



*Lincoln County, New Mexico*

## **"THE CODE OF THE WEST"**

OR

### **"How to Avoid Surprises and Be a Good Neighbor When You're Buying, Building, and Developing in Lincoln County"**

*A publication of the Lincoln County Board of Commissioners*

**The "Code of the West"** was first chronicled by the western novelist, Zane Grey. Men and women who settled the western frontier were bound by an unwritten code of conduct. In keeping with that spirit, we offer this information to help people who have chosen to build and/or live in the unincorporated areas of Lincoln County.

#### **Welcome to Lincoln County:**

Life in the country is rich and rewarding, treasured by both Lincoln County residents who have been here for generations, and those who have recently moved here. It's important that new property owners and homeowners know that life in "non-urban" parts of the County is different from life in town. The County government cannot provide the same level of service that city and town governments provide. The information included in this Lincoln County version of "The Code of the West" is designed to help you make an educated and informed decision as you consider purchasing or developing land in the unincorporated areas of Lincoln County.

#### **What kind of Access is available outside of town?**

The fact that you can drive to your property does not necessarily guarantee that you, your guests or an emergency service vehicle (e.g., Sheriff Deputies, an ambulance, a fire truck) can get there easily, or during all seasons. Please consider:

- **Arrival/Response times for emergency services cannot be guaranteed.** Large emergency vehicles may not wish to enter areas where they may not be able to turn around and exit.
- **There can be problems with the legal aspects of access,** especially if you have access across someone else's property. Make sure you have legal easements if you need them (i.e. deeded, not just verbal). You may want to get legal advice if you have questions regarding your own access to a County road, State or Federal highway.
- Lincoln County maintains hundreds of miles of roads, but **many private properties are served by private roads, which are not County maintained.** Some roads that have been used for many years by the public aren't maintained by the County; that means that the County will not plow snow, grade, or repair damage resulting from natural disasters. Make sure you know what kind of maintenance is available and who pays for it.
- **Many large construction vehicles cannot navigate small, narrow and primitive roads.** If you plan to build, check out construction access. Private driveways should be wide and sturdy enough to support either emergency or construction vehicles in all weather conditions.
- **If your driveway or private road accesses a County road, you may need a Culvert Permit.** Call the Lincoln County Road Department (575-354-2922) to find out. If your access is directly onto a State or Federal highway, you will need to check with the New Mexico Department of Transportation Office in Santa Fe about getting a Highway Access Permit.
- **In some outlying areas, school bus transportation is not provided at all.** Call the Administration Office of the School District in which your children will be attending school to find out the school bus boarding area closest to your property.
- **In extreme weather, some roads may become impassable.** You may need a four-wheel drive vehicle, snow tires and/or chains, and perhaps even another mode of transportation to travel during those circumstances.
- **Gravel roads generate dust.** If you mind that, you may not want to be in an area which is accessible only by gravel roads, and for which no paving is planned. If you have a question about whether roads are scheduled for improvement, check with the subdivision property owners' association, or with the Lincoln County Road Department/Planning Department.
- **Unpaved roads are not always smooth and are often slippery when they are wet.** You may experience an increase in vehicle maintenance costs when you regularly travel on rural county/private roads.
- **Newspaper, parcel and overnight package delivery, and U.S. Mail delivery may not always be available to rural areas.** Check with the agencies that provide these services before assuming you can get delivery.
- **It may be more expensive and time consuming to build a rural residence** due to delivery fees and the time required for inspectors to reach your site.

## **How About Sewer, Water, Electricity, Telephone, ISP's, Cable T.V. and Natural Gas?**

The utilities that you may be used to having when you live in a town or city may not be available in rural areas. Please think about these situations:

- **The availability of telephone communication can be delayed,** particularly in the more remote areas of the County. In some areas, the only telephone service available has been a party line. It may be difficult or impossible to obtain a separate line for FAX or computer modem uses, and in some areas, cellular

telephones don't operate. Check with the local telephone service provider to find out what lines and services are available to you. **Emergency 911 addressing should be available in your area, but check with the County Rural Addresser (800-687-2705, ext. 138)**. (Note: the County does not provide addresses for unimproved properties.)

