

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 389

4 _____
5
6 **Relating to land use; creating new provisions; amending LCC 1.0115; and declaring an**
7 **emergency.**
8 _____

9 WHEREAS the Board has reviewed and approved of the statements and findings
10 contained in the explanatory statement for the Otter Rock Wellhead Protection Area attached
11 to this Ordinance as Exhibit "1;" therefore,

12 The Lincoln County Board of Commissioners ordains as follows:

13 **SECTION 1.**

14 Section 2 of this Ordinance is added to and made a part of LCC Chapter 1, as
15 indicated.

16 **SECTION 2.**

17 **1.1945 Otter Rock Wellhead Protection Area**

18 **The following Development Guidelines shall apply to the Otter Rock Water**
19 **District Wellhead Protection Area as identified in the Lincoln County Comprehensive**
20 **Plan Inventory:**

21 **(1) Purpose:**

22 **The groundwater resource within the Otter Rock Water District Wellhead**
23 **Protection Area has been identified as a significant Goal 5 resource. This resource**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 provides the sole source of drinking water to the community of Otter Rock. This
2 resource is of critical importance to property owners and residents of Otter Rock for
3 both public health and economic reasons. The following development guidelines are
4 established to reduce the risk of contamination of this groundwater resource.

5 (2) Areas of Concern:

6 Lands within the Otter Rock Water District Wellhead Protection Area, as
7 identified and mapped in the Lincoln County Comprehensive Plan Inventory, shall be
8 subject to the provisions of this section.

9 (3) Standards:

10 The following standards shall be applied to all proposed development within the
11 Otter Rock Water District Wellhead Protection Area:

12 (a) Where a public or community sewage disposal system which can serve a
13 proposed sewage flow is both legally and physically available, as defined in OAR 340-
14 71-160, installation of on-site sewage disposal systems is prohibited.

15 (b) Notwithstanding the provisions of the underlying use zone, the minimum lot
16 area per dwelling unit shall be 5 acres when a lot is not served by a public or
17 community sewage disposal system.

18 (c) Home occupations or other conditional uses which involve the use of
19 hazardous or toxic materials are hereby determined to be incompatible with existing
20 uses (groundwater protection) on surrounding lands, and are prohibited as failing to
21 comply with LCC 1.1630(1)(b).

1 (d) **The Division shall provide written notice to the Otter Rock Water District**
2 **of all land use applications within the wellhead protection area at least 20 days prior to**
3 **issuing a decision on such applications.**

4 **SECTION 3.**

5 LCC 1.0115 is amended to read:

6 1.0115 Open Spaces, Scenic and Historic Area Policies

7 (1) Lincoln County shall inventory the location, quality and quantity of the following
8 types of significant sites:

9 (a) Land needed or desirable for open space;

10 (b) Mineral and aggregate resources;

11 (c) Energy sources;

12 (d) Fish and wildlife areas and habitats;

13 (e) Ecologically and scientifically significant natural areas;

14 (f) Outstanding scenic views and sites;

15 (g) Water areas, wetlands, watersheds and ground water resources;

16 (h) Wilderness areas;

17 (i) Historic areas, sites, structures and objects;

18 (j) Cultural areas;

19 (k) Potential and approved Oregon recreation trails; and

20 (L) Potential and approved federal wild and scenic waterways and state scenic water-

21 ways.

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (2) Lincoln County shall identify conflicting uses for inventoried natural resources.

2 (3) Where no conflicting uses have been identified, Lincoln County shall manage
3 inventoried natural resources so as to retain their original character.

4 (4) Where conflicting uses are identified for inventoried natural resources, Lincoln
5 County shall determine the economic, social, environmental and energy consequences of either
6 allowing or not allowing the conflicting use or uses.

