

99-076

BEFORE THE BOARD OF COMMISSIONERS  
FOR LINCOLN COUNTY, OREGON

ORDINANCE # 398

Relating to improvement of roads in unincorporated areas; creating new provisions; and declaring an emergency.

The Lincoln County Board of Commissioners ordains as follows:

**SECTION 1.**

Sections 2 through 13 are added to and made a part of LCC chapter 6, as indicated.

**SECTION 2.**

**6.605 Definitions for LCC 6.605 to 6.660**

As used in LCC 6.605 to 6.660, unless the context requires otherwise:

(1) "Owner" means a vendee under a recorded land contract or if there is no such contract, the holder of the record title, which vendee or holder has a present interest equal to or greater than a life estate.

(2) "Engineer" means the Lincoln County Public Works Director.

(3) "Improvement" includes:

(a) The grading, graveling, paving or other surfacing of any road, or opening, laying out, widening, extending, altering, changing the grade of or constructing any road.

(b) The construction or reconstruction of sidewalks.

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 (c) The installation of ornamental street lights.

2 (d) The reconstruction or repair of any road improvement mentioned in this  
3 subsection.

4 (e) The acquisition, establishment, construction or reconstruction of any off-  
5 road motor vehicle parking facility.

6 (f) Installing, constructing, reconstructing, improving, extending or repairing  
7 lateral sewers, street mains, sewage disposal systems or similar facilities, and other  
8 facilities incidental thereto, within the right of way of a county road or public road.

9 (4) "Road," "county road" and "public road" have the meanings given those  
10 terms in ORS 368.001.

11 **SECTION 3.**

12 **6.610 Application of LCC 6.605 to 6.660 in Lieu of ORS 371.605 to 371.660**

13 In accordance with ORS 371.610(3), in Lincoln County the provisions of LCC  
14 6.605 to 6.660 supersede all provisions of ORS 371.605 to 371.660, except as otherwise  
15 provided in ORS 371.610.

16 **SECTION 4.**

17 **6.615 Petition for Improvement of Roads in Unincorporated Areas**

18 Proceedings to cause any improvement to be made or constructed in an  
19 unincorporated area may be initiated by petition filed with the Board. The petition  
20 shall include at least the following:

1           (1) A description of the proposed improvement, including at least an indication  
2 of where the improvement is to be made and a description of the nature of the  
3 improvement desired.

4           (2) A list of properties and corresponding property owners which are thought to  
5 be specially benefited by the improvement.

6           (3) A proposed method of assessment for properties which are thought to be  
7 specially benefited by the improvement.

8           (4) The signatures of property owners representing not less than 50 percent of  
9 the proposed assessment as shown by the proposed method of assessment.

10          (5) A designated chief petitioner.

11          (6) If any of the improvement would lie within a special road district, an  
12 endorsement from the board of the special road district.

13           SECTION 5.

14           **6.620 Signers of Petition and Objection in Event of Cotenancies**

15           In case of tenants by the entireties, joint tenants or tenants in common the  
16 parcel of land is considered as having one owner, which owner shall be deemed to have  
17 signed the petition provided for in LCC 6.615 or the objection provided for in LCC  
18 **6.630 only if every cotenant of the parcel has signed.**

19          //////

20          //////

21          //////

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 the estimated cost of the construction and installation of lateral sewers, street mains or  
2 similar facilities.

3 SECTION 7.

4 6.630 Notice to Owner; Ballot for Support or Opposition

5 (1) If the engineer makes a favorable report on the proposed improvement, the  
6 Board shall determine which properties are specially benefited, determine the method  
7 of assessment will achieve a fair apportionment of the whole or any portion of the cost  
8 of the improvement to the properties specially benefited, and direct the engineer to  
9 mail to the owner of each parcel of land to be assessed for the proposed improvement,  
10 as shown on the most recent records of the Lincoln County Assessor, a written notice of  
11 the favorable report, the estimated cost of the improvement and the estimated amount  
12 of the assessment against the land of the owner. The notice shall also include a ballot,  
13 in a form approved by legal counsel, which requests that the owner indicate the  
14 owner's support or opposition to the improvement on the ballot form, and return the  
15 ballot form to the engineer within the period of time indicated in the ballot form, which  
16 shall be no earlier than 45 days after mailing of the notice. The notice shall be mailed  
17 to each owner by both certified and regular first class mail.