- **If central or regional sewage treatment is available to your property, find out who provides the service**, and what the costs are to hook into it, and to maintain it.
- **If central or regional wastewater treatment is not available, you will be using, or have to have installed, an individual sewage disposal system (ISDS)**. If there is an existing individual system, have the septic tank pumped and inspected by a reliable service, and call the New Mexico Environmental Department to get information about obtaining a permit or an inspection for an ISDS (800-219-6157/575-827-2855).
- **If a central treated water supply is available to your property, find out who supplies it**, what the costs are to hook into it, and the monthly cost of service.
- **Be sure you know what water rights are available with your property**: Is there a well permit? If water is provided by a well or spring located off your property, do you have an easement allowing you to access and repair it? If you have deeded water rights (for agricultural or domestic use), listed as "acre feet" or certain "cubic second feet," find out what that really means for you. You may not be able to drill a well or have "real" access to a water supply without getting approval from the New Mexico Office of the State Engineer; you'll need to know what kind of time and expense that may entail. You may need to contact an attorney or an engineer as well as your Realtor to get this information. You may have a domestic well permit. This allows you to drill a well and use (up to a limit) water for domestic uses. It is NOT a water right.
- **Not all wells are permitted to allow watering of landscaping or livestock**. Before you move ahead with your development plans, make sure that you have obtained, or are protected in the event you cannot obtain, the appropriate permits from the New Mexico Office of the State Engineer.
- **Having a well permit doesn't guarantee that there will be water where you first drill for it**. Consider those potential drilling and installation costs in your development.
- **You may or may not own the water that runs through your property in a stream or irrigation ditch**. Unless you have acquired a permit to appropriate surface water, the water can't be legally taken out of the stream or ditch. Check with your attorney/New Mexico Office of the State Engineer to make sure you have adequate, legal water rights with your property.
- **The New Mexico Office of the State Engineer, NOT Lincoln County, issues well permits**. You can apply directly to the New Mexico Office of the State Engineer in Santa Fe, or by contacting a local well driller who can complete and submit the application for you.
- **Electric and natural gas service may not be available** in the more remote areas of Lincoln County. Check with each of these service providers to make sure you have the services you want before you commit to a construction project.
- **Some of your utility service lines may have to cross properties owned by other people** in order for service to be extended to your property. Make sure the proper legal easements are in place to allow lines to be installed to your property.
- **Electric power may not be available** in all single phase and three phase service configurations. If you have special power requirements, check with the service provider to ensure that those can be provided.

- **The cost of electrical service** usually includes both a fee to hook into the system (which may require extensive line installation if none exists), and a monthly charge for energy consumed. Check with the service provider about both costs in your area.
- **Power outages** can occur in outlying areas more often than in more developed areas. Not only can these disrupt your computer modem's internet connection, but you won't be able to get water from your well if your pump relies on electricity. Inconsistent voltage levels or power surges may require a UPS (Uninterruptible Power Supply) for reliable operation of electronic/computer equipment.
- **Trash collection in rural areas is generally limited to two choices:** A private pickup service, which charges a regular fee, or hauling your trash to the closest Lincoln County Landfill or Transfer Station. If you have questions about solid waste hours and fees, contact the Lincoln County Solid Waste Authority (575-378-4697, <http://www.lcswa.org/>).
- **Many rural areas of the County are not wired for cable T.V.**
- **Internet connection may be limited to dial-up.**

## What Can I Do On My Property?

Many issues can affect your property in addition to those concerning utilities and access. It's important to research them before purchasing land.

