

**BEFORE THE BOARD OF COMMISSIONERS**  
**FOR LINCOLN COUNTY, OREGON**

**Ordinance # 529**

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2 **RELATING TO CHAPTER 3 LINCOLN COUNTY BUILDING CODE ADOPTION OF STATE AND**  
3 **SPECIALTY CODES; POWERS AND DUTIES OF BUILDING OFFICIAL; PERMITS AND STANDARDS;**  
4 **VIOLATION ENFORCEMENT AND CIVIL PENALTIES; APPEALS**

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6 Findings:

7 WHEREAS, ORS 203.035(1) allows the Lincoln County Board of Commissioners the  
8 power by ordinance to exercise authority within the County over matters of County concern, to  
9 the fullest extent allowed by the Constitutions and laws of the United States and of this State;  
10 and

11 WHEREAS, the Lincoln County Board of Commissioners finds that Chapter 3 of the  
12 Lincoln County Code: Building Code should be updated with regards to clearly adopting the  
13 State and Specialty Codes, the Powers and Duties of the Building Official, Building Permits and  
14 Standards, Violation Enforcement and Civil Penalties and the Appeal process therein; and

15 WHEREAS, these updates will provide clarity with regards to the Building Code and  
16 added protections to Lincoln County residents and visitors.

17 The Lincoln County Board of Commissioners ordains as follows:

18 **SECTION 1 AMENDMENTS**

19 Chapter 3 of the LCC is amended as outlined in Exhibit "A", which is attached hereto  
20 and incorporated herein by reference.

21

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New sections are in **boldface** type.

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225 West Olive Street, Room 110  
Newport, Oregon 97365  
(541) 265-4108

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SECTION 2 SEVERABILITY

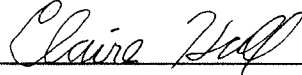
The sections, subsections, paragraphs and clauses of this Ordinance, including Exhibit “A”, are severable. The invalidity of one section, subsection, paragraph or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3 EFFECTIVE DATE – EMERGENCY CLAUSE

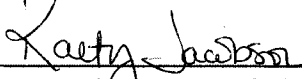
In accordance with ORS 203.045, this Ordinance was first read and presented on October 19, 2022 and the second reading occurring today, November 2, 2022, and the Board finding that this Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance shall take effect upon its passage.


DATED this 2nd day of November, 2022.

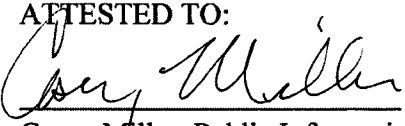
LINCOLN COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Claire Hall, Chair

  
\_\_\_\_\_  
Doug Hunt, Commissioner

  
\_\_\_\_\_  
Kaety Jacobson, Commissioner

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Brian Gardner, Assistant County Counsel

ATTESTED TO:  
  
\_\_\_\_\_  
Casey Miller, Public Information Officer

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1 **EXHIBIT "A"**

2 **CHAPTER 3**

3 **Building Code**

4 **ADOPTION OF BUILDING CODE**

- 5 **3.005** **Definitions**  
6 **3.010** **Adoption of the State Building Code as the Lincoln County Building Code**  
7 **3.012** **Additional Specific Adoption of the State Electrical Code**  
8 **3.014** **Powers and Duties of Building Official**

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11 **PERMITS AND STANDARDS**

- 12 **3.020** **Permits Required**  
13 **3.025** **Standards Required**  
14 **3.030** **Fees for Permits**

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16 **ENFORCEMENT AND PENALTIES**

