

TITLE 8

BUILDING CODE

CHAPTER 850

FILL AND EXCAVATION CODE

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Statutory References and Other Authorities

Legislative History of Chapter 850

A. GENERAL PROVISIONS

850.005 Title

This Chapter, LCC 850.001 to LCC 850.900, shall be known and may be cited as the "Linn County Fill and Excavation Code" or simply as the "Fill and Excavation Code."

[Adopted 82-095 §1.1 eff 9/29/82; amd 99-058 §10 eff 3/3/99]

850.002 Statutory authorization

The Legislature of the State of Oregon has in ORS 203.035 granted power to counties to exercise authority within the county over matters of county concern, by ordinance.

[Adopted 82-095 §1.2 eff 9/29/82]

850.003 Statement of purpose

It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to improperly placed fill and uncontrolled excavation activities by:

(A) Establishing standards for the placement of fill and the removal of earth materials;

(B) Establishing the criteria for type and extent of reports required in conjunction with fill and excavation activities;

(C) Requiring engineering design for work which is extensive and complex in nature;

(D) Providing for the submission of test data when deemed necessary by the building official;

(E) Establishing the requirement for the type and frequency of inspections;

(F) Establishing the basis for bonding requirements;

(G) Establishing administrative requirements relative to the issuance of fill and excavation permits;

(H) Establishing fee schedules to cover the cost of plans examination and inspection of work;

(I) Outlining the process for appeal from the provisions of this Chapter.

[Adopted 82-095 §1.3 eff 9/29/82]

850.010 Definitions

As used in this Chapter, in addition to the definitions of Section 3308 Appendix Chapter 33, of the *Uniform Building Code (UBC)*, the following definitions apply to this Chapter:

(A) “**Appeals Board**” means the Building Code Appeals Board.

(B) “**Authorized**” refers to authorization by the building official as the result of investigation and test conducted by him, or in his behalf, by his acceptance of engineering or geological studies, or by reason of accepted principles or tests by a national technical or scientific organization.

(C) “**Building Official**” means a person charged by the county with responsibility for administration and enforcement of the state and county building codes, to include fill and excavation work.

(D) “**Department**” means the Linn County Planning and Building Department.

(E) “**Development**” means any man-made changes to improved or unimproved real estate, to include, but not limited to filling, excavation, drilling or dredging operations.

(F) “**Drainage course**” is any natural or developed area that has been used for conveying of water, either year round or intermittently, through, across, below or around an area, to include terracing from a point of higher elevation to a lower point.

(G) “**Flood Hazard Boundary Maps**” means an official map of a community issued by the Flood Insurance Administration where the boundaries of a flood have been designated as zone A.

(H) “**Flood plain**” means any land area susceptible to being inundated by water from any source, which areas are delineated on *Flood Hazard Boundary Maps* prepared for Linn County under the auspices of the Flood Insurance Administration.

(I) “**Floodway**” means the channel of a river or other watercourse and the adjacent land area outlined on *Flood Hazard Boundary Maps* that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(J) “**Grading**” means any excavating or filling, or combination thereof.

(K) “**Grading permit**” is a permit that, when approved, provides authorization to do filling and/or excavation.

(L) “**Greenway**” is that area identified as lying within the Willamette River Greenway Boundaries of Linn County as established in Oregon Administrative Rule 660-20-060 and shown on the official Linn County zoning maps.

(M) “**Structure**” is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

[Adopted 82-095 §2.1 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.130 Applicability

This Chapter shall apply to all land within Linn County except:

(A) lands within incorporated cities; and

(B) state, federal and county road right-of-way.

[Adopted 82-095 §2.3 eff 9/29/82; amd 97-393 §1 eff 8/6/97]

850.140 Adoption of “Appendix Chapter 33,” *Uniform Building Code*

(A) “Appendix Chapter 33” (Excavation and Grading) of the *Uniform Building Code*, 1997 edition (as promulgated by the International Conference of Building Officials, excluding §3306.2 and “Table A-33-A—GRADING PLAN REVIEW FEES” and “Table 1-33-B—GRADING PERMIT REES,” is hereby adopted and made part of this Chapter. The Appendix Chapter 33 is set

forth in Appendix 1 following this Chapter.) Any reference in “Appendix Chapter 33,” especially in §3310, to the source for the authority for establishing and publishing fees is amended to mean the Linn County fee order.

(B) Subsequent amendments to Chapter 33 shall be subject to review and approval by the Board following standard county Code amendment procedures.

[Adopted 82-095 §2.2 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.190 Interpretation

Should any provision of this Chapter be in conflict with a provision of “Appendix Chapter 33,” *UBC*, this Chapter shall govern.

[Adopted 82-095 §2.8 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.200 Basic requirements

The basic requirements for grading permits are contained in “Appendix Chapter 33,” *UBC*, 1997 edition, as amended.

[Adopted 82-095 §2.4 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.220 Grading permit; process

(A) The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of the County to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Chapter and other pertinent laws and ordinances, and that the fees specified in the Linn County fee order have been paid, the Building Official shall issue a permit therefor to the applicant.

