

Understanding Lane County's Proposed Drinking Water Protection Overlay Zone:

Q & A

- Questions and Answers for Lane County Property Owners

Q: What is an overlay zone?

A: An overlay zone is a set of zoning requirements (regulations) that are imposed in addition to other underlying base zone requirements such as "residential zone or commercial zone" requirements. Development within an overlay zone must conform to the requirements of both the base zone and the overlay zone, or the more restrictive of the two.

Q: What do the proposed overlay zone regulations do?

A: The proposed drinking water protection overlay zone is designed to protect sources of public drinking water – both groundwater and surface water. The overlay zone is comprised of two separate regulatory elements, which contain different standards and requirements related to the protection of either surface water source areas or groundwater source areas.

Surface Water Protection Areas include the areas adjacent to rivers, streams, lakes or reservoirs that serve as a source of public drinking water, or which are tributaries to a source of public drinking water. These areas extend inland 200 feet, measured perpendicularly, from the ordinary high water level of the source of public drinking water and from any tributary to a source of public drinking water.

Groundwater Protection Areas include the surface and subsurface area surrounding any water well, spring, or well field supplying a public water system, through which contaminants have a potential to move toward and reach that well, spring or field.

With some exceptions, vegetation removal and certain new development such as the placement of a dwelling, garage or septic system is generally prohibited within surface water protection areas. This means that new development must be setback at least 200 feet from the ordinary high water level of a protected river, stream, lake or reservoir (refer to Scenario 1 on page 6 of this notice). Some of the exceptions to these requirements are further described below.

Inside of groundwater protection areas new high risk land uses such as injection wells, disposal and treatment of hazardous materials and automobile wrecking yards are prohibited. Other new uses or expansions of existing uses such as automobile fueling/service stations or new facilities that use, store or handle hazardous materials may be conditionally permitted.

For a complete understanding of proposed regulations, including all exceptions, please refer to the actual overlay zone language, available online or from the Land Management Division offices, as described on page 2 of this notice.

Q: I own a vacant parcel entirely located within 200 feet of a river. Would the proposed regulations keep me from developing this parcel?

A: No. In situations where the proposed regulations would mean that a lot could not be developed exceptions are available. It is not the intent of Lane County to deny property owners options for the reasonable use of their own land. Further, the proposed setback regulations do not apply to all rivers, streams and lakes in Lane County – just those that are upstream of a public water intake.

Q: I plan on building an addition to my home but it is within 200 feet of a protected river, can I do this if the County adopts these regulations?

A: The proposed regulations allow for additions to existing structures within setback areas, including the addition of decks and similar expansions to the "footprint" of a structure. These expansions are limited to 25% of the total footprint size of the structure being expanded. For example, if the footprint of an existing structure is 2,000 square feet, then an addition of up to 500 square feet would be permissible. There is no limitation to vertical (second story) additions that do not expand a structure's footprint. Refer to the Scenario 2 diagram on page 6 of this notice.

Q: My home is within 200 feet of the river and I plan on replacing it with a new home in the same location. Would that be allowed?

A: Under the proposed regulations if there is a *suitable replacement location* on your property that is outside of the protection area, then that is where any new or replacement structures would need to be sited. However, if there is not a suitable building location available, structures may be rebuilt within the setback area.

Q: What does a “suitable replacement location” mean?

A: This answer will vary from site to site but in general, a suitable building location is one that is not hampered by steep slopes, road setbacks, easements and similar encumbrances.

Q: Are there exceptions to the vegetation removal standards?

A: Yes. Exceptions for vegetation removal (i.e. thinning, cutting, applying herbicides, etc.) are provided for a variety of uses including; exempt farm and forestry practices, removal of dead or diseased vegetation that poses a safety hazard, maintenance of required fire safety “fuel breaks”, ecological enhancement projects, and others. A complete list is provided in Section (6)(b)(i)-(viii) of the proposed regulations.

