

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 5-96))))))	IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO CHANGE THE INITIAL REVIEW AND APPROVAL OF CERTAIN SPECIAL USES FROM THE HEAR- INGS OFFICIAL TO THE PLANNING DIREC- TOR
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The Board of County Commissioners of Lane County ordains as follows:

Chapter 16 of Lane Code is hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

16.234(1) - 16.234(3) to
16.243(18) - 16.243(21),
i.e. 16-196 to 16-262
(a total of 67 pages)

16.234(1) - 16.234(3) to
16.243(17) - 16.243(20),
i.e. 16.196 to 16.262
(a total of 67 pages)

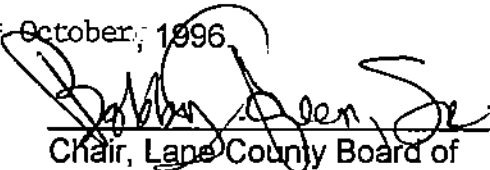
16.253(1) - 16.253(2) to
16.254(5) - 16.254(10),
i.e. 16-304 to 16-316
(a total of 13 pages)

16.253(1) - 16.253(2) to
16.254(5) - 16.254(10),
i.e. 16.304 to 16.316
(a total of 13 pages)

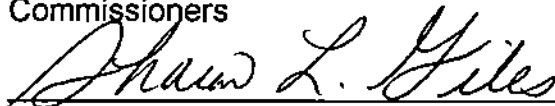
Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to change the initial review and approval of certain special uses from the Hearings Official to the Planning Director.

While not part of this Ordinance, findings in attached Exhibit "A" are adopted in support of this decision.

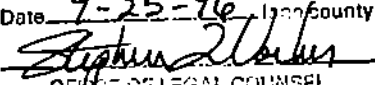
Enacted this 30 day of October, 1996.



 Chair, Lane County Board of
 Commissioners



 Recording Secretary for this
 Meeting of the Board

APPROVED AS TO FORM
 Date 9-25-96 Lane County

 OFFICE OF LEGAL COUNSEL

FILED

NOV 07 1996

COUNTY CLERK
BY 

16.234(1)

Lane Code

16.234(3)

NATURAL ESTUARY ZONE (NE-RCP)RURAL COMPREHENSIVE PLAN16.234 Natural Estuary Zone (NE-RCP).

(1) Purpose. The purpose of the Natural Estuary Zone (NE-RCP) is to assure the protection of significant fish and wildlife habitats and the continued biological productivity of the estuary and to accommodate the uses which are consistent with these objectives.

(2) Permitted Uses. In the NE-RCP Zone, the following types of uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this Chapter.

(a) Low intensity recreation which is water dependent.

(b) Educational and scientific observation.

(c) Navigational aids.

(d) Passive estuarine restoration.

(e) Protection of habitat, nutrient, fish, wildlife and aesthetic resources.

(f) Low intensity grazing provided the area is a high salt marsh.

(g) Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures.

(h) Rip-rap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values and public facilities.

(i) Bridge crossings.

(3) Special Uses Approved by the Director. The following specified uses and no others are permitted, subject to approval by the Director pursuant to LC 14.100, upon satisfaction of the applicable criteria. A Resource Capability Determination is required as set forth in LC 16.248, except for major projects requiring an Impact Assessment as set forth in LC 16.249.

(a) (i) Uses.

(aa) Communication facilities.

(bb) Active restoration of fish and wildlife habitat or water quality and estuarine enhancement.

(ii) Criteria.

(aa) No fill or dredging is required.

(bb) The use will have minimal impact on natural resources in the area affected by the proposed use. These natural resources are as identified in the Lane County Rural Comprehensive Plan.

BOOK 158 PAGE 0931

(cc) The location and actions proposed for restoration measures are adequate to achieve the stated restoration objective. Restoration objectives shall set forth the original conditions to be restored and the cause of the loss or degradation.

(dd) Any restoration action related to the distribution and attributes (e.g., long-term environmental, social or economic values) that have been lost or diminished shall be consistent with the original conditions.

(b) (i) Uses. Aquaculture which does not involve estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.

(ii) Criteria.

(aa) No dredge or fill is required.

(bb) The use is consistent with the Lane County Rural Comprehensive Plan.

(c) (i) Uses.

(aa) Boat ramps for public use where no dredging or fill for navigational access is needed.

(bb) Pipelines, cables and utility crossings, including incidental dredging necessary for their installation.

(cc) Installation of tidegates in existing functional dikes.

(dd) Bridge crossing support structures and dredging necessary for their installation.

(ii) Criteria.

(aa) The use is consistent with the resource capabilities of the area in that either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant, or the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity and values of scientific research and education.

(bb) Substantial public benefit is demonstrated.

(d) (i) Uses. Temporary alterations.

(ii) Criteria. A resource capabilities test shall be applied to temporary alteration proposals to ensure:

(aa) That the short-term damage to resource is consistent with resource capabilities of the area; and

(bb) That the area and affected resources can be restored to their original condition.

(cc) The proposed alteration is otherwise in compliance with and in support of uses allowed by the NE-RCP zone.

(4) Nonconforming Use Exceptions.

(a) Docks and Piers. Actively utilized pier, docks and other structures occupying the water surface by means other than fill existing as of July 1, 1980 may be rebuilt within two years, but not expanded if damaged or destroyed notwithstanding the provisions of LC 16.251 regarding nonconforming uses.

(b) Log Storage. Notwithstanding the provisions of LC 16.251 regarding nonconforming uses, log storage sites in the NE-RCP Zone under lease from the Division of State Lands shall be allowed to continue and be renewed. Leases for storage sites in new areas are prohibited.

(5) Applicable Natural Features. The boundaries of the NE-RCP Zone are determined by the natural estuarine features. The NE-RCP Zone includes all major tracts of salt marsh, tideflats, eelgrass and algae beds. The entire estuarine areas of the Siltcoos River and Berry, Sutton, Big and Tenmile Creeks are within the NE-RCP Zone. These are as defined on the Lane County zoning maps as specified by LC 16.252(8).

(6) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal Permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(7) Additional Criteria Required for Projects Involving Dredge or Fill. Any use or activity permitted above which requires dredging or filling of the estuary must meet the following criteria:

(a) The use is required for navigation or is otherwise water-dependent and requires an estuarine location, or is specifically allowed by the NE-RCP zone; and

(b) A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and

(c) No feasible alternative upland locations exist; and

(d) Adverse impacts on identified estuarine values are minimized.

(e) Mitigation requirements of ORS 541.605 to 541.695 are met.

Other uses which could alter the estuary shall only be allowed if the requirements in LC 16.234(7)(b), (c) and (d) above, are met.

16.235(1)

Lane Code

16.235(2)

CONSERVATION ESTUARY ZONE (CE-RCP)RURAL COMPREHENSIVE PLAN16.235 Conservation Estuary Zone (CE-RCP).

(1) Purpose. The purpose of the Conservation Estuary Zone CE-RCP is to provide for the long-term use of the estuary's renewable resources in ways which do not require major alteration of the estuary. Providing for recreational and aesthetic uses of the estuarine resources as well as maintenance and restoration of biological productivity are primary objectives in this zone.