7 (5) Lincoln County shall develop programs to resolve identified conflicts with
8 inventoried natural resources. These programs shall be based upon an evaluation of the
9 economic, social, environmental and energy consequences of alternative courses of action.
10 Such programs shall:

11 (a) Preserve the inventoried resource;

12 (b) Allow the conflicting use or uses in full; or

13 (c) Specifically limit the conflicting use or uses through the application of clear and
14 objective standards.

15 (6) The results and conclusions of application of the procedures and requirements of
16 the policies contained in subsections (1) through (5) of this section shall be set forth in the
17 Goal 5 element of the Comprehensive Plan Inventory. Change to the Goal 5 Inventory element
18 shall be accomplished through the plan amendment process.

19 (7) As new information concerning the location, quality and quantity of the resources
20 listed in the policy described in subsection (1) of this section becomes available, such
21 information shall be incorporated into the Comprehensive Plan Inventory. Priority shall be

1 given to resources for which inadequate information is currently available (mineral and
2 aggregate sites, archaeological sites, recreation trails, and scenic waterways).

3 (8) The adequacy of the Forest Practices Act (FPA) to protect certain Goal 5 resources
4 in being studied by the Land Conservation and Development Commission (LCDC), Goal 5
5 Inventory. The findings shall be used by the County to determine if there are certain Goal 5
6 resources which are not adequately protected by the FPA. For such resources, programs to
7 achieve the Goal shall be developed by the time of the next plan update.

8 (9) **The groundwater resource within Otter Rock Water District Wellhead**
9 **Protection area, as identified in the Comprehensive Plan Inventory, has been**
10 **determined to be a significant Goal 5 resource. Lincoln County shall implement and**
11 **maintain appropriate land use regulations within this area which reduce the risk of**
12 **groundwater contamination.**

13 (10) **Any changes in land use designations or zoning for the area within the**
14 **Otter Rock Water District Wellhead Protection Area shall comply with the**
15 **requirements of Statewide Planning Goal 5 and OAR 660, Division 23.**

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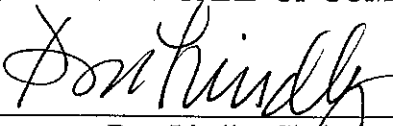
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1 **SECTION 4.**

2 This Ordinance being necessary for the immediate preservation of the public peace,
3 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon
4 its passage.

DATED this 21st day of July, 1999.

LINCOLN COUNTY BOARD OF COMMISSIONERS



Don Lindly, Chair



Jean Cowan, Commissioner

EXCUSED

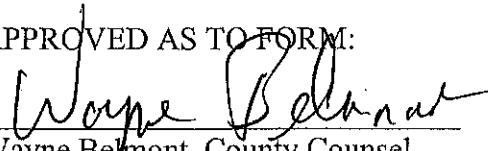
Karen Gerttula, Commissioner

ATTESTED TO:



Susan Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

GOAL 5: GROUNDWATER RESOURCES

Otter Rock Water District Wellhead Protection Area

Proposed Amendments to Lincoln County Comprehensive Plan and Land Use Code

Purpose

Under the provisions of Statewide Planning Goal 5, groundwater resources which provide drinking water for public water systems may be considered a "significant" Goal 5 resource. Oregon Administrative Rule (OAR) Chapter 660, Division 23 sets forth the requirements for designating and planning for significant groundwater resources. This document is intended to address the requirements of OAR 660-23-0140 for the identified wellhead protection area of the Otter Rock Water District. The county's regulatory and management role in wellhead protection is limited to land use planning and regulation within the scope of the Lincoln County Comprehensive Plan and Land Use Code. As such, the measures contained herein are not intended to be a complete wellhead protection plan, but may constitute one element (land use planning) of such a plan.