- **Not all parcels are "legal."** A parcel must have been created by County subdivision review and permit after January 1981, or have existed before then, in which case you need documents created prior to 1981 to prove this, or created by a Court action or by exemption by the Board of County Commissioners before a building permit can be issued. In some cases, parcels have been created by some other legal means allowed by New Mexico state law. If you have a parcel that is not in one of these categories, or if you don't know how to determine its status, check with the Lincoln County Clerk's Office (575-648-2394 x131).
- **Other property owners may have easements that require you to allow construction of roads, power lines, water lines, sewer lines and other utilities, as well as maintenance of irrigation ditches across your land.** Such easements may restrict your own development and building options. Title abstract and title insurance companies, or an attorney, can help you track this information.
- **Many property owners do not own the mineral rights under the surface of their land.** It's important that you know what minerals may be located under your land and who owns them. Check your deed, and if you don't understand it, you may want to contact your attorney or another professional to help you. If someone else owns the minerals under your land, you should become familiar with the specific laws that govern the rights of mineral owners to extract the minerals.
- It is important to know **if you are locating in or close to an area where mining has taken place in the past or where exploration for minerals is active.** Be aware that old mining shafts may constitute a hazard. While there may not be active mines now, future mining is always a possibility. Modern technology can find mineral deposits that were concealed from earlier miners and can allow profitable mining of minerals where it may not have been profitable in the "old days".
- You may be provided with a plat for your property by your Realtor, or other seller. **You may wish to obtain the services of a licensed New Mexico surveyor to ensure the accuracy of your survey.**

- **Fences that separate properties may or may not be on legal boundary lines.** A survey of the land is the only way to confirm the location of your property lines.
- Whether you want to construct a single family home, a guest house, to subdivide, or open a store, **your plans may require a Land Use Permit and/or a Fire Permit, as well as a Culvert Permit, an individual Sewage Disposal System Permit, a Building Permit, a Sign Permit, or may be required to meet other requirements.** Check with the Lincoln County Planning Department (575-258-5934) to find out what you need, and when you'll need it.
- **Many subdivisions and planned developments have covenants and design guidelines that limit the use of the property.** Find out if there are covenants (either ask your Realtor or check in the Lincoln County Clerk's Office (575-648-2394 x131)). Make sure that you can live with the rules of that subdivision.
- **Homeowners and property owners associations often are responsible for the maintenance of roads, utilities, building or architectural standards, and other aspects within subdivisions.** Lincoln County does not enforce such private covenants. Check the subdivision's covenants to learn if an association has that responsibility; check with your Realtor (or some of your future neighbors) to learn if the association is functioning. A dysfunctional or non-existent association can cause problems for you, and even involve you in expensive litigation.
- **Dues are almost always a requirement for those subdivisions that have a homeowners association.** The by-laws of the association should outline how the organization operates and how dues are set, collected and spent.
- **The property that's undeveloped today may not be forever.** Check the recorded plat of your subdivision to see what uses are platted within it. In addition, check in the Lincoln County Clerk's Office to determine if those uses may have been changed since the plat was recorded. You can also talk with the Lincoln County Planning Department (575-258-5934) about the process that properties currently undergo for land use change permits, and how you would be notified if changes are proposed next to you.
- **You are responsible for keeping your dog on your own property. New Mexico law allows the shooting of dogs when they have killed or injured livestock or wildlife.** It is the right of any owner of livestock so killed or injured by the actions of any dog to kill the dog while it is upon property controlled by the owner of the livestock. Avoid the potential for tragedy and do the neighborly thing at the same time: Keep your best friend in his own yard.

## **This is an Arid Country**

We live in the Chihuahuan desert. There may be more rainfall with altitude, but notice the native plants around your property: they don't expect or use much water.

