**McKenzie Watershed Protective**

**Riparian Zones on the McKenzie (in a nutshell)**

1. There is not one but **TWO** Riparian Zones on shores of the McKenzie River:
2. The State of Oregon owns the streambed up to the high water mark (ORS 274.005 and ORS 274.025). Under the Equal Footing Doctrine of federal law, Oregon took title to the navigable waters within the state when it became a state. See also ORS 274.025(1). State law vests exclusive jurisdiction to assert title in lands below ordinary high water of navigable waters in the State Land Board in ORS 274.402. Cutting or removal of any vegetation in the State riparian zone (referred to as “wetlands”) is prohibited without a permit. Adding or removal of rock in the State riparian zone is prohibited without a permit. Adding of permanent structures (stairs, decks, benches, etc.) in the State riparian zone is prohibited without a permit. The State riparian zone is administered by the State Division of Lands.
3. State law ORS 274.005 states “the ordinary high water mark as a line on the bank or shore to which high water ordinarily raises each year”. An easier way to determine the high water mark is to find the “debris line”, where high water has left a telltale line of grass, sticks, limbs or logs. If unable to mark any debris, you can also use a laser/leveling device from the opposite shore to determine the high water mark.
4. The best enforcement is to prevent illegal wetland alterations through information and education. However, when violations do occur, a variety of enforcement tools may be used, including restoration orders, fines of up to $10,000 per day (DSL), civil and/or criminal charges.
5. Lane County Code 16.253 states that property owners must follow Riparian Zone codes from the high water mark up to a point 50 feet inland. Removal of up to 25% of the vegetation in the Lane County riparian zone is allowed. The remaining 75% must remain in its natural state. Larger properties may have different calculations. Adding or removal of rock in the Lane County riparian zone is prohibited without a permit. Adding of permanent structures (stairs, decks, benches, etc.) in the County riparian zone is prohibited without a permit.
6. The assumption that Lane County Riparian Zone starts at the water line is incorrect. Lane County Riparian Zone starts at the high water mark. The high water mark (State land) can be as much as 30 feet from the water line, depending on topography.
7. Why is the Riparian zone such a big deal?

 Riparian zones cover less than 2% of the Western U.S., but an overwhelming majority of fish

 and wildlife depends on those areas. Riparian zones are a wealth of plant diversity and

 connect the forests to the river. Salmon spawning typically occurs in areas which have

 healthy riparian growth and rarely occurs in front of a lawn at the river’s edge.

 Without healthy riparian zones we run the risk of losing our water quality for drinking water,

 fish habitat, and wildlife habitat. BLM in a 2007 study has concluded that 70-95 percent of

 Riparian areas in the Western US have been degraded or lost.

1. Uh Oh! Already cut your riparian zone?

Lane Code 16.253 has some specific information on plant types to remedy riparian loss. There are also local interest groups who will help replant riparian areas for FREE! Invasive plants such as Ivy and Black Berries are not suitable for riparian zones, in fact these two plants do little to help the river. Ivy and Black Berries should be removed as soon as possible. These same local interest groups can help remove Ivy and Black Berries.

1. Be proactive about your riparian zone. Don’t wait for the County or State to knock on your door. If you need help determining a course of action, give us a call and we will put our network of resources to work for you. “Do what is right for the river!”
2. Lane County Code violation procedures begin with an initial letter, followed up by a second letter. If compliance is not achieved, Lane County Compliance Officers may issue citations and fines. Some of the more serious violations have required property owners to hire an arborist, a landscape specialist, and develop a riparian zone restoration plan which can be quite expensive.
3. Irrigation Pumps on the McKenzie River:

 Irrigation pumps are permitted by the Oregon Department of Water Resources. Property

 owners operating pumps on the McKenzie River without a permit are in violation of State law

 and subject to fines and disciplinary action. See the attachment “Water Rights – Pumps in the River”.

*Being proactive now in restoring your riparian zone will go a long way in demonstrating your intent to comply with current County and State law. McKenzie Watershed Protective is not a legal advisor. All information on our website is informative only.*