- 17 **3.032** **Violation Enforcement and Civil Penalties**

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19 **APPEALS**

- 20 **3.075** **Appeals**  
21

22 **EROSION CONTROL**

- 23 **3.100** **Definitions for LCC 3.100 through 3.195**  
24 **3.105** **Application of LCC 3.100 to 3.195**  
25 **3.110** **Adoption of Uniform Building Code Appendix Chapter 33**  
26 **3.115** **Revisions to Uniform Building Code Appendix Chapter 33**  
27 **3.120** **Erosion Prevention and Control Findings**  
28 **3.125** **Purpose and General Requirement of LCC 3.100 to 3.195**  
29 **3.130** **Erosion Prevention and Control Plan Required**  
30 **3.135** **Submission of Erosion Control Plan**  
31 **3.140** **Review and Approval**  
32 **3.145** **Design and Operation Standards and Requirements**  
33 **3.150** **Maintenance of Control Measures**  
34 **3.155** **Hazards on Private Property**  
35 **3.160** **Review of Engineer Decisions**  
36 **3.165** **Education**  
37 **3.170** **Intergovernmental Agreement for Administration of LCC 3.100 to 3.195**  
38 **3.175** **Comparative Table for Lincoln City and County Ordinances**  
39 **3.195** **Violation**  
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- (c) The Oregon Plumbing Specialty Code, as adopted by and together with OAR Chapter 918, Division 750 through Division 780.
- (d) The Oregon Residential Specialty Code, as adopted by and together with OAR Chapter 918, Division 480.
- (e) The Manufactured Dwelling Installation Rules, as adopted by and together with OAR Chapter 918, Division 500 through Division 520, including the Oregon Manufactured Dwelling Standard.
- (f) The Oregon Electrical Specialty Code, as adopted by and together with OAR Chapter 918, Divisions 305 & 309.
- (g) The sections, appendices, or provisions of the Oregon Fire Code, as specifically referenced from the State Building Code.
- (h) The Oregon Recreation Parks and Organizational Camps rules, OAR Chapter 918, Division 650. [1995 o.352 § 2]

~~in accordance with OAR 918 300 140(1), Lincoln County specifically hereby adopts the State of Oregon Electrical Specialty Code as adopted by the Building Codes Division Electrical Board in OAR 918 290 010 to 918 290 140, and the electrical provisions of the State of Oregon One and Two Family Dwelling Code as adopted by the Building Codes Division in OAR 918 480 000 to 918 480 010.~~

~~———— (2) In addition to, and not in lieu of, the provisions of LCC 3.020 and 3.025, in accordance with OAR 918 300 140(2), pursuant to ORS 479.550(1) and except as otherwise provided by ORS 479.540 or other applicable state law, no person shall work on any new electrical installation for which a permit has not been issued by the Building Official.~~

~~———— (3) In accordance with OAR 918 300 140(3), in addition to any other authority and power granted to the Building Official, except where inconsistent with other provisions of law, the Building Official may enforce the provisions of the specialty codes against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The Building Official may conduct an investigation, take sworn testimony, subpoena persons and records, order corrective action, and issue an order to stop all or any part of the work under the applicable specialty code.~~

~~———— (4) In accordance with OAR 918 300 140(5), minor labels are authorized for minor installations identified by the State of Oregon Building Codes Division Electrical Board. The provisions of OAR 918 310 010 to 918 310 100 are adopted by reference as the requirements and procedures for the Building Official.~~

~~———— (5) In accordance with OAR 918 300 140(6), temporary permit requirements and procedures adopted by the Building Codes Division Electrical Board in OAR 918 260 265 are adopted by reference as the requirements and procedures for the Building Official. Holiday and after hours notices to the Building Official can be given by facsimile or recording device at telephone numbers available from the Building Official.~~

~~———— (6) In addition to, and not in lieu of, the provisions of LCC 3.030, in accordance with OAR 918 300 140(7), the electrical permit fees and method of computation adopted by the Building Codes Division Electrical Board in OAR 918 260 210 to 918 260 260 are adopted by reference as the electrical permit fees and method of computation for the Building Official. In addition, a plan review charge shall be a percentage of the electrical permit fee as determined by the Building Official.~~

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1           **3.014 Powers and Duties of Building Official**

2           (1) The Building Official is hereby authorized and directed to enforce all the provisions  
3 of the Lincoln County Building Code. For such purposes, the Building Official shall have the  
4 powers of a law enforcement officer.

5           (2) The Building Official shall have the power to render interpretations of the Lincoln County  
6 Building Code and to adopt and enforce rules and supplemental regulations to clarify the application of its  
7 provisions. Such interpretations, rules and regulations shall be in conformance with the intent and  
8 purpose of the Lincoln County Building Code.

9           **(3) The Building Official may appoint deputies and other employees to carry out functions**  
10 **of Lincoln County Building Codes with the approval of the Planning Director. References to the**  
11 **Building Official shall include the Building Officials appointed deputies and other employees of the**  
12 **agency.**

13           **(4) When the Building Official deems it desirable or necessary to make an inspection to**  
14 **enforce the provisions of the Building Code, or when the Building Official has reasonable cause to**  
15 **believe that there exists in a building or upon a premises a condition which is contrary to or in**  
16 **violation of the Building Code, or which otherwise makes the building or premises unsafe,**  
17 **dangerous, or hazardous, the Building Official may enter the building or premises at reasonable**  
18 **times to inspect or to perform the duties imposed by the Building Code; provided that if such**  
19 **building or premises be occupied that credentials be presented to the occupant and entry requested.**  
20 **If such building or premises is unoccupied, the Building Official shall first make a reasonable effort**  
21 **to locate the owner or other person having charge or control of the building or premises and**  
22 **request entry. If entry is refused, the Building Official shall have recourse to the remedies provided**  
23 **by law to secure entry.**