Background

The Otter Rock Water District operates a public water system providing domestic water service to 135 residential users and 5 commercial users. The district's source of raw water consists of three springs located at the base of Cape Foulweather. The district has groundwater rights of 1.4 c.f.s. There are no significant sources of surface water in the immediate vicinity of the district's service area. In 1996 the district initiated a process to delineate the wellhead protection area for the springs which comprise the source of the district's water supply. A wellhead protection area is defined as "the surface and subsurface area surrounding a water well, spring or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring or wellfield." (OAR 660-23-0140). In September of 1997 the delineation of the wellhead protection area for the Otter Rock Water District was certified by the Oregon State Health Division pursuant to OAR Chapter 333, Division 61.

Inventory

The identification of the Otter Rock Water District wellhead protection area is described in the report Drinking Water Protection Area Delineation for Otter Rock Water District, Otter Rock Oregon prepared by Tom Pattee of the Oregon Association

of Water Utilities. This delineation was certified by the Oregon Health Division on September 15, 1997 as meeting the requirements of OAR 333-61-057. (OHD Delineation Certificate #0005). The above referenced report, accompanying maps and OHD Delineation Certificate #0005 are hereby incorporated into and made a part of the Lincoln County Comprehensive Plan Inventory.

Significance

Under the provisions of OAR 660-23-0140, a wellhead protection area is considered a significant groundwater resource if it has been delineated and certified by OHD and either:

- (a) The public water system served by the wellhead has a service population of greater than 10,000 or has more than 3,000 service connections and relies on groundwater as the primary or secondary source of drinking water; or
- (b) The wellhead protection area is determined to be significant under criteria by established by a local government, for the portion of the wellhead protection area within the jurisdiction of the local government.

As discussed in the inventory above, the Otter Rock Water District wellhead protection area delineation has been certified by OHD. The system's service population and number of connections do not meet the requirements of OAR 660-23-0140 (5)(a). However, the district's wellhead protection area is deemed to be a significant groundwater resource for purposes of the Lincoln County Comprehensive Plan pursuant to OAR 660-23-0140 (5)(b), based on the following criteria established by Lincoln County:

- A public water system relies on the groundwater resource as its sole source of drinking water; and
- There is minimal likelihood that alternate sources of supply will be available to the district within the (20 year) planning period.

As previously noted, the district currently relies on the identified groundwater resource as its sole source of drinking water supply. As also previously noted, there are no significant surface water resources within the general vicinity of the district's service area. A planning process involving a number of public water service providers is currently underway to examine the feasibility of developing a regional water supply on nearby Rocky Creek. It is possible, if this source is developed, that the district could be included in the consortium of users which will be supplied in the future by Rocky Creek. However, it is not anticipated that, if developed, this source would be available during the present planning period.

Existing and Potential Conflicts

The purpose of this analysis is to identify existing and permitted land uses within the identified wellhead protection area to evaluate potential sources of contamination. It should be noted that this evaluation is limited to an assessment of land uses subject to control by the Lincoln County Comprehensive Plan and land use regulations. No attempt is made to identify or evaluate other potential sources of contamination not subject to county land use control.

The district's wellhead protection area delineation divides the protection area into three specific zones, based on the perceived degree of aquifer vulnerability. These zones provide logical areas within which to evaluate potentially conflicting land uses.

- Zone 1

Zone 1 consists of that portion of the protection area sandwiched between the Marine Terrace Deposit and the Cape Foulweather Basalt, and is the area most proximate to the source springs. Water quality monitoring at the springs has shown that recharge within Zone 1 can occur within one week after precipitation events. This is the zone with the highest degree of aquifer vulnerability.

Lands within Zone 1 are designated on the comprehensive plan map as within the Otter Rock Rural Community and are zoned for single family residential development. This is a fairly small area of land, estimated to comprise approximately 20 acres. This area is at the present time undeveloped. The major potential source of contamination from permissible residential development would be from on-site sewage disposal systems. Current zoning would permit residential densities of approximately three units per acre served by on-site sewage disposal systems. This area has access to sanitary sewer service, so the development of residential uses served by on-site systems is unlikely. However, current zoning would permit such development to occur. Given the vulnerability of the aquifer in this area, the relatively high density of on-site sewage disposal systems which could be allowed by current zoning is inconsistent with the objective of reducing the risk of contamination of groundwater resources in the area.