(B) When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications “APPROVED.” Such approved plans and specifications shall not be changed, modified or altered without authorizations from the building official, and all work regulated by

this Chapter shall be done in accordance with the approved plans.

[Adopted 82-095 §2.6 eff 9/29/82; amd 99-058 §10 eff 3/3/99]

850.230 Grading requiring a permit; prohibitions

(A) Except as provided in LCC 850.280, no person may fill or excavate in or on the land areas of Linn County covered by this Chapter, without first applying for and obtaining a grading permit from the Department or other agency as may hereafter be designated by the Board by county Board order.

(B) No person may fill or excavate within a designated flood plain or floodway, as delineated on a *Flood Hazard Boundary Map*, unless such fill or excavation complies with all provisions of LCC Chapter 870 (Linn County Floodplain Management Code).

(C) When requirements between this Chapter and LCC Chapter 870 (Linn County Floodplain Management Code) relative to fill and excavation are in conflict, the more restrictive shall apply.

(D) No person shall perform fill or excavation work in a Greenway without first obtaining a fill permit and/or a flood plain development permit.

(E) Notwithstanding LCC 850.280 (L), tile drainage, field drainage ditches, and other necessary conservation practices that may damage off-site property require a permit.

(F) No person may fill or excavate in violation of a stop work order.

[Adopted 82-095 §§2.5 (part) and 3.6 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.240 Warning and disclaimer of liability

(A) The provisions of this Chapter shall be deemed to be minimum performance requirements and do not preclude the permit holder from exercising more stringent measures in terms of sound engineering practices.

(B) The provisions of this Chapter shall not be interpreted as acting as a basis for waiver or appeal of other existing statutory requirements of a similar nature.

(C) This Chapter provides for a reasonable degree of protection for regulatory purposes, an is based on engineering and other related scientific methods, and shall not create liability on the part of Linn County or any officer or employee thereof for any damages resulting from complete reliance on this Chapter or administrative decision related thereto.

[Adopted 82-095 §2.6 eff 9/29/82; amd 99-058 §10 eff 3/3/99]

850.280 Exemptions from Code provisions

The following activities or uses are exempt from the permit requirements of this Chapter:

(A) When approved by the building official, grading in an isolated, self-contained area if there is no danger to private or public property.

(B) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than 5 feet (1524 mm) after the completion of such structure.

(C) Cemetery graves.

(D) Refuse disposal sites controlled by other regulations.

(E) Excavations for wells or tunnels or utilities.

(F) Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

(G) Exploratory excavations under the direction of soil engineers or engineering geologists.

(H) An excavation which (1) is less than 2 feet (610 mm) in depth, or (2) which does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).

(I) A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20%

slope), or less than 3 feet (914 mm) in depth, not intended to support structures, which do not exceed 50 cubic yards (38.3 m²) on any one lot and does not obstruct a drainage course.

(J) Quarrying, excavating, processing and stockpiling of rock, sand, gravel, aggregate or clay as a commercial operation, where the overburden and products derived from the onsite operation is relocated and deposited as fill or as a stockpile product within the confines of the primary operation.

(K) Subject to LCC 850.230 (E), normal routine farming activities necessary to manage land, crops, and/or animals for food production.

(L) Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Chapter or any other local or state laws.

[Adopted 82-095 §2.7 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

B. ADMINISTRATION

850.300 Application for permit; fee

(A) Person(s) or other entities desiring to perform fill or excavation activities shall, prior to the commencement thereof, first obtain a grading permit by applying at the Department, Linn County Courthouse, or at such other locations as may hereafter be established.

(B) A fee, based upon a fee schedule adopted by the Board, shall accompany an application for a grading permit.

[Adopted 82-095 §3.1 eff 9/29/82]; amd 99-058 §10 eff 3/3/99]

850.310 Supporting documents required

When required by the building official, each application shall be accompanied by two sets of grading plans which reflect the extent of work to be performed, both in type and quantity.

[Adopted 82-095 §3.2 eff 9/29/82]

850.320 Plans review

Depending on the size, amount and complexity of the proposed work, a plans review may be

required prior to the issuance of the permit. A determination of the need for a plans review will be made by the building official or his designated representative at the time of application for the permit.

[Adopted 82-095 §3.3 eff 9/29/82]

850.330 Retention of plans

One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

[Adopted 99-058 §10 eff 3/3/99]

850.330 Zoning review

All permit applications will be subject to review for determination of compliance with LCC Chapters 920 to 939 (Linn County Development Code) and other county Codes that may be applicable.

[Adopted 82-095 §3.4 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.340 Environmental Health review

Permit applications are subject to review by the Linn County Environmental Health Division in accordance with established divisional policy.

[Adopted 82-095 §3.5 eff 9/29/82; amd 97-393 §1 eff 8/6/97]

850.360 Greenway

(A) The fill or removal of material from lands lying within the Greenway constitutes an act of development.