Q: Would the groundwater protection standards keep me from storing household chemicals that fall within the definition of hazardous material?

A: No. The proposed regulations allow up to one hundred and ten (110) gallons of paint, fertilizer, automotive fuels and lubricants, etc., to be stored for residential, rural home business and home occupation uses. If higher quantities are needed, property owners can submit a statement to Lane County certifying that any hazardous materials kept in excess of 110 gallons will be stored in some type of secondary containment vessel, such as a watertight tub or barrel. The purpose of a secondary containment vessel is to capture any hazardous materials that may leak out of their original (primary) container. Note: Dense Non-Aqueous Phase Liquids (DNAPLs), which are a class of highly hazardous organic liquids that are denser than water and which do not dissolve or mix easily in water would not be allowed in any quantity under the proposed regulations. DNAPLs are typically used in some older commercial dry cleaning operations and as industrial strength degreasers.

Q: What exactly qualifies as a hazardous material?

A: A hazardous material is any item or agent (biological, chemical, physical) that has the potential to cause harm to humans, animals, or the environment when released into the environment. The proposed overlay zone defines “hazardous materials” according to various state and federal definitions. A hazardous materials guidance document is available to help land owners understand what types of material are covered by the proposed regulations.

Q: What about hazardous materials used in farm and forestry applications?

A: Under State Law, a variety of substances used in commercial farm and forestry practices such as growth hormones and herbicides/pesticides, cannot be regulated by local zoning ordinances. Therefore, they are exempt.

Q: Are other types of hazardous materials exempt from these regulations?

A: Yes. A complete list is provided in Section (7)(d)(I)-(xv) of the proposed regulations.

Q: How were the proposed regulations developed?

A: Staff from the Land Management Division worked closely with a Board of Commissioners’ appointed Technical Advisory Committee (TAC) to craft the proposed overlay zone. The zone is based on model regulations developed by Oregon Department of Environmental Quality and also on similar groundwater protection regulations adopted and enforced by the City of Springfield.

Q: Who participated on the Technical Advisory Committee?

A: The following agencies and organizations had representation on the TAC:

- The Oregon Department of Environmental Quality
- The Eugene Water and Electric Board
- The Springfield Utility Board
- Lane Council of Governments
- The McKenzie Watershed Council
- The Middle Fork Willamette Watershed Council
- The McKenzie River Trust
- The University of Oregon – Community Planning Workshop

Q: Where is the science to support the recommended protection standards?

A: The Technical Advisory Committee has authored a memorandum that provides the rationale and scientific justification for the recommended regulations. This memorandum may be viewed online or in person at the Land Management Division offices.

Q: Lane County already regulates development and vegetation removal within riparian areas. How are these regulations different and why are they needed?

A: It's true that regulations are already in place that restrict some development and vegetation removal along many waterways. However, these regulations do not apply to many smaller streams which, if contaminated, could threaten public drinking water. Further, these regulations allow considerable options for development and vegetation removal, both of which have been shown to degrade water quality. If adopted, the proposed drinking water protection standards would work in conjunction with existing riparian regulations and will help to more adequately protect the sources of drinking water that Lane County residents rely upon.

Q: Is my property affected by these regulations?

A: If your property is within one of the groundwater protection areas shown on the attached map, or if you own land within 200 feet of the ordinary high water line of one of the rivers, lakes or streams on the attached map, then these regulations will apply to some portion of your property.

Q: Is there a larger map I can look at to better see what areas are potentially affected by the proposed regulations?