24           **(5) Whenever any work is being done contrary to the provisions of the Building Code, or**  
25 **other pertinent laws or ordinances implemented through the enforcement of the Building Code, the**  
26 **Building Official may order the work stopped by notice, in writing, served on any persons**  
27 **engaged in the doing or causing such work to be done, and any such persons shall forthwith stop**  
28 **such work until authorized by the Building Official to proceed with work.**

29           **(6) The Building Official shall have the authority to disconnect fuel-gas utility service, or**  
30 **energy supplies to a building, structure, premises or equipment regulated by the Building Code, in**  
31 **case of emergency when necessary to eliminate an immediate hazard to life or property. The**  
32 **Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the**  
33 **building, structure or premises of the decision to disconnect prior to taking such action, and shall**  
34 **notify such serving utility, owner and occupant of the building, structure or premises, in writing, of**  
35 **such disconnection immediately thereafter.**

36           **(a) Persons shall not make connections from an energy, fuel or power supply,**  
37 **nor supply energy or fuel to any equipment, regulated by the Building Code, which has**  
38 **been disconnected or ordered to be disconnected by the Building Official, or the use of**  
39 **which has been ordered to be discontinued by the Building Official, until the Building**  
40 **Official authorizes the reconnection and use of such equipment.**

41           **(7) Whenever any building or structure or equipment therein, regulated by the Building**  
42 **Code, is being used contrary to the provision of the Building Code, the Building Official may order**  
43 **such use discontinued and the structure or portion thereof vacated, by notice served on any person**  
44 **causing such use to be discontinued. Such person shall discontinue the use within the time**

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1 prescribed by the Building Official after receipt of such notice to make the structure or portion  
2 thereof comply with the requirements of the Building Code. [2001 o.417 § 2]

3 3.015 [repealed 1993 o.320 § 7]

4  
5 **PERMITS AND STANDARDS**  
6

7 **3.020 Permits Required**

8 ~~(1) No person shall engage in any activity for which the Lincoln County Building Code requires a~~  
9 ~~permit unless that person has first obtained a permit for that activity from the Building Official. Except as~~  
10 ~~otherwise provided by law, no building or structure regulated by the Building Code shall be~~  
11 ~~erected, constructed, enlarged, altered, repaired, moved, improved, or converted unless a separate~~  
12 ~~permit for each building or structure has first been obtained from the Building Official.~~

13 (a) No person shall construct, install, enlarge, alter, repair or replace any retaining  
14 wall which is four (4) foot in height and supporting a regulated building or protecting an adjoining  
15 property, unless a permit has first been obtained for the retaining wall from the Building Official.  
16

17 (2) The application, plans, specifications, computations and other data filed by an  
18 applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by  
19 other departments of this jurisdiction to verify compliance with any applicable laws under their  
20 jurisdiction. If the Building Official finds that the work described in application for a permit and  
21 the plans, specifications and other data filed therewith conform to the requirements of the  
22 Building Code and other pertinent laws and ordinances, and that the fees have been paid, the  
23 Building Official shall issue a permit therefor to the applicant.

24 (3) When the Building Official issues the permit where plans are required, the Building  
25 Official shall endorse, in writing, or stamp the plans and specifications. Such approved plans and  
26 specifications shall not be changed, modified and altered without authorization from the Building  
27 Official, and all work regulated by the Building Code shall be done in accordance with the  
28 approved plans.

29 (4) The Building Official may issue a permit for the construction of part of a building or  
30 structure before the entire plans and specifications for the whole building or structure have been  
31 submitted or approved; provided adequate information and detailed statements have been filed  
32 complying with all pertinent requirements of the Building Code. The holder of a partial permit  
33 shall proceed without assurance that the permit for the entire building or structure will be  
34 granted.

35 (5) One set of approved plans, specifications and computations shall be retained by the  
36 Building Official for the period of time as required by Oregon laws, OAR Chapter 166, from the  
37 date of completion of the work covered therein, and one set of approved plans and specifications  
38 shall be returned to the applicant, and the returned set shall be kept on the site of the building or  
39 work at all times during which the work authorized thereby is in progress. Retention of all  
40 records shall be as set forth in Oregon laws under OAR 166-150-0020 and as the same is from  
41 time-to-time amended.

42 (6) No permit shall be issued if the parcel of land or the use of the land on which the  
43 building, structure, or equipment is to be placed, erected, altered, equipped, or used, is in violation  
44 of any city or county ordinance or code.