(2) Permitted Uses. In the CE-RCP Zone, the following types of uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this Chapter.

(a) Low-intensity, undeveloped recreation which is water dependent.

(b) Scientific and educational observation.

(c) Navigational aids, such as beacons and buoys.

(d) Passive estuarine restoration measures.

(e) Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures.

(f) Natural resource preservation, including protection of habitat, nutrient, fish, wildlife and aesthetic resources.

(g) Rip-rap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values and public facilities.

(h) Bridge crossings.

(i) Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.

(j) Communication facilities.

(k) Active restoration of fish and wildlife habitat or water quality and estuarine enhancement.

(l) Boat ramps for public use where no dredging or fill for navigational access is needed.

7-87; 6.17.87
7-91; 6.5.91

16-201

WP 1/co/00057/T
WP 1/cr/96012/T

16.235(2)

Lane Code

16.235(3)

(m) Pipelines, cables and utility crossings, including incidental dredging necessary for their installation.

(n) Installation of tidegates in existing functional dikes.

(o) Bridge crossing support structures and dredging necessary for their installation.

(p) Noncommercial clamming and fishing.

(q) Low-intensity grazing; provided the area is a high salt marsh and has been so used within the 10 years prior to July 24, 1980.

(r) Log storage; provided the storage occurs at sites under lease from Division of State Lands on July 24, 1980 and provided all state and federal agency requirements are met.

(3) Special Uses Approved by the Director. The following specified uses and no others are permitted, subject to approval by the Director pursuant to LC 14.100. A Resource Capability Determination is required as set forth in LC 16.248, except for major projects requiring an impact assessment as set forth in LC 16.249.

(a) (i) Uses. Private single-family, single-purpose piers or docks.

(ii) Criteria and Conditions.

(aa) The use will have minimal adverse impact on natural resources in the area affected by the proposed use. The resources are as identified in the Lane County Rural Comprehensive Plan.

(bb) The use is compatible with requirements of adjacent shorelands' Rural Comprehensive Plan designation.

(cc) The applicant attests in writing on a form provided by the Planning Director that no alternatives to the proposed structure are feasible.

(dd) The size and design of the structure is limited to that required for the intended use.

(b) (i) Uses. New or expanded log storage sites not otherwise provided for in LC 16.235(2)(r) above.

(ii) Criteria and Conditions.

(aa) Water storage is integral to continued operation of the associated wood processing facility.

(bb) There are no feasible upland alternatives.

(cc) The log storage operation meets Department of Environmental Quality Standards for log storage.

(dd) The use is not proposed at sites which have long-established use for public recreation such as a boat launching site or a marina site.

(ee) Public need is demonstrated.

(c) (i) Uses.

(aa) Public docks and piers.

(bb) Private multifamily docks and piers.

(cc) Mooring buoys which are permanently anchored to estuary floor.

(dd) Dolphins.

(ii) Criteria and Conditions. The use will have minimal impact on natural and recreational resources in the area affected by the proposed use. The resources are as identified in the Lane County Rural Comprehensive Plan.

(d) (i) Uses.

(aa) Boat launching ramps.

(bb) Public beaches requiring estuarine modification.

(cc) Minor dredging to improve navigability.

- (ii) Criteria and Conditions.
 - (aa) An estuarine location is required.
 - (bb) No alternative locations exist which are designated as Development in the Lane County Rural Comprehensive Plan.
 - (cc) Adverse impacts on resources are minimized. These resources are as identified in the Lane County Rural Comprehensive Plan.
 - (dd) No alternative shoreland locations exist for the portions of the use requiring fill.
 - (ee) Public need is demonstrated.
- (e) (i) Uses. Erosion control structure, including, but not necessarily limited to, seawalls, bulkheads, groins and jetties.
 - (ii) Criteria.
 - (aa) The criteria and conditions specified under Special Uses, LC 16.235(3)(d)(ii)(aa)-(ee) above are met.
 - (bb) The use being protected is water dependent.
 - (cc) Adverse impacts on water currents, erosion and accretion patterns are minimized as much as feasible.
 - (dd) Nonstructural solutions are inadequate to protect the use.
- (f) (i) Uses. Active estuarine restoration involving dredge or fill.
 - (ii) Criteria.
 - (aa) Public need is demonstrated.
 - (bb) The location and actions proposed for restoration measures are adequate to achieve the stated restoration objective. Restoration objectives shall set forth the original conditions to be restored and the cause of the loss or degradation.

(cc) Any restoration action related to the distribution and abundance of relevant amenities and attributes (e.g., long-term environmental, social or economic values) that have been lost or diminished shall be consistent with the original Conditions.

(g) (i) Uses Riprap and associated minor fills to protect preexisting structures or specified values.

(ii) Criteria.

(aa) The use is required to protect human-made structures existing prior to October 7, 1977 or critical wildlife habitat in adjacent shorelands as identified in the Lane County Rural Comprehensive Plan.

(bb) Natural bank stabilization measures are inadequate.

(h) (i) Uses.

(aa) High-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas.

(bb) Aquaculture requiring dredge and/or fill or other alteration of the estuary.

(cc) Minor navigational improvements.

(dd) Mining and mineral extraction, including dredging necessary for mineral extraction.

(ee) Other water-dependent uses requiring occupation of water surface area by means other than dredge or fill.

(ii) Criteria and Conditions.

(aa) The criteria and conditions listed under Special Uses LC 16.235(3)(d)(ii)(aa)-(ee) above are met.

(bb) The use is consistent with the resource capabilities of the area as measured by the following definition: a use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant, or it is documented that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biological productivity, recreational and aesthetic values and aquaculture.

(cc) Associated land uses, if any, on adjacent shorelands comply with applicable Lane County land use and zoning regulations.

- (i) (i) Uses. Temporary alterations.
(ii) Criteria. A resource capabilities test shall be applied to temporary alteration proposals to ensure:

(aa) That the short-term damage to resource is consistent with resource capabilities of the area; and

(bb) That the area and affected resources can be restored to their original condition.

(cc) The proposed alteration is otherwise in compliance with and in support of uses allowed by the CE-RCP zone.

(4) Applicable Natural Features. The boundaries of the CE-RCP Zone are defined by natural features. The CE-RCP Zone includes minor tracts of salt marsh, tideflats, eelgrass and algae beds; those not included in the Natural Estuary Zone (NE-RCP). This zone also includes oyster and clam beds and areas immediately adjacent to developed estuarine areas. These are as defined on the Lane County zoning maps as specified by LC 16.252(9).

(5) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

16.235(5)

Lane Code

16.235(6)

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal Permit, lease, easement or similar type of authorization.

(6) Additional Criteria Required for Projects Involving Dredge or Fill. Any use or activity permitted above which requires dredging or filling of the estuary must meet the following criteria:

(a) The use is required for navigation or is otherwise water dependent and requires an estuarine location, or is specifically allowed by the CE-RCP zone; and

(b) A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and

(c) No feasible alternative upland locations exist; and

(d) Adverse impacts on identified estuarine values are minimized.

