LCC 3.100 through 3.195. The land owner or the land**
7 **owner's agent shall inspect erosion and sediment control measures every 24 hours**
8 **during storm or rain events to ensure the measures are functioning properly.**

9 **(2) The engineer shall make regular inspections to ascertain that erosion and**
10 **sediment control measures as proposed in the erosion control plan have been**
11 **implemented and are being effectively maintained.**

12 **SECTION 13.**

13 **3.155 Hazards on Private Property**

14 **If the engineer becomes aware or is notified of any land containing disturbed**
15 **soil areas, or containing unprotected soil storage piles, creating erosion and**
16 **sedimentation that affects property of another or is in violation of any provision of**
17 **LCC 3.100 to 3.195, the engineer shall require the land owner to follow procedures and**
18 **employ practices set out in LCC 3.100 to 3.195 to control the erosion and**
19 **sedimentation. The land owner shall follow the required procedures and employ the**
20 **required practices.**

21 **////**

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1 **SECTION 14.**

2 **3.160 Review of Engineer Decisions**

3 **A professional judgment decision made by the Lincoln City Engineer under**
4 **LCC 3.100 to 3.195 may be appealed by the owner, the owner's agent or representative,**
5 **or any other person subject to the decision, to the Lincoln City Grading and Erosion**
6 **Control Review Board. The appeal shall be submitted in writing to the Lincoln City**
7 **Public Works Department and shall state the relevant facts and the basis for the**
8 **appeal. The decision of the Review Board shall be rendered within 7 days of an appeal,**
9 **shall be consistent with the provisions of LCC 3.100 to 3.195, and shall not be subject**
10 **to further appeal within the city or county government. A decision of the engineer**
11 **shall be fully effective while an appeal is pending.**

12 **SECTION 15.**

13 **3.165 Education**

14 **(1) The county shall declare each September to be Erosion Prevention**
15 **Awareness Month, and during September shall participate with the City of Lincoln**
16 **City and the Devils Lake Water Improvement District in events to promote a greater**
17 **awareness of the problems with erosion and the solutions to prevent it.**

18 **(2) The county, in cooperation with the City of Lincoln City and the Devils Lake**
19 **Water Improvement District, shall participate in an annual workshop on erosion**
20 **prevention and sediment control.**

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SECTION 16.

3.170 Intergovernmental Agreement for Administration of LCC 3.100 to 3.195

The engineer may negotiate intergovernmental agreements between Lincoln County and the City of Lincoln City, and Lincoln County and the Devils Lake Water Improvement District, for administration of any part of LCC 3.100 to 3.195. Any intergovernmental agreement negotiated pursuant to this section shall be presented to the Board of Commissioners for review and approval.

SECTION 17.

3.175 Comparative Table for Lincoln City and County Ordinances

The following table is for purposes of cross reference between LCC 3.100 to 3.195 and the sections of Lincoln City Ordinance # 97-13, codified in Chapter 12.08 of the Lincoln City Municipal Code:

<u>Lincoln County Code Section</u>	<u>Lincoln City Ordinance Section</u>
3.100	12.08.040
3.105	none
3.110	12.08.010
3.115	12.08.020
3.120	12.08.030
3.125	12.08.050
3.130	12.08.060
3.135	12.08.070
3.140	12.08.080
3.145	12.08.090
3.150	12.08.100
3.155	12.08.110
3.160	12.08.120
3.165	12.08.140
3.170	none
3.175	none
3.195	12.08.130

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1 **SECTION 18.**

2 **3.195 Violation**

3 **(1) Any violation of any provision of LCC 3.100 to 3.195 may be enforced in**
4 **accordance with the provisions of LCC Chapter 10.**

5 **(2) If the engineer determines that a violation of LCC 3.100 to 3.195 has**
6 **occurred, the engineer may notify the owner of the land and the developer, general**
7 **agent, architect, builder, contractor, or other person or entity who has participated in**
8 **committing the violation, or any of them, to cease all further development until such**
9 **time as the violation has been remedied, and the person or persons notified shall cease**
10 **further development. If development continues in disregard of notice from the**
11 **engineer, the county may seek an injunction to stop further development until the**
12 **violation is remedied.**

13 **(3) If the engineer determines that a violation of LCC 3.100 to 3.195 has**
14 **occurred, the engineer shall give written notice to the owner of the land and the**
15 **developer, general agent, architect, builder, contractor, or other person or entity who**
16 **has participated in committing the violation, or any of them, that a violation has**
17 **occurred and that the violation must be remedied within a time specified. The amount**
18 **of time to remedy the violation shall depend on the nature of the violation, the**
19 **circumstance then existing, and whether an emergency exists. In the event of non-**
20 **compliance within the time set by the engineer, the county may take remedial steps to**
21 **cure the violation and charge the costs, fees, and expenses of the remedial action to the**


1 owner of the land. This shall include any expenses, costs, and fees paid by the county
2 to third persons for labor and materials to remedy the violation. Charges made under
3 this subsection shall be a lien against the real property on which the violation arises,
4 and the County Clerk is authorized to record a memorandum of such charges
5 immediately in the Lincoln County Book of Deeds and Mortgages.

6 **SECTION 19.**

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

DATED this 7th day of June, 2000.

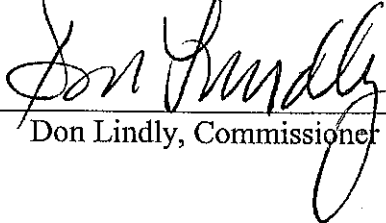
LINCOLN COUNTY BOARD OF COMMISSIONERS



Jean Cowan, Chair




Karen L. Gerttula, Commissioner



Don Lindly, Commissioner

ATTESTED TO:



Susan Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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