- **The land will support only so much:**
  - There is typically only one crop of grazing available per year. If you over-graze, it may take ten years to come back. Do not graze down beyond 3 inches of stubble height. For details consult your local extension service, the NRCS, SWCD, Forest Service guidelines, etc.
- **The seasons maybe somewhat different than what you expect:**
  - The growing season begins for many native plants with the summer monsoon (and its onset is somewhat variable, usually early July). May and June tend to be rather dry and windy.
  - There are two fire seasons when one wants to be extra careful with a match or ashes from a fireplace. Those are May through June, typically, and after

the end of the monsoon, usually in September until the first snow, maybe in November.

- Fire is the major hazard in much of the wooded areas of the County.
  - Please consider thinning your property for your safety and that of your neighbors. There are State Forestry programs that can help with advice and even pay for a large portion the expense.
- Consider water catchment systems and other water conservation measures.
  - Rain water is better for plants than well water, as well as for laundry and other washing.

## You Can't Mess With Mother Nature (and expect to get off easily)

Rural residents usually can expect to experience more challenges with the "elements" when they become unfriendly than residents who have access to municipal or district services.

- **Trees are a wonderful environmental amenity, but can also endanger your home in a forest fire.** The New Mexico State Forestry Division offers a practical list of recommendations to help you protect your home from fire as well as protect the trees from igniting if your house catches on fire. If you start a forest fire, you could be found legally responsible for paying the costs of putting it out. Helping to prevent the catastrophe before it happens benefits you as well as your neighbors and the forest.
- **Hazardous wild land areas may need additional construction, access, vegetation management and other fire protection measures.** Contact the Lincoln County Fire Marshall (575-258-9991), or the New Mexico State Forestry Division (575-354-2231).
- **Steep slopes can slide in unusually wet weather.** Large rocks can also roll down steep slopes and present a great danger to people and property. Steep slopes also increase fire severity and behavior.
- **Be cautious about placing any improvements on north-facing slopes.** North facing slopes or canyons rarely see direct sunlight in the winter. Snow may accumulate there and not melt throughout the winter.
- **Building designs which avoid "valleys"** over outside entrances, and have roof slope direction which prevent "dumps" of snow and ice accumulations on sidewalks and garage entrances will help prevent dangerous conditions and headaches during winter.
- **A property owner who builds his home in a ravine finds that the water that drained through the ravine now drains through his house.** The topography of the land can tell you where the water will go when rain and spring runoff from snowmelt occur.

## Wildlife:

Nature can provide you with some wonderful neighbors. However, some may be of concern to you and require extra care when you build and live in a rural or remote area.

- **Some subdivisions prohibit the keeping of dogs, which may harass wildlife, or require that they be confined on the property. Some limit the number of cats you may keep,** and require that they be confined, to prevent decimation of native bird populations.

- **Coyotes, skunks, elk, oryx, prairie dogs, cougars, porcupines, bears, deer, raccoons, and mosquitoes (trust us) can be simply annoying, destructive or dangerous, and you need to know how to deal with them.** Some developments require that "bear-proof" trash containers be used.
- **Check with your Realtor**, with your future neighbors, and read the covenants for the subdivision for specific information. **Once again, Lincoln County does NOT enforce neighborhood covenants.**
- **Threatened and endangered species of wildlife may be present in certain areas.** Check with the New Mexico Department of Game and Fish office (575-476-8000, <http://www.wildlife.state.nm.us/>) about concerns related to the area in which your property is located.
- **Hunting has been part of a way of life in Lincoln County for centuries.** Neighbors may allow legal hunting activities on their property. Informing yourself of areas where such activities are allowed may be important to you; check with the New Mexico Department of Game and Fish.
- **Harsh weather conditions can bring unexpected herds of elk, deer, antelope, and individual bear onto private lands.** They may damage fences, pastures and other personal property. Checking with the New Mexico Department of Game and Fish about how to address these potential problems before they occur will help both you and the wildlife.

