

# CHAPTER 3

## Building Code

### ADOPTION OF BUILDING CODE

3.005	Definitions
3.010	Adoption of the State Building Code as the Lincoln County Building Code
3.012	Additional Specific Adoption of the State Electrical Code
3.014	Powers and Duties of Building Official

### PERMITS AND STANDARDS

3.020	Permits Required
3.025	Standards Required
3.030	Fees for Permits

### APPEALS

3.075	Appeals
-------	---------

### EROSION CONTROL

3.100	Definitions for LCC 3.100 through 3.195
3.105	Application of LCC 3.100 to 3.195
3.110	Adoption of Uniform Building Code Appendix Chapter 33
3.115	Revisions to Uniform Building Code Appendix Chapter 33
3.120	Erosion Prevention and Control Findings
3.125	Purpose and General Requirement of LCC 3.100 to 3.195
3.130	Erosion Prevention and Control Plan Required
3.135	Submission of Erosion Control Plan
3.140	Review and Approval
3.145	Design and Operation Standards and Requirements
3.150	Maintenance of Control Measures
3.155	Hazards on Private Property
3.160	Review of Engineer Decisions
3.165	Education
3.170	Intergovernmental Agreement for Administration of LCC 3.100 to 3.195
3.175	Comparative Table for Lincoln City and County Ordinances
3.195	Violation

## **ADOPTION OF BUILDING CODE**

### **3.005 Definitions**

As used in this chapter:

(1) “Building Official” means the county employee and authorized assistants appointed by the Board pursuant to ORS 455.150 to administer the Lincoln County Building Code within Lincoln County.

(2) “Lincoln County Building Code” means the building and specialty codes adopted under LCC 3.010. [1982 o.171 §1; 1993 o.320 § 1]

### **3.010 Adoption of the State Building Code as the Lincoln County Building Code**

Lincoln County hereby adopts the State Building Code as defined in ORS 455.010 as the Lincoln County Building Code. The administration provisions contained in chapter 1 of the structural specialty code of the state uniform building code are adopted as the administrative provisions for the Lincoln County Building Code. [1983 o.196 §1; 1988 o.270 §1; 1993 o.320 §2; 1996 o.365 §1]

### **3.012 Additional Specific Adoption of the State Electrical Code**

(1) In addition to, and not in lieu of, the provisions of LCC 3.010, 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. [1995 o.352 § 2]

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

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

(2) The Building Official shall have the power to render interpretations of the Lincoln County Building Code and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of the Lincoln County Building Code. [2001 o.417 § 2]

**3.015** [repealed 1993 o.320 § 7]

## **PERMITS AND STANDARDS**

### **3.020 Permits Required**

No person shall engage in any activity for which the Lincoln County Building Code requires a permit unless that person has first obtained a permit for that activity from the Building Official. [1993 o.320 § 4]

### **3.025 Standards Required**

No person shall perform any activity for which the Lincoln County Building Code establishes a standard unless the performance of that activity meets or exceeds that standard. [1993 o.320 § 5]

### **3.030 Fees for Permits**

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

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

## **APPEALS**

### **3.075 Appeals**

(1) The Lincoln County Planning Commission established pursuant to LCC chapter 1 is hereby also designated as the Lincoln County Building Codes Appeals Board. Any person aggrieved by a decision of the Building Official may appeal that decision to the Building Codes Appeals Board, which shall apply the provisions of the Lincoln County Building Code to its decisions. The procedures and fees for appeals made pursuant to this subsection shall be the same as the procedures and fees for appeals from decisions of the Planning and Development Department as provided in LCC chapter 1.