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1 (a) The issuance or granting of a permit or approval of plans, specifications, and  
2 computations shall not be construed to be a permit for, or an approval of, any violation of  
3 any of the provisions of the Building Code, or of any other city or county ordinance or code.  
4 Permits presuming to give authority to violate or cancel the provisions of the Building Code  
5 or other city or county ordinance or code shall not be valid.

6 (b) The issuance of a permit based on plans, specifications and other data shall not  
7 prevent the Building Official from thereafter requiring the correction of errors in the plans,  
8 specifications and other data, or from preventing building operations being carried on  
9 thereunder when in violation of the Building Code or any city or county ordinance or code.

10  
11 (7) Expiration and refunds shall be in accordance with policy set by the Building Official  
12 and approved by the Board of Commissioners.

13 (8) Whenever any work for which a permit is required by the Building Code, including all  
14 specialties, had been commenced without first obtaining said permit, a special investigation shall be  
15 made before a permit may be issued for such work.

16 (a) An investigation fee, in addition to the permit fee, may be collected whether or  
17 not a permit is then or subsequently issued. The payment of such investigation fee shall not  
18 exempt any person from compliance with all other provisions of the Building Code nor  
19 from any penalty prescribed by law.

20  
21 (9) A permit issued to one person or fine levied may not be transferred to another, except  
22 when written consent from the original permit holder and new transferee are provided and  
23 approved by the Building Official, except that electrical permits are not transferable under any  
24 circumstances. [1993 o.320 § 4]

### 25 3.025 Standards Required

26 (1) No person shall perform any activity for which the Lincoln County Building Code establishes a  
27 standard unless the performance of that activity meets or exceeds that standard.

28 (2) The erection, construction, reconstruction, alteration, maintenance, installation, or use  
29 of any building, structure, manufactured dwelling, or mobile home in violation of the Building  
30 Code shall be deemed a nuisance and may be enjoined, abated or removed. [1993 o.320 § 5]  
31

### 32 3.030 Fees for Permits

33 Fees for permits issued pursuant to this chapter shall be as provided in the Fee Schedule for  
34 Departments of Lincoln County. If a fee is not addressed in the Fee Schedule, the fee shall be as provided in  
35 the Lincoln County Building Code. [1993 o.313 §5; 1993 o.320 §6; 2001 o.417 §3]  
36

## 37 ENFORCEMENT AND PENALTIES

### 38 3.032 Violation Enforcement and Civil Penalties

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1 (1) No person shall erect, construct, enlarge, alter, move, improve, remove, convert or  
2 demolish, equip, use, occupy or maintain a building structure or cause the same to be done,  
3 contrary to or in violation of this chapter or the State Building Code.

4 (a) Violation of a provision of this chapter shall be subject to a Civil Penalty not  
5 exceeding \$5,000.00 for a single violation or \$1,000.00 per day for a continuing violation and  
6 shall be processed in accordance with the procedures set forth in this chapter.

7 (b) Each day that a violation of a provision of this chapter exists constitutes a separate  
8 violation.

9 (c) The penalties and remedies provided in this chapter are not exclusive and are in  
10 addition to other penalties and remedies available to Lincoln County Building Code under  
11 other ordinance or law.

12 (d) Any appeal filed to the Oregon Building Codes Division within thirty (30) days of  
13 the original notification of violation shall stay these violation proceedings pending the date of  
14 final decision by the Division.

15  
16 (2) In addition to and not in lieu of any other enforcement mechanism authorized upon a  
17 determination of the Building Official that a person has violated a provision of this chapter or rule  
18 adopted thereunder, the Building Official may impose upon the violator, and/or any other  
19 responsible person, an administrative civil penalty as provided by this chapter. For purposes of  
20 this chapter, responsible person includes the violator, and if the violator is not the owner of the  
21 building or property at which the violation occurs, may include the owner as well.

22 (a) Prior to imposing an administrative civil penalty under this chapter, the  
23 Building Official shall pursue reasonable attempts to secure voluntary correction, failing  
24 which the Building Official may issue a notice of civil violation to one or more of the  
25 responsible persons to correct the violation. Except where the Building Official determines  
26 that the violation poses an immediate threat to health, safety, environment, or public  
27 welfare, the time for correction shall not be less than thirty (30) days from the date of initial  
28 written notification.

29 (1) If the required correction has not been completed by the date or time  
30 specified in the order, the Building Official may impose a civil penalty on each  
31 person to whom an order to correct was issued.

32 (2) Notwithstanding subsection (a)(1) above, the Building Official may  
33 impose a civil penalty, even if compliance has been obtained, where the Building  
34 Official determines that the violation was done knowingly or intentionally, or was a  
35 repeat of the same or similar violation.