(e) Mitigation requirements of ORS 541.605 to 541.695 are met.

Other uses and activities which could alter the estuary shall only be allowed if the requirements in LC 16.235(6)(b), (c) and (d) above are met.

7-87; 6.17.87
7-91; 6.5.91

16-207

WP 1/co/00057/T
WP 1/cr/96012/T

DEVELOPMENT ESTUARY ZONE (DE-RCP)RURAL COMPREHENSIVE PLAN16.236 Development Estuary Zone (DE-RCP).

(1) Purpose. The primary purpose of the Development Estuary Zone DE-RCP is to provide for navigational needs and public, commercial and industrial water dependent uses which require an estuarine location. Uses which are water related or nonwater dependent, nonrelated which do not damage the overall integrity of estuarine resources and values should be considered; provided they do not conflict with the primary purpose of the zone.

(2) Permitted Uses. In the DE-RCP Zone, the following types of uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exception set forth in this Chapter; provided that no such use may be permitted which involves dredging or filling of the estuary.

(a) The following waterborne transportation and associated water dependent activities and uses:

(i) Navigational aides.

(ii) Maintenance dredging of navigation channel.

(b) The following commercial activities and uses which are water dependent:

(i) Marine fueling facilities.

(ii) Marinas.

(iii) Loading and unloading facilities such as piers or docks.

(c) The following industrial activities and uses which are water dependent:

(i) Marine construction and repair facilities.

(ii) Log storage.

(d) The following public facilities which are water dependent.

(i) Marinas.

(ii) Docks and piers and other moorages.

(iii) Boat launching ramps.

(3) Special Uses Approved by the Planning Director. The following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria. A Resource Capability Determination is required as set forth in LC 16.248, except for major projects requiring an Impact Assessment as set forth in LC 16.249.

(a) (i) Uses. Any water dependent use not specifically authorized in LC 16.236(2) above; provided that no such use may be permitted which involves dredging or filling of the estuary.

(ii) Criteria. The use is water dependent.

(b) (i) Uses. Flow-lane disposal of dredged material.

(ii) Criteria. Such action shall be monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units.

- (c) (i) Uses. Flood and erosion control structures, including, but not necessarily limited to, jetties, seawalls, groins and bulkheads.
- (ii) Criteria and Conditions.
- (aa) The criteria specified in LC 16.236 (4) below are met.
- (bb) The structures are designed and sited to minimize erosion and human-induced sedimentation in adjacent areas.
- (cc) The structures are designed and sited to minimize adverse impacts on water currents, water quality and fish and wildlife habitat.
- (dd) The use or uses to be protected by the proposed structures are water dependent.
- (d) (i) Uses. Riprap and associated minor fills to protect human-made structures existing prior to October 7, 1977.
- (ii) Criteria and Conditions. Natural bank stabilization measures are inadequate.
- (e) (i) Uses. All other uses; provided no dredging or filling is required.
- (ii) Criteria.
- (aa) A public need is demonstrated.
- (bb) The use will not irrevocably limit future use of the area for water dependent commercial or industrial facilities.
- (cc) The use will have minimal impact on resources, as identified in the Lane County Rural Comprehensive Plan, in the area affected by the proposed use.
- (f) (i) Uses.
- (aa) Low-intensity recreation which is water dependent.
- (bb) Scientific and educational observation.
- (cc) Active estuarine restoration.
- (dd) Aquaculture.
- (ee) Communication facilities.
- (ff) Bridge crossing support structures.
- (ii) Criteria and Conditions.
- (aa) The criteria specified in LC 16.236 (4) below are met for any use or activity requiring dredge or fill.

(bb) The use or activity will not irrevocably limit the future or present use of the area for water dependent commercial or industrial facilities.

(cc) The location and actions proposed for restoration measures are adequate to achieve the stated restoration objective. Restoration objectives shall set forth the original conditions to be restored and the cause of the loss or degradation.

(dd) Any restoration action related to the distribution and abundance of relevant amenities and attributes (e.g., long-term environmental, social or economic values) that have been lost or diminished shall be consistent with the original conditions.

(g) (i) Uses. Any uses specified in LC 16.236 (2) above which involve dredging or filling of the estuary.

(ii) Criteria. The criteria specified in LC 16.236(4) below.

(h) (i) Uses. Temporary alterations.

(ii) Criteria. A resource capabilities test shall be applied to temporary alteration proposals to ensure:

(aa) That the short-term damage to resource is consistent with resource capabilities of the area; and

(bb) That the area and affected resources can be restored to their original condition.

(cc) The proposed alteration is otherwise in compliance with and in support of uses allowed by the DE-RCP zone.

(4) Additional Criteria Required for Projects Involving Dredge or Fill. Any use or activity permitted above which requires dredging or filling of the estuary must meet the following criteria:

(a) The use is required for navigation or is otherwise water dependent, and requires an estuarine location, or is specifically allowed by the DE-RCP zone; and

(b) A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and

(c) No feasible alternative upland locations exist; and

(d) Adverse impacts on identified estuarine values are minimized.

16.236(4)

Lane Code

16.236(6)

(e) Mitigation requirements of ORS 541.605 to 541.695 are met.

Other uses and activities which could alter the estuary shall only be allowed if the requirements of LC 16.236(4)(b), (c) and (d) above are met.

(5) Applicable Physical, Geographical or Natural Features. The DE-RCP Zone is designed to apply to navigation channels, subtidal areas for in-water disposal of dredged material, major navigational appurtenances, deep water areas adjacent to the shoreline and areas of minimal biological significance needed for uses requiring alteration of the estuary. These are as defined on the Lane County zoning maps as specified by LC 16.252(9).

(6) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

SIGNIFICANT NATURAL SHORELANDS COMBINING ZONE (/SN-RCP)RURAL COMPREHENSIVE PLAN16.237 Significant Natural Shorelands Combining Zone (/SN-RCP).

(1) Purpose. The Significant Natural Shorelands Combining Zone /SN-RCP is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Rural Comprehensive Plan as possessing a combination of unique physical, social or biological characteristics requiring protection from intensive human disturbances. Those areas serve multiple purposes, among which are education, preservation of habitat diversity, water quality maintenance and provision of intangible aesthetic benefits. The /SN-RCP Zone is applied to prominent aesthetic features, such as coastal headlands and open sand expanses in proximity to coastal waters, sensitive municipal watersheds and significant freshwater marsh areas.

The /SN-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /SN-RCP Zone that require protection beyond that provided by the zone or zones with which the /SN-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /SN-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /SN-RCP Zone is combined. Where the requirements of the /SN-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /SN-RCP Zone by the Preliminary Investigation specified in LC 16.237(10) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions exceptions set forth in this section. The Forest Practices Act requirements for the maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat". These areas will be specially evaluated prior to approval of timber harvest plans to ensure the habitat has been adequately considered.

(a) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act as permitted by the zone or zones with which the /SN-RCP Zone is combined.

(b) Low-intensity grazing.

16.237(3)

Lane Code

16.237(4)

- (c) Harvesting of wild crops.
- (d) Low-intensity recreation.
- (e) Shore-secured floating moorage facilities in adjacent water areas.