A: Yes. A larger and more detailed map may be viewed online or in person at the Land Management Division offices. To view the map online in a .PDF format, visit the Lane County Drinking Water Protection Project webpage at the URL address below and then click on the link "Map of Proposed Drinking Water Protection Zone".

www.lanecounty.org/Departments/PW/LMD/LandUse/Pages/FP_DWP_Update.aspx

Note: You will need Adobe Reader software to open and view the map. If you don't already have Adobe Reader on your computer it can be downloaded for free at: www.adobe.com/products/reader/

To better understand the location of the proposed drinking water protection areas in relation to your property, you may use Lane County's interactive, web-based mapping tool, the *Zone & Plan Map Viewer*. To use this tool, follow the link below to the disclaimer page. From there, click on the button stating that you have read and agree with Lane County's disclaimer policies. Once you click on this button the map application will launch. To view the protection areas, search for your property by address or tax lot number (search tools are at the bottom of the screen) or "zoom in" to the part of the county you are interested in (zoom and navigation tools are on the left side of the page). Once you have located your property or the part of the county you are interested in, you will need to click on the boxes titled "Surface Water" and "Groundwater". These boxes are located on the right hand side of the page at the bottom of the "layers" list just below the heading "Proposed Drinking Water Protection Zones (DRAFT)". Additional tips and help are linked on the right hand side of the page.

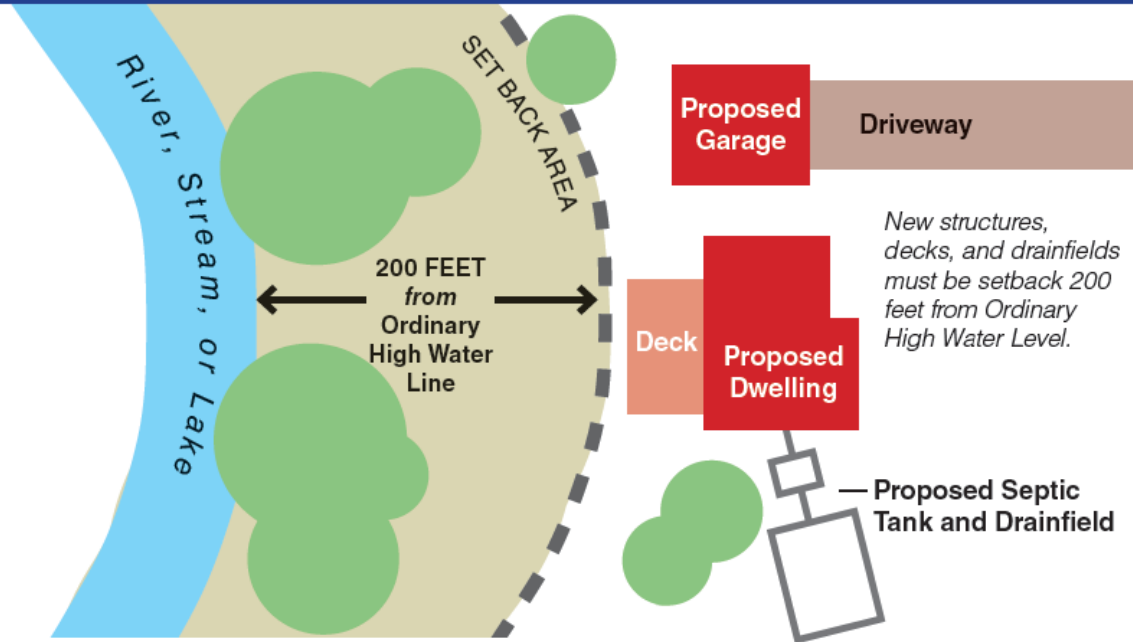
The *Zone and Plan Map Viewer* is available at: <http://apps.lanecounty.org/LaneCountyPlanMaps/>

Q: How were the boundaries of the proposed drinking water protection areas determined?

A: The mapped ground and surface water protection areas are based directly from source water assessments conducted by the Oregon Department of Environmental Quality. Information on the specific source water assessment methodology can be found at:

www.deq.state.or.us/wq/pubs/factsheets/drinkingwater/SWAMethodology10WQ019.pdf

Scenario 1: New Development



Scenario 2: Addition to Existing Structure