36 (b) In imposing a penalty authorized by this Section, the Building Official shall  
37 consider:

38 (1) The person's past history in taking all feasible steps or procedures  
39 necessary or appropriate to correct the violation;

40 (2) Any prior violations of statutes, rules, orders, and permits;

41 (3) The gravity and magnitude of the violation;

42 (4) Whether the violation was repeated or continuous;

43 (5) Whether the cause of the violation was intentional or negligent.

44 (c) The notice of civil penalty shall include all information required by Oregon law.  
45 The notice served by mail shall be deemed received for purpose of any time computations  
46 hereunder three (3) days after the date mailed if to an address within Oregon, and seven (7)

1 days after the date mailed if to an address outside of Oregon. The notice shall either be  
2 served by personal service or shall be sent by registered or certified mail.

3 (d) A civil penalty imposed hereunder shall become final upon expiration of the  
4 time for filing an appeal, unless the responsible person appeals the penalty to Lincoln  
5 County pursuant to, and within the time limits established. If the responsible person  
6 appeals the civil penalty, the penalty shall become final, or deemed null and void upon final  
7 decision of the appointed Hearings Officer.

8 (e) Imposition of an administrative civil penalty does not relieve the requirement of  
9 code compliance or an investigation fee. Each day the violator fails to remedy the code  
10 violation shall constitute a separate violation that may result in additional civil penalties up  
11 to \$1,000.00 per day.

12 (f) Failure to pay a penalty imposed hereunder within fifteen (15) days after the  
13 penalty becomes final, as provided in subsection (d), shall constitute a violation of this  
14 chapter. Each day the penalty is not paid shall constitute a separate violation, with  
15 additional civil penalties up to \$1,000.00 per day. The Building Official also is authorized to  
16 collect the penalty by any administrative or judicial action or proceeding authorized by  
17 including, but not limited to, a lien on the property as authorized by subsection (g) below.  
18 Any expenses incurred in collection will be added to the administrative penalty.

19 (g) If an administrative civil penalty remains unpaid thirty (30) days after such  
20 penalty becomes final, the Building Official may assess the property the full amount of the  
21 unpaid fine and shall enter such an assessment as a lien in the docket of liens for the county  
22 in which the real property is situated. At the time such an assessment is made, the Building  
23 Official shall notify the responsible person that the penalty has been assessed against the  
24 real property upon which the violation occurred and has been entered in the docket of  
25 county liens. The lien shall be enforced in the same manner as liens established by law. The  
26 interest shall commence from the date of entry of the lien in the lien docket.

27 (h) In addition to enforcement mechanisms authorized elsewhere in this chapter,  
28 failure to pay an administrative civil penalty, imposed pursuant to subsection a. of this  
29 Section, shall be grounds for withholding issuance of requested permits, or revocation or  
30 suspension of other permits by the responsible person on the same property.  
31

32 3.035 through 3.065 [1982 o.171 §1; 1993 o.313 §6; repealed 1993 o.320 §7]

33  
34 **APPEALS**  
35

36 **3.075 Appeals**

37 ~~(1) The Lincoln County Planning Commission established pursuant to LCC chapter 1 is hereby also~~  
38 ~~designated as the Lincoln County Building Codes Appeals Board. Any person aggrieved by a decision of the~~  
39 ~~Building Official may appeal that decision to the Building Codes Appeals Board, which shall apply the~~  
40 ~~provisions of the Lincoln County Building Code to its decisions. The procedures and fees for appeals made~~  
41 ~~pursuant to this subsection shall be the same as the procedures and fees for appeals from decisions of the~~  
42 ~~Planning and Development Department as provided in LCC chapter 1. Any appeal of an inspector~~  
43 ~~decision shall be reviewed by the Building Official. The appeal may be oral or in writing. There is~~

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1 no cost for this initial appeal and a decision shall normally be rendered within forty-eight (48)  
2 hours of the receipt of the appeal.

3 (2) Any person aggrieved by a decision of the Building Codes Appeals Board may appeal that  
4 decision to the appropriate state advisory board in accordance with ORS 455.690.

5 (3) Lincoln County shall appoint one or more Hearings Officers or Panel, who may be any  
6 person other than the Building Official, to hear any appeals to the Building Official's decision  
7 concerning administrative civil penalties or permit suspensions.