(f) Dredged material disposal when the /SN-RCP Zone is used in conjunction with the /DMS-RCP Zone.

- (g) Mooring buoys, multipurpose-multifamily piling docks and piers, dolphins and other moorage facilities in adjacent lakes or a Development Estuary Zone (DE-RCP).

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /SN-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.237(11) below, the following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria and determination that the use is consistent with protection of natural values specified in the Coastal Resources Management Plan.

- (a) (i) Uses. Single-family homes, mobile homes and such accessory buildings as allowed in the underlying zones.

(ii) Criteria. All requirements set forth in LC 16.237(6), (7) and (8) below are met.

- (b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /SN-RCP Zone is combined where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.237(6), (7) and (8) below.

(ii) Criteria and Conditions.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of the lot area.

(cc) All applicable height restrictions are observed.

(dd) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(ee) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

(ff) All otherwise applicable requirements of this section are met.

- (c) (i) Uses. The following moorage facilities attached or connected to the shorelands and located in the estuary:

(aa) Public or commercial piling-type docks or piers.

- (bb) Private, multifamily or multiuse piling-type docks or piers.
- (cc) Mooring buoys which are permanently anchored to the estuary floor.
- (dd) Dolphins.
- (ii) Criteria.
 - (aa) The moorage facility is located within a Conservation Estuary Zone (CE-RCP).
 - (bb) The use is not in violation of the purposes of the respective zone or zones with which the /SN-RCP Zone is combined.
 - (cc) The use meets all criteria and conditions of the appropriate estuary zone.
- (d) (i) Uses. All buildings and uses allowed as permitted uses in the respective zone or zones with which the /SN-RCP Zone is combined, subject to the requirements of this section, except as expressly prohibited by LC 16.237(5) below.
 - (ii) Criteria.
 - (aa) The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Rural Comprehensive Plan.
 - (bb) Surface, subsurface and aquifer waters are protected from pollution and sedimentation.
 - (cc) All requirements set forth in LC 16.237(6), (7) and (8) below are met.
- (e) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.
 - (ii) Criteria.
 - (aa) The stabilization is necessary to protect structures existing on or before October 7, 1977.
 - (bb) Natural bank stabilization methods are unfeasible or less appropriate.
- (f) (i) Uses. All buildings and uses permitted conditionally or by special use permit in the respective zone or zones with which the /SN-RCP Zone is combined, subject to the development, setback and area requirements of this section, or except as expressly prohibited by LC 16.237(5) below.

(ii) Criteria and Conditions.

(aa) All applicable criteria provided within the respective zone with which the /SN-RCP Zone is combined are met.

(bb) The use will not adversely affect the aesthetic and biological characteristics of the site as identified in the Rural Comprehensive Plan.

(cc) Surface, subsurface and aquifer waters are protected from pollution and sedimentation. The Lane County Department of Public Works, Land Management Division, shall be the proper consulting agency in this regard.

(dd) All requirements set forth in LC 16.237(6), (7) and (8) below are met.

(g) (i) Uses. Single-family, single-purpose, piling-type docks and piers.

(ii) Criteria.

(aa) No reasonable alternatives exist to the construction of a single-family, single-use pier. Alternatives shall include mooring buoys, public piers within a reasonable distance from the proposed use, cooperative use of existing private piers located within a reasonable distance or nonpiling-type floating piers.

(bb) The dock or pier shall not be located within a Natural Estuary Zone (NE-RCP).

(cc) If located within the estuary, the use must meet all criteria and conditions of the appropriate estuary zone.

(5) Prohibited Uses. If found subject to the requirements of the /SN-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.237(10) below, the following uses are specially prohibited:

(a) Fill in coastal lakes.

(b) Fill in freshwater marsh areas as identified in the Lane County Rural Comprehensive Plan.

(6) Site and Development Requirements. If found subject to the requirements of the /SN-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.237(10), the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /SN-RCP Zone is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /SN-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.

(a) No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use,

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accessory buildings, necessary access, septic requirements and fire safety requirements.

(b) To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.

(c) Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in LC 16.237(6)(a) above. Where vegetation removal beyond that allowed in LC 16.237(6)(a) above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

(d) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /SN-RCP Zone is combined.

(e) No topographic modification is permitted within the 100-foot setback area specified by LC 16.237(7) below.

(f) The shoreward half of the setback area specified by LC 16.237(7) below must be left in indigenous vegetation, except where unsurfaced trails are provided.

(g) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.237(7) below.

(h) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.237(7) below.

(i) All mature trees must be retained within the setback area specified by LC 16.237(7) below, except where removal is subject to requirements of the Oregon Forest Practices Act.

(j) Structures shall be sited and/or screened with natural vegetation so as not to impair the aesthetic quality of the site.

(k) The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape. (l) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /SN-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 100 feet from coastal lakes and the estuary measured at right angles to the high waterline. Use of this 100 feet shall be as specified in LC 16.237(6)(e)-(h) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(8) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /SN-RCP Zone, based on the Preliminary Investigation in LC 16.237(10) below. These criteria are in addition to minimum area requirements of any zone combined with the /SN-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development:

(i) Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact quality, and not increase hazard to life or property.

(b) For lands not within urban or urbanizable areas or lands developed or committed to development:

(i) There is a lack of suitable shoreland areas within urban or urbanizable areas or within areas developed or committed to development.

(9) Additional Area Requirements. Land divisions meeting the above specified criteria are permitted, subject to the minimum area requirements of the respective zone or zones with which the /SN-RCP Zone is combined or 10 acres, whichever is greater.

(10) Preliminary Investigation. Any proposal for development within the /SN-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /SN-RCP Zone shall apply. The requirements of the /SN-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply.

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

(i) Floodways and floodway fringe.

(ii) Land lying between the mean high water and mean low watermark of the coastal water bodies.

(iii) Dikes, dams, levees or steep embankments which control the coastal water body.

(iv) Lands along the ocean coast at or below the 26-foot elevation line.

(b) Adjacent areas of geologic instability which are composed of:

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources. These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat. Other than that listed in LC 16.237(10)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands, identified in the Lane County Coastal Inventory.

(11) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(12) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determ-

ination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /SN-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.237(10) above.

(13) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(14) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(15) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Proposals subject to special use approval or for building permits for uses otherwise allowed shall be forwarded in writing to the Oregon State Department of Fish and Wildlife within 14 days of final action to evaluate the impact upon habitats and to make recommendations concerning ways to avoid adverse impacts.

(e) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(16) Application of Zone to Federal Lands. The application of the /SN-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

PRIME WILDLIFE SHORELANDS COMBINING ZONE (/PW-RCP)RURAL COMPREHENSIVE PLAN16.238 Prime Wildlife Shorelands Combining Zone (/PW-RCP).

(1) Purpose. The Prime Wildlife Shorelands Combining Zone (/PW-RCP) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Rural Comprehensive Plan as possessing areas of unique biological assemblages, habitats of rare or endangered species or a diversity of wildlife species. Lands in this zone serve to protect wildlife habitat, water quality, bank stability and provide flood control. The /PW RCP Zone is applied to areas of riparian vegetation and to the habitat limits of specific species of concern.

