

Lane County Watersheds Bill of Rights

Preamble

We, the residents of Lane County, understand that "All water within the state from all sources of water supply belongs to the public," as stated in ORS 537.110, even where it flows over private land; and we believe access to clean water is a natural right of humans and all other species.

In securing the health of the watersheds of Lane County, we acknowledge that watersheds are living systems and possess the inherent right to exist, flourish, regenerate and naturally evolve for their own sake, interdependent with and independent of human needs.

Lane County watersheds are essential and vital ecosystems for a healthy environment. Our watersheds include the water and land area that drains rain and snow into rivers, creeks, lakes, wetlands, aquifers and the Pacific Ocean, within which all living things are inextricably linked.

We acknowledge that the First Peoples connected to these watersheds established and practiced a relationship of care, respect, and a deep sense of responsibility to ensure the health and vitality of the watersheds.

A healthy watershed conserves water; promotes streamflow; supports sustainable creeks, rivers, lakes, and groundwater sources; creates healthy soil; and provides habitat for wildlife and plants. A healthy watershed provides safe drinking water and food and enables adaptation of living species to the adverse impacts of climate change by cooling the air and absorbing greenhouse gas emissions.

Due to the ever-increasing contamination and demands on our watersheds, We, the Citizens of Lane County, declare our responsibility as defenders of these ecosystems to ensure their highest legal protection from degradation, loss of ecological balance, and all threats to their health and wellbeing.

Government has failed in its responsibility to the public by enacting laws that tolerate or permit the incremental degradation of watersheds and water quality. We assert that in order to protect our water and watersheds, we must shift governance away from policies that allow voluntary compliance or directly permit pollution by entities who view nature only as lifeless property and thereby merely regulate the degree of allowable harm to be inflicted on watersheds.

Pursuant to the right of self-government, as stated in the United States Declaration of Independence and protected by the Oregon State Constitution, if government repeatedly violates our rights, We, the Citizens of Lane County, have the right and responsibility to alter or replace that system with one that secures and protects our rights.

It has become necessary that we reclaim, reaffirm and assert our inalienable rights and extend protections that provide legal standing and rights recognition to all watersheds in Lane County, in order to ensure they are no longer subordinated as property subject to harmful actions by unaccountable political and corporate entities.

Therefore We, the Citizens of Lane County, enact the Lane County Watersheds Bill of Rights, which establishes irrevocable rights for all our watersheds to exist, flourish, regenerate and naturally evolve, free from contamination and degradation, and which thereby protects their integrity and natural diversity both now and for future generations.

Section 1. Definitions

(a) "Watershed" means the water and land area that drains rain, snow, and groundwater into a single outlet, such as rivers, creeks, lakes, wetlands, aquifers and the Pacific Ocean. A watershed may be only a few acres (as in small ponds) or hundreds of square miles (as in rivers).

(b) "Ecosystem" means a biological community of interacting organisms and their physical environment, encompassing the complex relationships between plants, animals, and their surroundings, including the air, water, and soil.

(c) "Natural Community" means wildlife, flora, fauna, soil and air-dwelling and aquatic organisms that have established sustainable interdependencies within a diverse matrix of organisms, within a natural ecosystem.

(d) "Pollution" or "water pollution" has the same meaning as its definition in ORS 468B.005(5) ("Pollution" or "water pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof).

Section 2 - Statements of Law

(a) *Rights of Watersheds.* All watersheds, and all ecosystems and natural communities therein, possess inalienable rights to naturally exist, flourish, regenerate and evolve. These inalienable rights include, but are not limited to the right to sustainable recharge, flows sufficient to protect native fish habitat, and clean water free of pollution by any activities of corporations, governments, and other business entities

(b) *Right to Water.* The people of Lane County possess a right to clean water, which includes but is not limited to the right to drinking water free of pollution, the right to affordable domestic water access, and the right to be free from all corporate, government, and other business entity activities that infringe those rights.

(c) *Right to Protection from Governmental and Corporate Interference.* All residents of Lane County possess the right to enforce this law free of interference from corporations, governments, and other business entities that would seek to limit the rights expressed herein. That right includes the right of residents to be free from preemption over the rights expressed herein, because this law expands rights protections for people and nature above those provided by less protective state, federal, or international law.

(d) *Right to Prosecute and Remedy Violations.* When there is evidence of a violation of the rights set forth in section 2 or a danger of damage resulting from activities of corporate, government, or other business entities, any resident of Lane County and any watershed, ecosystem or natural community wholly or partially within Lane County shall have these rights in actions brought in Circuit Court :

(1) to achieve reduction or elimination of damage by nullifying or modifying any government authorizations for such activities;

(2) to require the government to adopt protective and effective measures to prevent and/or remedy actual and potential violation of the rights declared within this ordinance, even when there is not scientific certainty or full evidence of the risk.

Section 3 - Enforcement

(a) Any corporate, government or other business entities that impair any of the rights set forth in this ordinance shall be liable for all damage to watersheds, ecosystems, and/or natural communities caused by the impairment. Damages shall be measured by the cost of restoring the watersheds, ecosystems, and/or natural communities to the condition before the impairment. The awarded funds shall be used for environmental restoration of the impaired watershed, ecosystem, and/or natural community that utilizes the most current scientific evidence-based practices combined with traditional ecological knowledge.

(b) Any corporate, government, or other business entity that impairs any of the rights set forth in this ordinance shall be subject to a civil penalty in an amount of 1% per day of the total cost of restoring the affected environment to its state before the impairment from the time the impairment is reported to any government entity until the impairment is stopped. This 1% per day penalty is in addition to the cost of restoring the affected environment.

(c) Lane County, including its elected representatives, officials, and staff, shall enforce and defend this law to the fullest extent possible.

(d) Watersheds, ecosystems, and natural communities may enforce or defend this law and the rights it recognizes through actions brought in the name of the watershed, ecosystem, or natural community as the real party or parties in interest.

(e) Any resident of Lane County or watershed, ecosystem, or natural community may enforce or defend the provisions of this law in any appropriate court. Any resident of Lane County, watershed, ecosystem, or natural community also has the right to intervene in any action concerning this law in order to enforce or defend it. In such an action Lane County will be deemed not to adequately represent the interests of the plaintiffs. In such an action, the prevailing resident, watershed, ecosystem, or natural community shall be entitled to recover all costs of litigation and any appeals, including, without limitation, witness and attorney fees.

(f) Any public or private employee, including any part time, full time, temporary, or contract worker, shall be entitled to all protections and compensations accorded by Oregon laws pertaining to whistleblowing, including all such laws in ORS Chapter 659A. Employees shall be entitled to compensation for any damages suffered as a result of reporting violations of the rights secured by this ordinance due to actions by their employers.

(g) The provisions of this law are severable. If any court decides that any section, clause, sentence, part, or provision of this law is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the law. This law would have been enacted without the invalid sections.