18 (2) Upon expiration of the time period established for return of the ballot form  
19 to the engineer, the engineer shall prepare an abstract of the results of the ballots  
20 received. The abstract shall identify each property and whether the owner indicated  
21 support for the proposed improvement, opposition to the proposed improvement, or

1            **SECTION 6.**

2            **6.625 Investigation and Estimation of Cost of Improvement by Engineer**

3            **When the petition is filed with the Board, the Board shall refer the petition to**  
4 **the engineer, who shall investigate the proposed improvement. If in the judgment of**  
5 **the engineer the improvement is feasible, the engineer shall make an estimate of the**  
6 **cost of the improvement and report the same to the Board. If the improvement is to be**  
7 **paid for in whole or in part by special assessments against property benefited by the**  
8 **improvement, the engineer shall include in the report:**

9            **(1) A recommendation as to whether the proposed method of assessment will**  
10 **achieve a fair apportionment of the whole or any portion of the cost of the**  
11 **improvement to the properties specially benefited and, if not, a recommendation as to a**  
12 **method of assessment which will achieve a fair apportionment.**

13            **(2) A recommendation as to whether the list of properties which are thought to**  
14 **be specially benefited by the improvement is adequate and, if not, which properties**  
15 **should be added or deleted.**

16            **(3) The description and assessed value of each lot, parcel of land or portion**  
17 **thereof, to be specially benefited by the improvement, with the names of the record**  
18 **owners thereof, as shown on the most recent records of the Lincoln County Assessor.**

19            **(4) Where the improvement petitioned for includes the construction and**  
20 **installation of lateral sewers, street mains or similar facilities, a separate statement of**

1 failed to return a ballot. The abstract shall also indicate the total amount of proposed  
2 assessment corresponding to owners who indicated support for the proposed  
3 improvement, and the total amount of proposed assessment corresponding to owners  
4 who indicated opposition to the proposed improvement. The engineer shall forward  
5 the completed abstract to the Board.

6 SECTION 8.

7 6.635 Order for Improvement; Recording; Vacation of Order and Removal of  
8 Lien.

9 (1) If the abstract received by the Board pursuant to LCC 6.630 indicates that  
10 the total amount of proposed assessment corresponding to owners who indicated  
11 support for the proposed improvement is equal to or less than the total amount of  
12 proposed assessment corresponding to owners who indicated opposition to the  
13 proposed improvement, the proposed improvement shall, by order of the Board, be  
14 declared abandoned and no new petition may be filed for the improvement within a  
15 period of at least one year after the date of the order.

16 (2)(a) If the abstract received by the Board pursuant to LCC 6.630 indicates  
17 that the total amount of proposed assessment corresponding to owners who indicated  
18 support for the proposed improvement is greater than the total amount of proposed  
19 assessment corresponding to owners who indicated opposition to the proposed  
20 improvement, the Board may, by order describing the land to be assessed, direct the  
21 improvement to be made by contract, or by force account. If by contract, it shall be

1 awarded in the same manner as provided for other contracted county road  
2 improvements.

3 (b) The order for the improvement shall be recorded by the Lincoln County  
4 Clerk. The recorded order is notice that the land described in the order is subject to a  
5 lien of an assessment for the cost of the improvement, in an amount to be determined  
6 later by an order of the Board. The Lincoln County Clerk shall indorse upon the order  
7 the date of the filing thereof, and shall record and index the same in a lien docket in the  
8 office of the county clerk.

9 (c) If the proposed improvement described in the order is not commenced  
10 within two years after the order for the improvement is recorded, the Board may by a  
11 new order vacate its former order for the proposed improvement. The Board shall  
12 record with the Lincoln County Clerk the order vacating the former order for the  
13 proposed improvement. Thereupon the land described shall be free of such lien and the  
14 effect of the former order. The Lincoln County Clerk shall indorse upon the new order  
15 the date of the filing thereof, and shall record and index the same in the lien docket  
16 referred to in paragraph (b) of this subsection.