The /PW-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /PW-RCP Zone that require protection beyond that provided by the zone or zones with which the /PW-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /PW-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /PW-RCP Zone is combined. Where the requirements of the /PW-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /PW-RCP Zone by the Preliminary Investigation specified by LC 16.238(9) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section. The Forest Practices Act requirements for the maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat". These areas will be specially evaluated prior to approval of timber harvest plans to ensure the habitat has been adequately considered.

(a) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act as permitted by the zone or zones with which the /PW-RCP Zone is combined.

(b) Low-intensity grazing.

(c) Harvesting of wild crops.

(d) Low-intensity recreation.

(e) Dredged material disposal when the /PW-RCP Zone is used in conjunction with the /DMS-RCP Zone.

(f) Shore-secured floating moorages, mooring buoys, multipurpose-multifamily, piling-docks and piers, dolphins and other moorage facilities in adjacent lakes and Development Estuary Zone (DE-RCP).

16.238(4)

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(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /PW-RCP Zone based on the results of the Preliminary Investigation specified by LC 16.238(9) below, the following specified uses and no others are subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria and determination that the use is consistent with protection of natural values specified in the Coastal Resources Management Plan.

(a) (i) Uses. Single-family homes, mobile homes and such accessory buildings as allowed in the underlying zone.

(ii) Criteria. All requirements set forth in LC 16.238(6), (7) and (8) below are met.

(b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /PW-RCP Zone is combined where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.238(6), (7) and (8) below.

(ii) Criteria and Conditions.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of the lot area.

(cc) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(dd) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

(ee) All otherwise applicable requirements of this section are met.

(c) (i) Uses. The following moorage facilities attached or connected to the shorelands and located in the estuary.

(aa) Public or commercial piling-type docks or piers.

(bb) Private, multifamily or multiuse piling-type docks or piers.

(cc) Mooring buoys which are permanently anchored to the estuary floor.

(dd) Dolphins.

(ii) Criteria.

(aa) The moorage facility is located within a Conservation Estuary Zone (CE-RCP).

(bb) The use is not in violation of the purposes of the respective zone or zones with which the /PW-RCP Zone is combined.

(cc) The use meets all criteria and conditions of the appropriate estuary zone.

(dd) (i) Uses. All buildings and uses allowed as permitted uses in the respective zone or zones with which the /PW RCP Zone is combined, subject to the requirements of this section, except as expressly prohibited by LC 16.238(5) below.

(ii) Criteria.

(aa) Maintain the natural quality of surface and subsurface waters.

(bb) Maintain bank stability.

(cc) Avoid sedimentation of coastal waters.

(dd) Maintain a shorefront zone of riparian vegetation at least comparable to that required in LC 16.238(6), (7) and (8) below or greater, if necessary, to provide flood control and preserve important riparian wildlife habitat.

(ee) Avoid disturbance of the remainder of the vegetation cover beyond a point where the disturbance would be a detriment to the wildlife community which utilizes this area.

(ff) Any other applicable criteria provided within the respective zone within which the /PW-RCP Zone is combined.

(gg) All requirements set forth in LC 16.238(6), (7) and (8) below are met.

(d) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.

(ii) Criteria.

(aa) The stabilization is necessary to protect structures existing on or before October 7, 1977.

(bb) Natural bank stabilization methods are unfeasible or less appropriate.

(e) (i) Uses. All buildings and uses permitted conditionally or by special use permit in the respective zone or zones with which the /PW-RCP Zone is combined, subject to the development, setback and area requirements of this section, or except as expressly prohibited by LC 16.238(5) below.

(ii) Criteria.

(aa) Maintain the natural quality of surface and subsurface waters.

(bb) Maintain bank stability.

(cc) Avoid sedimentation of coastal waters.

(dd) Maintain shorefront zone of riparian vegetation at least comparable to that required in LC 16.238(6), (7) and (8) below or greater, if necessary, to provide flood control and preserve important riparian wildlife habitat.

(ee) Avoid disturbance of the remainder of the vegetation cover beyond a point where the disturbance would be a detriment to the wildlife community which utilizes this area.

(ff) Any other applicable criteria provided within the respective zone within which the /PW-RCP Zone is combined.

(gg) All requirements set forth in LC 16.238(6), (7) and (8) below are met.

(f) (i) Uses. Single-family, single-purpose, piling-type docks and piers.(ii) Criteria.

(aa) No reasonable alternatives exist to the construction of a single-family, single-use pier. Alternatives shall include mooring buoys, public piers within a reasonable distance from the proposed use, cooperative use of existing private piers located within a reasonable distance or nonpiling type floating piers.

(bb) The dock or pier shall not be located within a Natural Estuary Zone (NE-RCP).

(cc) If located within the estuary, the use must meet all criteria and conditions of the appropriate estuary zone.

(5) Prohibited Uses. If found subject to the requirements of the /PW-RCP Zone, based on the results of the Preliminary Investigations specified by LC 16.238(9) below, the following uses are specifically prohibited:

(a) Fill in coastal lakes.

(b) Fill in freshwater marsh areas as identified in Lane County Rural Comprehensive Plan.

(c) New piling-type piers of any descriptions when adjacent to a Natural Estuary Zone (NE-RCP).

(d) Dredged material disposal.

(6) Site and Development Requirements. If found subject to the requirements of the /PW-RCP Zone, based on the results of the

16.238(6)

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Preliminary Investigation specified by LC 16.238(9) below, the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /PW-RCP Zone is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /PW-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.

(a) No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, septic requirements and fire safety requirements.

(b) To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.

(c) Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in LC 16.238(6)(a) above. Where vegetation removal beyond that allowed in LC 16.238(6)(a) above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

(d) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /PW-RCP Zone is combined.

(e) No topographic modification is permitted within the 50-foot setback area specified by LC 16.238(7).

(f) The shoreward half of the setback area specified by LC 16.238(8) below must be left in indigenous vegetation, except where unsurfaced trails are provided.

(g) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.238(7) below.

(h) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.238(7) below.

(i) All trees must be retained within the setback area specified by LC 16.238(7) below, except where removal is subject to requirements of the Oregon Forest Practices Act.

(j) Structures shall be sited and/or screened with natural vegetation so as not to impair the aesthetic quality of the site.

(k) The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.

(l) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

16.238(7)

Lane Code

16.238(9)

(7) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /PW-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from coastal lakes and the estuary measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.238(6)(e)-(h) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(8) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /PW-RCP Zone, based on the Preliminary Investigation in LC 16.238(9) below. These criteria are in addition to minimum area requirements of any zone combined with the /PW-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development:

(i) Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(ii) The use will not result in loss of significant wildlife habitat or aesthetic values as identified in the Coastal Resources Management Plan.

(iii) Minimum area requirements for the division of land shall be based on the minimum parcel size in the zone with which the /PW-RCP Zone is combined, or five acres, whichever is greater.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criteria, plus the following:

(i) There is a need which cannot adequately be accommodated on nonshoreland locations.

(ii) There is a lack of suitable shoreland areas within urban or urbanizable areas or within areas developed or committed to development.