(2) Any person aggrieved by a decision of the Building Codes Appeals Board may appeal that decision to the appropriate state advisory board in accordance with ORS 455.690. [1994 o.350 § 2]

## **EROSION CONTROL**

### **3.100 Definitions for LCC 3.100 through 3.195**

As used in LCC 3.100 through 3.195:

- (1) "Clearing" means any activity that removes vegetative ground cover.
- (2) "Engineer" means the Lincoln County Public Works Director and the Director's duly appointed designees.
- (3) "Erosion" and "soil erosion" means the wearing away of the land surface by running water, wind, ice, or other geologic agents, including such processes as gravitational creep, and detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
- (4) "Erosion Prevention and Control Manual" means the Erosion Prevention and Control Manual as approved and amended from time to time by resolution of the Board of Commissioners. Copies of the Manual shall be available for purchase from the Public Works Department.
- (5) "Excavation" means any act by which organic matter, earth, sand, gravel, rock, or any other material is cut into, dug, uncovered, removed, displaced, relocated, or bulldozed by a person, including the conditions resulting therefrom.
- (6) "Fill" means any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by a person to a new location, including the conditions resulting therefrom.
- (7) "Grading" means excavation or fill or any combination thereof.
- (8) "Land disturbing activity" means any clearing, grading, stripping, excavation, fill, or any combination thereof.
- (9) "Sedimentation" means the depositing of solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity.
- (10) "Public Works Department" means the Lincoln County Public Works Department unless expressly identified as the Lincoln City Public Works Department.
- (11) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of top soil.
- (12) "Watercourse" means any established channel where water draining from a land area collects and flows on the ground surface. [2000 o.395 §2]

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

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

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

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

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

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

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

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

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

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

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

b. There is no apparent danger to any property.

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

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

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

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

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

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

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

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

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

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

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

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

### **3.120 Erosion Prevention and Control Findings**

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

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

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

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

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

### **3.125 Purpose and General Requirement of LCC 3.100 to 3.195**

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

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

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

#### **(1) Plan Required**

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

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

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

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

#### **(2) Exceptions**

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

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

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

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

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

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

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

- (1) The location of the development site showing adjacent roads and streets and the development site boundaries.
- (2) Indication of north direction.
- (3) Any lakes, bays, rivers, streams, wetlands, channels, ditches, or other watercourses on and immediately adjacent to the development site.
- (4) Areas where existing vegetative cover will be retained and measures to protect vegetation from damage.
- (5) Accurate location, size, and shape of proposed and existing structures.
- (6) Direction of surface water flows.
- (7) Indication of slope steepness or existing and proposed contours at intervals of two feet or as approved by the engineer.
- (8) Location of construction access driveways and designated vehicle parking areas.
- (9) Location of soil stockpiles.
- (10) Type and location of temporary and permanent erosion and sediment control measures, such as, but not limited to, silt fencing, matting, straw bales, mulching, seeding, and sodding.
- (11) A schedule of construction operations and phasing.
- (12) The name, address, and telephone number of each of the owners of the land, the developer of the site, and the person responsible for placement and maintenance of temporary and permanent erosion control measures.
- (13) The general slope characteristics of adjacent property. [2000 o.395 §9]

### **3.140 Review and Approval**

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

- (1) Approve the plan, if the plan conforms to the provisions of LCC 3.100 through 3.195;
- (2) Approve the plan, subject to such reasonable conditions as may be necessary for the plan to conform to the provisions of LCC 3.100 through 3.195; or
- (3) Disapprove the plan if the plan, either as submitted or with conditions, does not conform to the provisions of LCC 3.100 through 3.195. A disapproval shall indicate the appeal

procedure provided for in LCC 3.100 to 3.195 and the procedure for submitting a revised erosion control plan. [2000 o.395 §10]

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposed of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation. [2000 o.395 §11]

### **3.150 Maintenance of Control Measures**

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

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

### **3.155 Hazards on Private Property**

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

### **3.160 Review of Engineer Decisions**

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

### **3.165 Education**

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

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

### **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. [2000 o.395 §16]

### 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
[2000 o.395 §17]	

### 3.195 Violation

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

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

(3) If the engineer determines that a violation of LCC 3.100 to 3.195 has occurred, the engineer shall give written notice to the owner of the land and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, or any of them, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend on the nature of the violation, the circumstance then existing, and whether an emergency exists. In the event of non-compliance within the time set by the engineer, the county may take remedial steps to cure the violation and charge the costs, fees, and expenses of the remedial action to the owner of the land. This shall include any expenses, costs, and fees paid by the county to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises, and the County Clerk is authorized to

record a memorandum of such charges immediately in the Lincoln County Book of Deeds and Mortgages. [2000 o.395 §18]