8 (4) A person aggrieved by an administrative action of the Building Official, taken pursuant  
9 to this chapter, may, within fifteen (15) days after the date of notice of the action, appeal, in writing  
10 to the Hearings Officer. The appeal shall be accompanied by an appeal fee as established by  
11 Lincoln County and shall state: The appeal shall be accompanied by an appeal fee as established by  
12 Lincoln County through Resolution and shall state:

- 13 a. The name and address of the appellant;  
14 b. The nature of the determination being appealed;  
15 c. The reason the determination is incorrect; and  
16 d. What the correct determination of the appeal should be.

17 An appellant who fails to file such a statement within the time permitted waives the right to  
18 further appeal or objection, and the administrative action shall become final upon the date  
19 specified in the Notice. Except as provided in subsection (7) of this Section, the appeal fee is  
20 not refundable.

21 (5) If a notice of revocation of a permit is the subject of the appeal, the revocation  
22 does not take effect until final determination of the appeal. Notwithstanding this paragraph,  
23 an emergency suspension shall take effect upon the time stated within the notice of  
24 suspension. Unless, the appellant and Lincoln County agree to a longer period, an appeal  
25 shall be heard by the designated Hearings Officer within thirty (30) days of the receipt of the  
26 notice of intent to appeal. At least ten (10) days prior to the hearing, Lincoln County shall  
27 mail notice of the time and location thereof to the appellant.

28 (6) The Hearings Officer shall hear and determine the appeal on the basis of the appellant's  
29 written statement, any additional evidence deemed appropriate, the requirements of the State  
30 Building Code and this chapter. At the hearing, the appellant may present testimony and oral  
31 agreement personally or by counsel. The rules of evidence as used by the courts of law do not apply.

32 (7) The Hearings Officer shall issue a written decision within fifteen (15) days of the hearing  
33 date. The decision of the Hearings Officer after the hearing is final and may include a  
34 determination that the appeal fee be refunded to the applicant upon a finding that the appeal was  
35 not frivolous. [1994 o.350 § 2]  
36

## 37 EROSION CONTROL

### 38 3.100 Definitions for LCC 3.100 through 3.195

39 As used in LCC 3.100 through 3.195:

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

41 (2) "Engineer" means the Lincoln County Public Works Director and the Director's duly  
42 appointed designees.

43 (3) "Erosion" and "soil erosion" means the wearing away of the land surface by running

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1 water, wind, ice, or other geologic agents, including such processes as gravitational creep, and  
2 detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

3 (4) "Erosion Prevention and Control Manual" means the Erosion Prevention and Control  
4 Manual as approved and amended from time to time by resolution of the Board of  
5 Commissioners. Copies of the Manual shall be available for purchase from the Public Works  
6 Department.

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

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

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

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

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

19 (10) "Public Works Department" means the Lincoln County Public Works Department  
20 unless expressly identified as the Lincoln City Public Works Department.

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

23 (12) "Watercourse" means any established channel where water draining from a land area  
24 collects and flows on the ground surface. [2000 o.395 §2]

### 25 26 **3.105 Application of LCC 3.100 to 3.195**

27 The provisions of LCC 3.100 to 3.195 apply to all property lying within the boundaries of  
28 the Devils Lake Water Improvement District and outside of the city limits of the City of Lincoln  
29 City. [2000 o.395 §3]

### 30 31 **3.110 Adoption of Uniform Building Code Appendix Chapter 33**

32 Appendix Chapter 33 of the Uniform Building Code, 1994 Edition, a copy of which is on  
33 file and available for reference at the Public Works Department, is adopted by this reference,  
34 subject to the revisions set out in LCC 3.115. [2000 o.395 §4]

### 35 36 **3.115 Revisions to Uniform Building Code Appendix Chapter 33**

37 Revisions to Appendix Chapter 33 of the Uniform Building Code, 1994 Edition, shall be as  
38 follows:

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

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

5 "10. Emergency measures taken to clear roadways or to save endangered property; and

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

7 a. There is no interference, encroachment, or alteration to any natural drainage course to  
8 any public drainage improvement; and

9 b. There is no apparent danger to any property.

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

12 (3) Section 3309.2 (Application) is amended by adding the following requirements:

13 "1. Applications shall be submitted to the Lincoln City Public Works Department.

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

18 (4) The criterion in section 3309.3 (Grading Designation) identifying grading that must  
19 be "engineered grading," as distinguished from grading that may be "regular grading," shall be  
20 grading involving 2,000 or more cubic yards rather than grading involving in excess of 5,000  
21 cubic yards.