(9) Preliminary Investigation. Any proposal for development within the /PW-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /PW-RCP Zone shall apply. The requirements of the /PW-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply.

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

- (i) Floodways and the floodway fringe.
 - (ii) Land lying between the mean high, high water and mean low water mark of coastal water bodies.
 - (iii) Dikes, dams, levees or steep embankments which control the coastal water body.
 - (iv) Lands along the ocean coast at or below the 26-foot elevation line.
- (b) Adjacent areas of geologic instability which are composed of:
- (i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.
 - (ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.
 - (iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone (LC 16.243) would be inadequate to protect water quality, water temperature or shoreland stability.
- (c) Natural or human-made riparian resources. These lands are as follows:
- (i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:
 - (aa) Shading of coastal water body.
 - (bb) Stabilization of shoreline.
 - (cc) Habitat for rare or endangered wildlife species.
 - (dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.
 - (d) Areas of significant shoreland and wetland biological habitat, composed of:
 - (i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.
 - (ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.
 - (iii) Habitat, other than that listed in LC 16.238(9)(c)(i)(cc) above, which supports rare or endangered species.
 - (e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas

appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(10) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(11) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /PW-RCP Zone and shall set forth the basis for the determination based on the criteria specified in LC 16.238(9) above.

(12) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(13) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(14) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Proposals subject to special use approval or for building permits for uses otherwise allowed shall be forwarded in writing to the Oregon State Department of Fish and Wildlife within 14 days of final action to evaluate the impact upon habitats and to make recommendations concerning ways to avoid adverse impacts.

(e) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(15) Application of Zone to Federal Lands. The application of the /PW-RCP Zone shall be held in abeyance until such time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

NATURAL RESOURCES CONSERVATION COMBINING ZONE (/NRC-RCP)RURAL COMPREHENSIVE PLAN16.239 Natural Resources Conservation Combining Zone (/NRC-RCP).

(1) Purpose. The Natural Resources Conservation Zone (/NRC-RCP) is applied to those coastal area shorelands identified in inventory information as timber lands, agricultural lands or shorelands in dune areas. It is the purpose of the /NRC-RCP zone to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal waters.

The /NRC-RCP Zone is specifically designed to carry out the following purposes:

- (a) Conservation and maintenance of renewable resources, primarily silvicultural and agricultural.
- (b) Protection of such natural resources as soil and such natural systems as drainage courses and waterways.
- (c) Enhancement of renewable resources such as the coastal fisheries and timber industries.
- (d) Allow for recreation and public access to coastal waters.

The /NRC-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /NRC-RCP Zone which require protection beyond that provided by the zone or zones with which the /NRC-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /NRC-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /NRC-RCP Zone is combined. Where the requirements of the /NRC-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /NRC-RCP Zone by the Preliminary Investigation specified by LC 16.239(8) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section. The Forest Practices Act requirements for the maintenance of riparian vegetation shall be enforced to provide shading filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant

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16.239(4)

wildlife habitat". These areas will be specially evaluated prior to approval of timber harvest plans to ensure the habitat has been adequately considered.

(a) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act as permitted by the zone or zones with which the /NRC-RCP Zone is combined.

(b) Agricultural activities and general farming uses and structures as permitted by the zone or zones with which the /NRC-RCP Zone is combined.

(c) Dredged material disposal when the /NRC-RCP Zone is in conjunction with the /DMS-RCP Zone.

(d) Shore-secured floating moorage facilities in adjacent water areas.

(e) Public, commercial or private, multifamily, multiuse piling-docks and piers in adjacent lakes and in estuary zones, subject to the requirements of the respective estuary zones.

(f) Boat launching ramps, except where adjacent to a Natural Estuary Zone (NE-RCP).

(g) Harvesting of wild crops.

(h) Low-intensity recreational activities.

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /NRC-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.239(8) below, the following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria.

(a) (i) Uses. Single-family dwelling units and mobile homes and such accessory buildings as allowed in the underlying zone.

(ii) Criteria. All requirements set forth in LC 16.239(5), (6) and (7) below are met.

(b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /NRC-RCP Zone is combined where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.239(5), (6) and (7) below.

(ii) Criteria.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of lot area.

(cc) All applicable height restrictions are observed.

(dd) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(ee) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation criteria by LC 16.239(5) below is minimized.

(ff) All otherwise applicable requirements of this section are met.

(c) (i) Uses. Single-family, single-purpose docks and piers in adjacent coastal lakes or Development or Conservation Estuary Zones.

(ii) Criteria.

(aa) The applicant shall attest in writing that there are no viable alternatives to the construction of a private, single-family structure. Alternatives include dryland storage, mooring buoys, public piers or the cooperative use of existing private piers.

(bb) The size of the structure is limited to that required for the intended use.

(cc) All requirements of the respective estuary zones are met.

(d) (i) Uses. Removal of individual hazardous trees within the required 50-foot strip of shorefront vegetation specified by LC 16.239(5)(d) below.

(ii) Criteria. It can be clearly determined that the trees are a hazard to life or existing property.

(e) (i) Uses. All permitted buildings and uses allowed in the respective zone with which the /NRC-RCP Zone is combined.

(ii) Criteria.

(aa) All requirements set forth in LC 16.239(5), (6) and (7) below are met.

(bb) Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

(cc) The use will not adversely affect the resource use of adjacent timber or agricultural lands.

(f) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.

(ii) Criteria.

(aa) The stabilization is necessary to protect structures existing on or before October 7, 1977, or to protect public or private roads, bridges or railroads.

(bb) Natural bank stabilization methods are unfeasible.

(g) (i) Uses. Fills in coastal lakes adjacent to the /NRC-RCP Zone.

(ii) Criteria and Conditions.

(aa) The applicant must submit an analysis of the physical and biological impacts of the proposed fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

(bb) Cumulative and direct impacts on water quality must be minimized.

(cc) The benefits of the proposed fill to long-term economic development or improved public recreational use shall outweigh the negative impacts on water quality.

(h) (i) Uses. All buildings and uses allowed conditionally or by special use permit in the respective zone or zones with which the /NRC-RCP Zone is combined, except where expressly prohibited by this section.

(ii) Criteria.

(aa) All applicable criteria provided with the respective zone with which the /NRC-RCP Zone is combined are met.

(bb) The use will not adversely affect the resource use of adjacent designated timber and agricultural lands.

(cc) Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

(dd) All requirements set forth in LC 16.239(5), (6) and (7) below are met.

(5) Site and Development Requirements. If found subject to the requirement of the /NRC-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.239(8) below, the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /NRC-RCP is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /NRC-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.

(a) Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the

proposed structure or structures, accessory buildings, necessary access, septic requirements and fire safety requirements.

(b) In all cases, vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of indigenous vegetation, unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

(c) Thirty feet of indigenous riparian vegetation shall be retained along all coastal water bodies. This shall be measured at right angles from the mean high waterline of the coastal water body.

(d) Existing trees must be retained with an area 50 feet in width measured at right angles from the mean high waterline of the coastal water body.

(e) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.239(6) below.

(f) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.239(6) below.