(B) Development in the Greenway requires a permit under the provisions of LCC 931.600 to 931.680.

(C) A permit may be obtained subject to the requirements outlined in LCC 931.600 to 931.680.

(D) A grading permit shall not be issued in the Greenway until approval of a Greenway Development Permit has been obtained.

[Adopted 82-095 §3.7 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.370 Drainage courses

(A) Property owners are obligated under this chapter to maintain drainage courses on their property to prevent excessive damage caused by sediment and/or vegetation build-up or by other obstructions. Maintenance of natural drainage courses is required so that drainage capacity is not diminished. Maintenance of drainage courses means that vegetation and/or sediment build-up and other obstructions shall be managed so that water can flow without causing flooding or drainage problems on other downstream or upstream property.

(B) All fill and excavation work performed in a drainage course shall conform to the provision of Section 3312.2, Appendix, chapter 33, Uniform Building Code relative to degree of slope and configuration of finished grading.

(C) Any maintenance, fill, excavation or placement of an obstruction in a drainage course performed by a property owner, their agent or contractor must be in compliance with removal and fill requirements administered by the Oregon Division of State Lands and/or US Army Corps of Engineers and this chapter.

(D) Fill and excavation work performed in a drainage course shall not cause or contribute to an increase in flood levels on other property.

(E) Any fill or removal activities must meet required setbacks from subsurface sewage disposal systems.

(F) The building official may require the property owner or owner's agent to submit a report certified by a professional engineer that concludes any fill or removal work will not adversely affect other property.

[Adopted 82-095 §3.8 eff 9/29/82; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

850.380 Duration of Permit

(A) Except as outlined in subsection (2) of this section, a permit for fill and excavation activities shall be in effect for a period of one (1) year. On request by the applicant, the permit may be extended for an additional time period, not to exceed one (1) year.

(B) At the time of application for a fill and excavation permit, the applicant may request a permit time period for longer than one (1) year. An application for a longer time period shall be accompanied by a grading plan which shall show the location for fill and/or excavation activity; the anticipated on-site elevation upon completion of the project; and the type and approximate volume of materials to be added to or removed from the site. The Building Official, as part of his review of the application, shall either approve or modify the time period to be covered by the request. The Building Official may also establish time periods when the permit and permit activities would be evaluated.

[Adopted 99-058 §10 eff 3/3/99]

850.390 Validity of permit

(A) The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

(B) The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Chapter or of any other ordinances of this jurisdiction.

[Adopted 99-058 §10 eff 3/3/99]

850.400 Suspension or revocation of permits

The building official may, in writing, suspend or revoke a grading permit issued under the provisions of this Chapter whenever the permit has been issued in error or on the basis of incorrect information supplied, or when work is in violation of any county Code or regulation, or state or federal law.

[Adopted 82-095 §3.11 eff 9/29/82]

850.410 Stop work orders

Whenever any fill and excavation work is being done in violation of this Chapter, or other county Code or regulation, the building official or his designated representative may order the work stopped by serving notice in writing on any person or legal entity engaged in the work.

[Adopted 82-095 §3.12 eff 9/29/82; amd 97-393 §1 eff 8/6/97]

850.600 Appeals Board

The Appeals Board shall hear and render decisions pertaining to appeals regarding requirements of this Chapter or from decisions by the building official in its application. An appeal shall be filed in compliance with LCC 480.410.

[Adopted 82-095 §3.9 eff 9/29/82; amd 99-058 §10 eff 3/3/99]

[850.650 Adopted 82-095 §3.10 eff 9/29/82; repealed 99-058 §10 eff 3/3/99]

850.900 Penalties for non-compliance

(A) Violation of LCC 850.230, or of a final order issued pursuant to this Chapter, or of a stop work order issued pursuant to LCC 850.410, is a Class "A" violation and may be enforced pursuant to the Linn County Enforcement Code.

(B) A person who does not comply with the provisions of LCC 850.370 (A) through (E) and 850.410 (B) commits a class A infraction and may be enforced pursuant to the Linn County Enforcement Code.

[Adopted 82-095 §2.5 (part) eff 9/29/82; amd 84-067 §5 eff 11/28/84; amd 97-393 §1 eff 8/6/97; amd 99-058 §10 eff 3/3/99]

Statutory References and Other Authorities:

ORS 203; 203.305; ORS 660-20-060; *Uniform Building Code*, Chapter 33 (1994); *State of Oregon Structural Specialty Code*; *Fire and Life Safety Code*; LCC 921.530; LCC Chapter 870 (Floodplain Management Code); LCC 931.600 to 931.680

Legislative History of Chapter 850:

Adopted 72-002 (7-3000 §4.010) eff 10/18/72

Repealed by 82-095 eff 9/29/82

Adopted 82-095 eff 9/29/82

Amendments to 82-095:

- #1 84-067 §6 eff 11/28/84
 - #2 97-393 §1 eff 8/6/97
 - #3 99-058 §10 eff 3/3/99
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