22 (5) Section 3309.9 (Insurance) is amended by adding the following requirement:

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

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

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

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

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

35 "For any grading for which a permit is required, if the grading involves grading, paving,  
36 drainage and erosion control measures, or any of them, with a total cost in excess of \$100,000,  
37 the engineer shall require a bond in such form and amount as the engineer deems necessary to  
38 assure that the work, if not completed in accord with the approved plans and specifications, will  
39 be corrected to eliminate hazardous conditions. In lieu of a surety bond, the applicant may file a  
40 cash bond or instrument of credit, in a form approved by the engineer, in an amount equal to that  
41 which would be required in the surety bond. [2000 o.395 §5]

1           **3.120 Erosion Prevention and Control Findings**

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

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

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

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

12          (5) Sediment limits the use of bays, lakes, and waterways for most beneficial purposes,  
13 destroys fish and other desirable aquatic life, leads to excessive growth of undesirable aquatic  
14 plants, and is costly and difficult to remove. [2000 o.395 §6]

15  
16           **3.125 Purpose and General Requirement of LCC 3.100 to 3.195**

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

20          (2) No land disturbing activity shall be conducted so as to cause slides of mud, soil, rock,  
21 vegetative material, or any erosional or depositional material to be pushed onto, deposited upon,  
22 or gravitated to the property of another, either public or private. [2000 o.395 §7]

23  
24           **3.130 Erosion Prevention and Control Plan Required**

25           **(1) Plan Required**

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

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

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

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

34           **(2) Exceptions**

35          The following activities are exempt from the requirements of subsection (1) of this  
36 section:

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

38           (b) Maintenance of public infrastructure by state or local government agencies. State and  
39 local government agencies, however, shall implement best management practices to prevent  
40 erosion and control sediment; and shall make regular inspections to ascertain that erosion and  
41 sediment control measures consistent with best management practices have been implemented  
42 and are being effectively maintained.

43           (c) Emergency measures taken to clear roadways or to save endangered property.

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1 (d) Forest practices undertaken in compliance with the Oregon Forest Practices Act and  
2 administrative rules adopted thereunder. [2000 o.395 §8]  
3

### 4 **3.135 Submission of Erosion Control Plan**

5 In the event an erosion control plan is required by LCC 3.130, the owner of the land or  
6 the owner's agent shall submit an erosion control plan to the Lincoln City Public Works  
7 Department on a site plan at a scale sufficient to indicate the nature and extent of the work. The  
8 plan shall be prepared in accordance with LCC 3.100 through 3.195, using methods and  
9 standards shown in the Erosion Prevention and Control Manual. If an engineered grading plan is  
10 required for the project under LCC 3.110 and 3.115, then the erosion control plan shall be  
11 prepared by the same person who prepared the engineered grading plan. Each erosion control  
12 plan shall include a certification that any land disturbing activity will be in accord with the  
13 submitted and approved erosion control plan. The erosion control plan shall contain the  
14 following information:

15 (1) The location of the development site showing adjacent roads and streets and the  
16 development site boundaries.

17 (2) Indication of north direction.

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

20 (4) Areas where existing vegetative cover will be retained and measures to protect  
21 vegetation from damage.

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

23 (6) Direction of surface water flows.

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

26 (8) Location of construction access driveways and designated vehicle parking areas.

27 (9) Location of soil stockpiles.

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

31 (11) A schedule of construction operations and phasing.

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

35 (13) The general slope characteristics of adjacent property. [2000 o.395 §9]  
36

### 37 **3.140 Review and Approval**

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

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

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

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1 (3) Disapprove the plan if the plan, either as submitted or with conditions, does not  
2 conform to the provisions of LCC 3.100 through 3.195. A disapproval shall indicate the appeal  
3 procedure provided for in LCC 3.100 to 3.195 and the procedure for submitting a revised erosion  
4 control plan. [2000 o.395 §10]  
5

### 6 **3.145 Design and Operation Standards and Requirements**

7 All land disturbing activities that are subject to the erosion control plan approval  
8 requirements of LCC 3.130 shall be subject to the following standards and requirements:

9 (1) Prior to initiation of land disturbing activities, on-site filter barriers, including filter  
10 fences, straw bales, or equivalent measures, shall be constructed and functional to control off-site  
11 runoff, as specified in the Erosion Prevention and Control Manual. Vegetated strips with a  
12 minimum width of 25 feet may be used as an alternative only where runoff in sheet flow is  
13 expected.

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

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

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

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

24 (a) Construction vehicles shall be kept out of the stream channel to the maximum extent  
25 possible. Where construction crossings are necessary, temporary crossings shall be constructed  
26 of non-erosive material, such as rip-rap or gravel.