(g) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /NRC-RCP Zone is combined.

(h) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(6) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /NRC-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from the coastal lakes measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.239(5)(c)-(f) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(7) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /NRC-RCP Zone, based on the Preliminary Investigation in LC 16.239(8) below. These criteria are in addition to minimum area requirements of any zone combined with the /NRC-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development: Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criterion, plus the following:

(i) There is a need which cannot adequately be accommodated on nonshoreland locations.

(ii) There is a lack of suitable shoreland locations within urban or urbanizable areas or within areas developed or committed to development.

(8) Preliminary Investigation. Any proposal for development within the /NRC-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /NRC-RCP Zone shall apply. The requirements of the /NRC-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply:

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

(i) Floodways and the floodway fringe.

(ii) Land lying between the mean high, high water and mean low watermark of coastal water bodies.

(iii) Dikes, dam, levees or steep embankments which control the coastal water body.

(iv) Lands along the ocean coast at or below the 26-foot elevation line.

(b) Adjacent areas of geologic instability are composed of:

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone, LC 16.243, would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources. These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

16.239(8)

Lane Code

16.239(12)

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat, other than that listed in LC 16.239(8)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(9) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(10) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels, subject to the requirements of the /NRC-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.239(8) above.

(11) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(12) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(13) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Where applications for development are received for lands zoned for timber production, said applications shall be referred to the District Forester of the Oregon Department of Forestry. The District Forester shall have a 14-day "review and comment" period to evaluate the impact of the proposed development on the timber productivity of the parcel and adjacent lands.

(e) Improvements to ocean shore areas (as defined in ORS 390.065) are subject to a permit from the Oregon Department of Transportation.

(14) Application of Zone to Federal Lands. The application of the /NRC-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

RESIDENTIAL DEVELOPMENT SHORELANDS COMBINING ZONE (/RD-RCP)RURAL COMPREHENSIVE PLAN16.240 Residential Development Shorelands Combining Zone (/RD-RCP).

(1) Purpose. The Residential Development Combining Zone (/RD-RCP) is applied to coastal shorelands areas suited to residential development within urbanizable areas and to lands outside of urbanizable areas which have been committed to residential use by their development pattern, including actual development and the platting of subdivision lots. Within these areas, the /RD-RCP Zone is designed to ensure:

(a) Development in a manner that will protect water quality.

(b) Preservation and enhancement of riparian vegetation.

(c) Provision of recreational use of shorelands.

(d) Diversification of shorelands uses. The /RD-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /RD-RCP Zone that require protection beyond that provided by the zone or zones with which the /RD-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /RD-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /RD-RCP Zone is combined. Where the requirements of the /RD-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /RD-RCP Zone by the Preliminary Investigation specified by LC 16.240(9) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section:

(a) Shore-secured floating moorage facilities in adjacent estuaries and lakes.

(b) Private multifamily, multiuse type docks and piers in adjacent lakes and estuarine areas, if permitted by the respective estuary zone.

(c) Dredged material disposal when the /RD-RCP Zone is used in conjunction with the /DMS-RCP Zone.

(d) Commercial or public docks and piers; provided such uses conform to the purposes of the zone or zones with which the /RD-RCP Zone is combined and provided such uses conform to the requirements of the respective estuary zone.

(e) Boat launching ramps, except where adjacent to a Natural Estuary Zone (NE-RCP).

(f) Harvesting of wild crops.

(g) Low intensity recreational activities.

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /RD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.240(9) below, the following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria.

(a) (i) Uses. Single-family homes, mobile homes and such accessory buildings as allowed in the underlying zones.

(ii) Criteria. All requirements set forth in LC 16.240(6), (7) and (8) below are met.

(b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /RD-RCP Zone is combined, but where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.240(6), (7) and (8) below.

(ii) Criteria and Conditions.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of the lot area.

(cc) All applicable height restrictions are observed.

(dd) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(ee) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

(ff) All otherwise applicable requirements of this section are met.

(c) (i) Uses. All buildings and uses allowed as permitted uses in the respective zone or zones with which the /RD-RCP Zone is combined, subject to the requirements of this section, except as expressly prohibited by LC 16.240(5) below.

(ii) Criteria.

(aa) Surface, subsurface and aquifer waters are protected from pollution and sedimentation. The Lane County Water Pollution Control Division shall be the proper consulting agency in this regard.

- (bb) All requirements set forth in LC 16.240(6), (7) and (8) below are met.
- (d) (i) Uses. Single-family, single-purpose docks and piers in adjacent coastal lakes and estuary. (No piling-type piers are permitted in the Natural Estuary Zone (NE-RCP)).
- (ii) Criteria.
- (aa) The applicant shall attest in writing, subject to confirmation by the Planning Director, that there are no viable alternatives to the construction of a private, single-family pier or dock structure. Alternatives include dryland storage, mooring buoys, public piers or the cooperative use of existing private piers.
- (bb) The size of the structure is limited to that required for the intended use.
- (cc) All requirements of the respective estuary zone are met.
- (e) (i) Uses. Removal of individual hazardous trees within the required 50-foot strip of shorefront vegetation specified by LC 16.240(6).
- (ii) Criteria. It can be clearly determined that the trees are a hazard to life or existing property.
- (f) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.
- (ii) Criteria.
- (aa) Natural erosion processes threatening a water-dependent use(s) or threatening nonwater-dependent or nonwater-related uses where it has been demonstrated that the parcel is unsuited for water-dependent or water-related uses.
- (bb) Natural bank stabilization methods are unfeasible or less appropriate.
- (g) (i) Uses. All buildings and uses permitted conditionally or by special use permit in the respective zone or zones with which the /RD-RCP Zone is combined, subject to the development, setback and area requirements of this section, or except as expressly prohibited by LC 16.240(5) below.
- (ii) Criteria.
- (aa) All applicable criteria provided within the respective zone or zones with which the /RD-RCP Zone is combined are met.

16.240(4)

Lane Code

16.240(6)

(bb) Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

(cc) All requirements set forth in LC 16.240(6), (7) and (8) below are met.

(5) Prohibited Uses. The following uses or activities are expressly prohibited in the /RD-RCP Zone: Fills in coastal lakes adjacent to the /RD-RCP Zone.

(6) Site and Development Requirements. If found subject to the requirements of the /RD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.240(9) below, the below specified development requirements shall be in addition to those provided by the respective zone or zones with which the /RD-RCP Zone is combined. These requirements shall not apply to timber harvest activities where the underlying zone allows timber harvesting as a permitted use. In such areas, timber harvesting activities shall conform to Oregon Forest Practices Act rules.

(a) Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the structures, necessary access, septic requirements and fire safety requirements.

(b) In all cases vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of indigenous vegetation, unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

(c) Within the setback area specified under LC 16.240(7) below, all indigenous riparian vegetation, except that removed to provide paths to the water body, shall be retained within an area 30 feet in width measured at right angles from the mean high waterline of the water body. For the remainder of the required setback area, brush may be removed, but trees shall be retained.