## **Agriculture: Our Heritage and a Key to Our Future:**

- **New Mexico has an "open range" law.** This means that if you live near cattle, sheep or other livestock and do not want them on your property, it is your responsibility to keep them off through lawful means.
- **Agriculture is an economic contributor to Lincoln County.** If you choose to live among and next to ranching/farming operations, you may be affected by them; **you have the opportunity to help keep the ranching/farming operation viable by learning how you can be a good neighbor to this important part of our community.** Check out local farmer's markets, you may be delighted at the foods and crafts available.
- **Ranchers/Farmers often work around the clock, especially during certain seasons, i.e., hay harvesting time in middle to late summer.** Occasionally, adjoining agricultural/ranching operations may disturb your otherwise quiet surroundings. Those times will pass.
- **If you're traveling on dirt and graveled roads adjacent to ranch/farm lands, drive slowly and with care:** An excess of dust can affect both the health of the cattle and the quality of crops in the fields. Occasionally cattle may get out on the road; avoiding hitting an animal is healthy for both you and the animal.
- **Residents occasionally burn their ditches to keep them clean of debris, weeds and other obstructions.** This burning may bother you momentarily, but it is not a regular occurrence. Permits are required for this activity. Burning is not permitted during several months of the year due to the fire danger. **Burning of trash and other materials are never permitted.**
- **Chemicals are one tool which may be used to control weeds and remove vegetation that impedes the flow of irrigation ditches, and which may be harmful to livestock.** Ranchers/Farmers, just as all others, must operate within the constraints of public health and safety laws, which affect the use of those chemicals.
- **Livestock may cause odors and noise that are objectionable to some people.** If you find them annoying, you may want to find a parcel in another area of the county.

- **Livestock are occasionally moved on public roads.** When you encounter a livestock drive, please pull over to the side of the road and allow the drive to pass. Or, if a rider directs you to move forward, do so slowly. The delay will cost you only a few minutes. Enjoy the scene; this is the "real west," and is a critical part of your neighbors' ability to make a living.

### ...and a Few Final Thoughts:

- Though Lincoln County receives property taxes from its property owners, the amounts of taxes collected generally do not cover the costs of services provided to rural residents. In general, other revenue sources subsidize the lifestyles of those who live in the rural areas by making up the shortfall.
- Please take the time and effort to study the history of Lincoln County. This will give you an understanding and appreciation for the pioneers who tamed this land and, in many cases, spent a hundred years and four generations of family completing what might be called our first "land use change." It is our hope that through this understanding, you will approach your construction and development in a thoughtful and sensitive manner, to protect our unique community, our natural resources and our historic way of life.
- The information in this Lincoln County version of "The Code of the West" is not exhaustive. There likely will be issues that occur to you, or that you encounter, that are not included here. If you have questions, please contact the Lincoln County administrative offices and they will try their best to give you the information you need.

**HISTORY -- Lincoln County:** Once home to Mogollon, part of the Apache homelands, settled by Hispanic farmers and ranchers, garrison for the Buffalo Soldiers, it was once the largest county in the United States. In the late 1870s the so-called Lincoln County War broke out between ranchers and the owners of the county's largest general store. William Bonney, better known as Billy the Kid, became involved on the side of the ranchers after his friend and employer was killed. In the end, Bonney killed the deputy that killed his friend, another deputy, and the county sheriff. Several other people were slain in the conflict, which included the other leader of the rancher faction. His death ended the conflict. In 1878, the new territorial governor, retired Union General Lew Wallace offered an amnesty to the combatants in order to bring a long-lasting truce between the factions. The history of Lincoln County is rich and fascinating and well worth study or a good read.

This "Code" is provided by the Board of County Commissioners of Lincoln County, with the help of similar codes produced by other counties within rural parts of the country. We offer this information and these suggestions in the sincere hope that they will help you as you decide to build, develop and live in Lincoln County.

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Please feel free to copy the Lincoln County version of "The Code of the West,"  
and distribute it.*

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