17 SECTION 9.

18 6.640 Engineer to Compile Improvement Cost; Source of Payment;  
19 Reimbursement of Source; Additional Work.

20 (1) After the improvement has been made, inspected by the engineer and  
21 accepted by the Board, the engineer shall compile the total cost of the improvement.

1     **When compiling the total cost of the improvement, the engineer may add the actual**  
2     **and estimated future costs for engineering and administration. Where the**  
3     **improvement includes the construction and installation of lateral sewers, street mains**  
4     **or similar facilities, the engineer shall separately compile the total cost of those**  
5     **improvements.**

6             **(2) Payment of the cost of the improvement other than for the construction and**  
7     **installation of lateral sewers and street mains or similar facilities shall be made from**  
8     **the general road funds or from any funds available for the construction or**  
9     **improvement of county roads. Payment of the cost of the construction and installation**  
10    **of lateral sewers and street mains or similar facilities shall be made from any funds**  
11    **available to the county for such improvements.**

12            **(3) The funds expended for the improvement shall be reimbursed or the**  
13    **improvement warrants shall be retired to the extent of the proceeds of an assessment**  
14    **against the land benefited by the improvement, but no assessment shall be made**  
15    **against any operating railroad right of way without the consent of the owner thereof.**  
16    **Each landowner shall be assessed a portion of the cost of the improvement in the**  
17    **manner proposed in the petition pursuant to LCC 6.615(3), unless the Board otherwise**  
18    **directs a different method of assessment.**

19            **(4) All of the cost of improvements within intersections connected with any**  
20    **improvement under LCC 6.605 to 6.660 may be borne by the county.**

1 (5) Unless notified to the contrary by the owner prior to the acceptance of bids  
2 for improvements under LCC 6.605 to 6.660, an existing driveway shall be  
3 reconstructed to the property line to conform with the new grade.

4 SECTION 10.

5 **6.642 Allocation of Costs of Sidewalk or Curb Construction and Other**  
6 **Improvements.**

7 Notwithstanding any provision to the contrary in LCC 6.605 to 6.660, the cost of  
8 construction of sidewalks under those sections shall be assessed in proportion to the  
9 front footage of the land or otherwise, as provided in those sections, to the owners of  
10 land abutting on the side of the street or road on which the sidewalks are constructed  
11 and fronting on such sidewalks. The cost of construction of all other improvements  
12 under those sections shall be assessed, in the manner provided in those sections, to the  
13 owners of land benefited by the improvement.

14 SECTION 11.

15 **6.645 Engineer to Ascertain Assessment; Hearing on Objections; Board Order.**

16 (1) The engineer shall ascertain the amount of the assessment against each  
17 parcel of land assessed for the improvement and report the same to the Board.

18 (2) The Board by order shall thereupon set the time, not less than 30 days after  
19 the filing of the report, and place for a hearing of objections to the assessments as fixed  
20 in the report of the engineer.

1           (3) Not less than 10 days prior to the date of the hearing, the engineer shall mail  
2 to the owner of each parcel of land proposed to be assessed, at the address of the owner  
3 as shown on the petition or on the latest tax roll of the county, a written notice of the  
4 time and place for the hearing of objections and of the amount of the proposed  
5 assessment against the land of the owner.

6           (4) After hearing objections, the Board shall by order find and determine from  
7 the evidence submitted the amount of assessment against each individual parcel of  
8 land.

9           SECTION 12.

10          **6.650 Certification of Assessment; Recording Order; Lien.**

11          (1) The Board shall certify a list and description of the ownership, stating the  
12 amount of assessment against each individual parcel of land, and shall record the order  
13 with the Lincoln County Clerk, who shall indorse thereon the date of the filing thereof  
14 and record and index it in the lien docket referred to in LCC 6.635(2).

