

Senate Bill 482

Sponsored by Senator PROZANSKI (at the request of John Brown)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires local governments to establish safe drinking water overlay zones. Prescribes minimum boundaries of overlay zones. Prohibits certain land uses in overlay zones. Establishes permitting procedures for certain land uses in overlay zone.

A BILL FOR AN ACT

1
2 Relating to the establishment of safe drinking water overlay zones.

3 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 6 of this 2009 Act:

4
5 (1) **"Development"** means the construction of structures or surfaces or the expansion of
6 structures or surfaces. **"Development"** does not include the construction of a structure that
7 is no more than 500 square feet in size, the construction of a surface that is no more than
8 300 square feet in size, or the expansion of a structure or surface that increases the size of
9 the existing structure or surface by no more than 200 square feet.

10 (2) **"Hazardous material"** has the meaning given that term in ORS 466.605.

11 (3) **"Hearings officer"** means a person appointed by a local government or a city or
12 county planning commission to conduct hearings for special use permits or proposed devel-
13 opments.

14 (4) **"Local government"** has the meaning given that term in ORS 197.015.

15 (5) **"Overlay zone"** means a zoning district that exists in addition to all underlying zoning
16 districts.

17 (6) **"Septage"** has the meaning given that term in ORS 454.782.

18 (7) **"Water system"** has the meaning given that term in ORS 448.115.

19 **SECTION 2. (1)** A local government that has jurisdiction over a water source from which
20 a water system draws municipal drinking water shall establish a safe drinking water overlay
21 zone to protect the water source. When establishing a safe drinking water overlay zone:

22 (a) A local government shall establish the boundaries of the overlay zone. The boundaries
23 of the overlay zone must be no less than 200 feet from a water source from which a water
24 system draws municipal drinking water and no less than 50 feet from a tributary stream that
25 flows into a water source from which a water system draws municipal drinking water.

26 (b) A local government shall appoint a hearings officer to conduct hearings for special
27 use permits and proposed developments within the overlay zone.

28 (c) The governing body of a county shall follow the procedures for county planning in
29 ORS chapter 215.

30 (d) A city shall follow the procedures for city planning in ORS chapter 227.

31 (2) A local government shall adopt rules to protect water sources within its jurisdiction

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

1 when those water sources are located inside a safe drinking water overlay zone. The land
2 use rules of an overlay zone exist in addition to the land use rules of an underlying zone or
3 local government. When the permitted uses of an underlying zone or local government con-
4 flict with the permitted uses of an overlay zone, the more restrictive rule shall apply.

5 **SECTION 3.** (1) A local government, at a minimum, shall prohibit the following land uses
6 in a safe drinking water overlay zone:

7 (a) Storage, use, handling, production, disposal or treatment of hazardous materials, ex-
8 cept as allowed under section 4 of this 2009 Act;

9 (b) Operation of fueling facilities;

10 (c) Storage and disposal of septage, except as allowed under section 5 of this 2009 Act;

11 (d) Outside storage of four or more nonfunctional vehicles;

12 (e) Outside storage of five or more nonfunctional appliances; and

13 (f) Any other land use that the local government deems to be harmful to the quality of
14 municipal drinking water.

15 (2) A local government shall exempt land uses from the prohibitions required by sub-
16 section (1) of this section when:

17 (a) The Department of Human Services or the Department of Environmental Quality
18 adopts a rule that states that the storage, use, handling, production, disposal or treatment
19 of a hazardous material will not introduce biological, chemical, radiological or physical im-
20 purities into the water supply;

21 (b) A governmental organization or a nongovernmental disaster relief organization must
22 store, use, handle, produce, dispose of or treat a hazardous material within the overlay zone
23 in an emergency situation to protect the public;

24 (c) A person offers a hazardous material for sale in its original container and the con-
25 tainer holds five gallons or less of material;

26 (d) A person purchases a hazardous material that is a commonly used office supply, such
27 as toner or a cleaning product, at a location outside the overlay zone for use inside the
28 overlay zone;

29 (e) A person stores a hazardous material in a fuel tank or fuel reservoir that is attached
30 to a motor vehicle and uses the hazardous material to fuel the vehicle;

31 (f) A water supplier stores a hazardous material in a water system and uses the haz-
32 ardous material for water treatment purposes;

33 (g) A person stores a hazardous material in a functional sealed unit, such as a transfor-
34 mer or refrigeration unit, and does not open the part of the unit that stores the hazardous
35 material as part of routine use;

36 (h) An energy facility certified under ORS chapter 469 distributes a hazardous material;
37 and

38 (i) A person uses an aggregate amount of hazardous material equal to or less than 20
39 gallons.

40 **SECTION 4.** (1) A person may apply for a special use permit to store, use, handle,
41 produce, dispose of or treat hazardous materials within a safe drinking water overlay zone.
42 To acquire a special use permit to store, use, handle, produce, dispose of or treat hazardous
43 materials, a person shall submit a hazardous material management statement to the
44 hearings officer of the overlay zone. The hearings officer shall review the statement and
45 shall issue a special use permit if issuance would comply with the rules that the local gov-

1 ernment adopts under section 2 of this 2009 Act. A person may reapply for a special use
 2 permit under the rules that the local government adopts under section 2 of this 2009 Act.

3 (2) A hazardous material management statement must contain:

4 (a) A description of all activities at the facility that involve the storage, use, handling,
 5 production, disposal or treatment of hazardous materials;

6 (b) A plan to contain the hazardous materials;

7 (c) A plan to prevent, control, collect and dispose of any accidental release of hazardous
 8 materials;

9 (d) A plan to inspect and maintain containment equipment and emergency equipment;

10 (e) A plan to dispose of unused hazardous materials, including a description of the type
 11 of transport and proposed route and destination of transport; and

12 (f) Any other information that the local government requires by rule to be submitted.

13 (3) A special use permit issued under this section expires after five years. A person may
 14 not apply for renewal of the permit before four years after the date of issuance.

15 **SECTION 5.** (1) A person may apply for a special use permit to use a septic tank to store
 16 and dispose of septage within a safe drinking water overlay zone. To acquire a special use
 17 permit to use a septic tank within the overlay zone, a person shall submit to the hearings
 18 officer of the overlay zone:

19 (a) Proof that the septic tank was inspected within the past year and found to be in
 20 working order by a plumber licensed under ORS chapter 693; and

21 (b) Proof that the backflow assembly of the septic tank was inspected within the past
 22 year and found to be in working order by a plumber licensed under ORS chapter 693 or an
 23 inspector certified under ORS 448.279.

24 (2) A special use permit issued under this section expires after five years. A person may
 25 not apply for renewal of the permit before four years after the date of issuance.

26 **SECTION 6.** (1) A person may not begin a development within a safe drinking water
 27 overlay zone until the person obtains a development permit. To receive a development per-
 28 mit, a person shall submit a safe drinking water plan to the hearings officer of the overlay
 29 zone. The hearings officer shall review the plan under the rules that the local government
 30 adopts under section 2 of this 2009 Act.

31 (2) A safe drinking water plan must contain:

32 (a) A site map that shows property lines, the location of proposed structures, surfaces
 33 or expansion of structures or surfaces and any other information that the local government
 34 requires by rule;

35 (b) A plan for limiting erosion during construction;

36 (c) A plan for the management of storm water during and after construction; and

37 (d) Any other information that the local government requires by rule to be submitted.
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