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

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

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

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

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

41 (7) All temporary erosion and sediment control measures shall be disposed of within 30  
42 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped  
43 sediment and other disturbed soils resulting from the disposed of temporary measures shall be

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1 permanently stabilized to prevent further erosion and sedimentation. [2000 o.395 §11]  
2

3 **3.150 Maintenance of Control Measures**

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

9 (2) The engineer shall make regular inspections to ascertain that erosion and sediment  
10 control measures as proposed in the erosion control plan have been implemented and are being  
11 effectively maintained. [2000 o.395 §12]  
12

13 **3.155 Hazards on Private Property**

14 If the engineer becomes aware or is notified of any land containing disturbed soil areas,  
15 or containing unprotected soil storage piles, creating erosion and sedimentation that affects  
16 property of another or is in violation of any provision of LCC 3.100 to 3.195, the engineer shall  
17 require the land owner to follow procedures and employ practices set out in LCC 3.100 to 3.195  
18 to control the erosion and sedimentation. The land owner shall follow the required procedures  
19 and employ the required practices. [2000 o.395 §13]  
20

21 **3.160 Review of Engineer Decisions**

22 A professional judgment decision made by the engineer under LCC 3.100 to 3.195 may  
23 be appealed by the owner, the owner's agent or representative, or any other person subject to the  
24 decision, to the Lincoln City Grading and Erosion Control Review Board. The appeal shall be  
25 submitted in writing to the Lincoln City Public Works Department and shall state the relevant  
26 facts and the basis for the appeal. The decision of the Review Board shall be rendered within 7  
27 days of an appeal, shall be consistent with the provisions of LCC 3.100 to 3.195, and shall not be  
28 subject to further appeal within the city or county government. A decision of the engineer shall  
29 be fully effective while an appeal is pending. [2000 o.395 §14]  
30

31 **3.165 Education**

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

36 (2) The county, in cooperation with the City of Lincoln City and the Devils Lake Water  
37 Improvement District, shall participate in an annual workshop on erosion prevention and  
38 sediment control. [2000 o.395 §15]  
39

40 **3.170 Intergovernmental Agreement for Administration of LCC 3.100 to 3.195**

41 The engineer may negotiate intergovernmental agreements between Lincoln County and  
42 the City of Lincoln City, and Lincoln County and the Devils Lake Water Improvement District,

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1 for administration of any part of LCC 3.100 to 3.195. Any intergovernmental agreement  
2 negotiated pursuant to this section shall be presented to the Board of Commissioners for review  
3 and approval. [2000 o.395 §16]  
4

5 **3.175 Comparative Table for Lincoln City and County Ordinances**

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

9	<u>Lincoln County Code Section</u>	<u>Lincoln City Ordinance Section</u>
10	3.100	12.08.040
11	3.105	none
12	3.110	12.08.010
13	3.115	12.08.020
14	3.120	12.08.030
15	3.125	12.08.050
16	3.130	12.08.060
17	3.135	12.08.070
18	3.140	12.08.080
19	3.145	12.08.090
20	3.150	12.08.100
21	3.155	12.08.110
22	3.160	12.08.120
23	3.165	12.08.140
24	3.170	none
25	3.175	none
26	3.195	12.08.130
27	[2000 o.395 §17]	
28		

29 **3.195 Violation**

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

32 (2) If the engineer determines that a violation of LCC 3.100 to 3.195 has occurred, the  
33 engineer may notify the owner of the land and the developer, general agent, architect, builder,  
34 contractor, or other person or entity who has participated in committing the violation, or any of  
35 them, to cease all further development until such time as the violation has been remedied, and the  
36 person or persons notified shall cease further development. If development continues in  
37 disregard of notice from the engineer, the county may seek an injunction to stop further  
38 development until the violation is remedied.

39 (3) If the engineer determines that a violation of LCC 3.100 to 3.195 has occurred, the  
40 engineer shall give written notice to the owner of the land and the developer, general agent,

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1 architect, builder, contractor, or other person or entity who has participated in committing the  
2 violation, or any of them, that a violation has occurred and that the violation must be remedied  
3 within a time specified. The amount of time to remedy the violation shall depend on the nature  
4 of the violation, the circumstance then existing, and whether an emergency exists. In the event of  
5 non-compliance within the time set by the engineer, the county may take remedial steps to cure  
6 the violation and charge the costs, fees, and expenses of the remedial action to the owner of the  
7 land. This shall include any expenses, costs, and fees paid by the county to third persons for  
8 labor and materials to remedy the violation. Charges made under this subsection shall be a lien  
9 against the real property on which the violation arises, and the County Clerk is authorized to  
10 record a memorandum of such charges immediately in the Lincoln County Book of Deeds and  
11 Mortgages. [2000 o.395 §18]  
12  
13

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