15          (2) The assessments and interest are a lien upon the land against which the same  
16 are assessed from the date of the filing with the Lincoln County Clerk of the order of  
17 the Board for the improvement, as provided in LCC 6.635. Each parcel of land is  
18 deemed to be benefited by the improvement to the full amount of the assessment levied  
19 thereon. No transfer, sale or division of any such parcel, or change in the legal  
20 description thereof, in any way divests the lien from the original parcel and the whole  
21 thereof. Failing to enter the name of the owner or a mistake in the name of the owner

1 does not in any way render void any assessment and does not in any way affect the lien  
2 on the land described. The lien has priority over all other liens and encumbrances  
3 whatsoever, except tax liens.

4 (3) Upon payment of the assessment in full, the Board shall satisfy the same by a  
5 notation in the lien docket referred to in LCC 6.635(2), and the parcel of land charged  
6 with such assessment is thereby discharged from the lien.

7 **SECTION 13.**

8 **6.655 When Assessment Due, Payable and Delinquent; Application of Other**  
9 **Statutes.**

10 (1) Except as provided in subsection (2) of this section, 30 days after the  
11 assessment is certified, the entire amount against each parcel of land shall be due and  
12 payable at the office designated by the Board and, if not so paid, shall be delinquent  
13 from that date and shall bear compound interest at a rate established by the Board.

14 (2) The owner of property assessed under LCC 6.605 to 6.660 shall have the  
15 right to apply for installment payment of the assessment as provided in ORS 223.210.

16 (3) Except as otherwise provided in this section, the provisions of ORS 223.205  
17 and 223.210 to 223.314 (Bancroft Bonding Act) and 223.770 relating to the assessment  
18 of property benefited by public improvements and to the issuance of bonds and other  
19 obligations for the cost of the improvements shall apply in so far as practicable and  
20 applicable in relation to the assessment by counties of the cost or any portion of the  
21 cost of improvements against the property benefited in accordance with LCC 6.605 to

1 6.660 and to the issuance of bonds and other obligations by the county. However,  
2 notwithstanding the provisions of ORS 223.295, in issuing bonds and other obligations  
3 under the provisions of this section, the county may incur indebtedness to an amount  
4 not exceeding .0375 of the latest real market valuation of the county.

5 (4) Where, in ORS 223.205 to 223.314 and 223.770, officials of governmental  
6 units are referred to, the corresponding officials of counties where applicable and  
7 unless otherwise designated by charter shall perform the required functions

8 SECTION 14.

9 6.660 Delinquent List; Execution and Sale.

10 (1) One year from the date an assessment for improvements under LCC 6.605 to  
11 6.660 is delinquent, or, in case the assessment has been spread in semiannual  
12 installments, one year from the date any semiannual installment of the assessment is  
13 delinquent, the Board shall prepare a delinquent list of all assessments not wholly paid.  
14 The list shall contain a description of the land, the name of the person to whom  
15 assessed and the amount of the assessment and interest due.

16 (2) The Board shall transmit the list to the Lincoln County Clerk, who shall  
17 issue a writ of execution thereon, directed to the Lincoln County Sheriff.

18 (3) The Lincoln County Sheriff shall proceed to collect the unpaid assessments  
19 named in the list by advertising and selling each parcel of land in the manner provided  
20 by law for the sale of real property on execution, but no parcel shall be sold for a sum

1 less than the amount of the unpaid assessment plus interest thereon and the cost of  
2 advertising and sale.

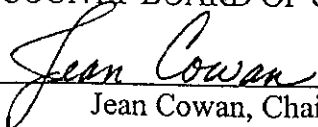
3 SECTION 15.

4 (1) This Ordinance being necessary for the immediate preservation of the public peace,  
5 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon  
6 its passage.

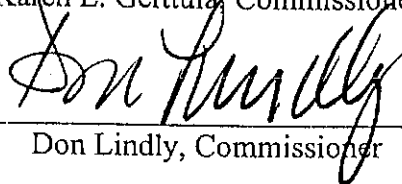
7 (2) This Ordinance applies only to improvement proceedings initiated by petition filed  
8 after the effective date of this Ordinance.

DATED this 18<sup>th</sup> day of October, 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