The other identified use permitted by current zoning which may pose a potential conflict with aquifer protection would be certain types of "home occupations" which might involve the use of hazardous or toxic materials. Examples might include photographic dark room chemicals or preservatives and tanning agents used in taxidermy. These home occupation uses are subject to discretionary land use review. Review standards do not specifically address groundwater protection; however they do provide sufficient authority to appropriately condition or prohibit such uses.

- Zone 2

Zone 2 extends upslope of Zone 1 to the top of Cape Foulweather. It is underlain by Cape Foulweather Basalt. It consists of approximately 100 acres. Within this area, surface water runoff will drain directly into Zone 1, therefore any contamination that originates in this area has the potential to be transported overland to Zone 1 and penetrate the aquifer. Likewise, precipitation falling in this area and recharging groundwater through the Cape Foulweather Basalt could pick up contaminants and transmit them into the aquifer system. Zone 2 is considered the second most vulnerable portion of the protection area.

All lands within Zone 2 are designated Forest Land pursuant to Statewide Planning Goal 4 and are zoned in accordance with applicable statutory and administrative rule requirements. Permitted uses consist of forest management and harvest operations and related activities, which are not subject county land use regulation. There is some small potential for the placement of individual single family dwellings on existing parcels within this area, in accordance with the qualifying standards of the land use code. Any such dwellings would be served by on-site sewage disposal systems. However given the small number of potential dwellings (there are three existing parcels) and very low density, the risk of contamination posed by any such development is very low.

- Zone 3

Zone 3, like Zone 2, is underlain by Cape Foulweather Basalt. It extends from the drainage divide on top of Cape Foulweather, down the northeastern flanks to the Cape Foulweather-Astoria Formation contact. This zone is considered least vulnerable to aquifer contamination due to longer groundwater travel times than either Zones 1 or 2. However, protection of this area is still important, since it serves as a recharge area through cooling fractures in the basalt and/or through basalt pillow-breccia exposure in the subsurface along the Astoria Formation contact.

As is the case with Zone 2, all lands within Zone 3 are designated Forest Land pursuant to Statewide Planning Goal 4 and are zoned in accordance with applicable statutory and administrative rule requirements. Permitted uses consist of forest management and harvest operations and related activities, which are not subject county land use regulation. There is some small potential for the placement of individual single family dwellings on existing parcels within this area, in accordance with the qualifying standards of the land use code. Any such dwellings would be served by on-site sewage disposal systems. However given the small number of potential dwellings (there are two existing parcels) and very low density, the risk of contamination posed by any such development is very low.

Resolution of Identified Conflicts

Identified potential land use conflicts within the wellhead protection area consist of relatively dense residential development within Zone 1 served by on-site disposal systems, and home occupations (permitted conditionally) which could utilize hazardous or toxic materials. It is concluded that additional land use controls/restrictions are necessary to resolve these potential conflicts. The following implementing measures should be provided for in the Lincoln County Land Use Code:

1. Limit the development of residential on-site sewage disposal systems within Zone 1 to no more than one unit per five acres.
2. Prohibit home occupations which utilize hazardous or toxic materials within Zone 1.
3. Provide notice to the Otter Rock Water District of any proposed land use decisions within the delineated wellhead protection area.

Plan Amendments/Zone Changes

The forgoing analysis is based on an evaluation of existing land use designations and zoning and the land uses which may be authorized pursuant to these standards. It is recognized that property owners or other parties may initiate requests for changes or amendments to these designations. Any plan amendments or zone change applications, or any changes to the text of applicable land use regulations, must be evaluated against the requirements of Statewide Planning Goal 5 and OAR 660, Division 23, to ensure consideration of the identified significant groundwater resource within the Otter Rock Water District Wellhead Protection Area.