(d) Where riparian vegetation does not exist along the shoreline of the estuary or coastal lakes, an area 30 feet in width, measured at right angles to the shoreline, shall be planted in indigenous vegetation or other vegetation which will aid in bank stabilization and prevent sedimentation of the water body. Areas necessary for access to the water body are exempted from this requirement. Continued maintenance of this vegetation shall be the responsibility of the landowner.

(e) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.240(7) below.

(f) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.240(7) below.

(g) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /RD-RCP Zone is combined.

(h) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /RD-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from coastal lakes and the estuary measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.240(6)(c)-(f) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(8) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /RD-RCP Zone, based on the Preliminary Investigation in LC 16.240(9) below. These criteria are in addition to minimum area requirements of any zone combined with the /RD-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development: Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criterion, plus the following:

(i) There is a need which cannot adequately be accommodated on nonshoreland locations.

(ii) There is a lack of suitable shoreland locations within urban or urbanizable areas or within areas developed or committed to development.

(9) Preliminary Investigation. Any proposal for development within the /RD-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /RD-RCP Zone shall apply. The requirements of the /RD-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply.

16.240(9)

Lane Code

16.240(9)

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

- (i) Floodways and the floodway fringe.
- (ii) Land lying between the mean high, high water and mean low watermark of coastal water bodies.
- (iii) Dikes, dams, levees or steep embankments which control the coastal water body.

7-87; 6.17.87
7-91; 6.5.91

16-243

WP 1/co/00057/T
WP 1/cr/96012/T

16.240(9)

Lane Code

16.240(9)

(iv) Lands along the ocean coast at or below the 26 foot elevation line.

(b) Adjacent areas of geologic instability which are composed of:

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone, LC 16.243, would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources. These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat, other than that listed in LC 16.240(9)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or

scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(10) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(11) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /RD-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.240(9) above.

(12) Appeal to the Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(13) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(14) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(15) Application of Zone to Federal Lands. The application of the /RD-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State

16.240(15)

Lane Code

16.240(15)

or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

7-87; 6.17.87
7-91; 6.5.91

16-246

WP 1/co/00057/T
WP 1/cr/96012/T

SHORELANDS MIXED DEVELOPMENT COMBINING ZONE (/MD-RCP)RURAL COMPREHENSIVE PLAN16.241 Shorelands Mixed Development Combining Zone (/MD-RCP).

(1) Purpose. The Shorelands Mixed Development Combining Zone (/MD-RCP) is applied to those coastal shorelands which are recognized in the Lane County Rural Comprehensive Plan and supportive technical data as being all or partially committed to commercial and industrial uses. The proximity of these lands to the dredged channel of the Siuslaw River dictates that they be preserved for the expansion of existing water dependent and water related commercial or industrial uses; provided such uses cannot be accommodated within the urbanizable or urbanized area of the City of Florence.

The /MD-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /MD-RCP Zone that require protection beyond that provided by the zone or zones with which the /MD-RCP Zone is combined, and imposes additional development requirements within those boundaries.

In addition, the /MD-RCP Zone is specifically intended to carry out the following purposes:

(a) Provision, adjacent to deep water environments or shoreland sites for use by water dependent and water related commercial and industrial uses.

(b) Protection of previously existing water dependent and water related commercial and industrial sites in shoreland areas.

(c) Provision of opportunities for nonwater dependent or nonwater related uses within the parameters of the Lane County Rural Comprehensive Plan and Statewide Planning requirements.

(d) Protection of coastal waters and avoidance of geologic and hydrologic hazards.

(2) Intent. The requirements imposed by the /MD-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /MD-RCP Zone is combined. Where the requirement of the /MD-RCP Zone conflict with the requirement of the zone or zones with which it is combined, the more restrictive requirements shall apply. Nonwater dependent or nonrelated uses shall only be allowed if the parcel in question has been demonstrated unsuited for water dependent or water related uses.

(3) Permitted Uses. In areas found subject to the requirements of the /MD-RCP Zone by the Preliminary Investigation specified by LC 16.241(8) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section:

(a) The following boat moorage and storage facilities:

(i) Dry land storage.

(ii) Shore-secured floating moorage facilities, mooring buoys, piling-type piers and launch ramps; provided such facilities are located within adjacent Development Estuary Zones (DE-RCP) or a lake.

(b) The three wood processing facilities identified and found to be water dependent in the Coastal Goals Compliance Report element of the Lane County Rural Comprehensive Plan.

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /MD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.241(8) below, the following specified uses and no others are permitted subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria.

(a) (i) Uses. Water dependent and water related commercial and industrial uses outside of urban and urbanizable areas.

(ii) Conditions and Criteria.

(aa) Uses cannot be accommodated within an urban or urbanizable area.

(bb) The site has the potential for water dependent and water related uses.

(cc) Short-term economic gain or convenience in development shall be evaluated in relation to potential long-term effects on the estuary and shoreland, as well as the long-term economy of the area.

(dd) Visual attractiveness of design and layout is considered.

(ee) Maintain or encourage riparian vegetation for erosion control, bank stabilization, maintenance of water quality and temperature aesthetics where feasible.

(b) (i) Uses. New single-family dwelling units and mobile homes or other residential units and accessory buildings as allowed in the underlying zones outside of urban and urbanizable areas.

(ii) Criteria and Conditions.

(aa) The parcel is unsuited to water dependent or water related uses.

(bb) All requirements set forth in LC 16.241(6), (7) and (8) below are met.

(c) (i) Uses. The following moorage facilities attached or connected to the shorelands and located in other than a Development Estuary Zone (DE-RCP) or a lake.

- (aa) Public or commercial piling-type docks or piers.
- (bb) Private, multifamily or multiuse piling-type docks or piers.
- (cc) Mooring buoys which are permanently anchored to the estuary floor.
- (dd) Dolphins.
- (ii) Criteria.
 - (aa) The moorage facility meets the requirements of the respective estuary zone.
 - (bb) The use is not in violation of the purposes of the respective zone or zones with which the /MD-RCP Zone is combined.
- (d) (i) Uses. All permitted buildings and uses allowed in the respective zone with which the /MD-RCP Zone is combined, except as may be provided otherwise by the provisions of LC 16.241(3),(4) and (5) above and below.
 - (ii) Criteria and Conditions. The use is water dependent or water related, or if the parcels are unsuited to water dependent uses, then uses which are nondependent, nonrelated, conforming to the requirements of the underlying zone and the requirements of LC 16.241(3),(4) and (5) above and below.
- (e) (i) Uses. Artificial bank stabilization.
 - (ii) Criteria.
 - (aa) Natural erosion processes threatening a water dependent use(s), or threatening nonwater-dependent or nonwater-related uses where it has been demonstrated that the parcel is unsuited for water-dependent or water-related uses.
 - (bb) Natural bank stabilization methods are deemed unfeasible or less appropriate.
- (f) (i) Uses. Filling coastal lakes or estuary adjacent to /MD-RCP Zone.
 - (ii) Criteria and Conditions.
 - (aa) Cumulative effects of all such fills shall be considered.
 - (bb) The fill is required to protect a water dependent use from erosion.
 - (cc) All requirements set forth in LC 16.241(6)(b) and (c) and LC 16.241(7) and (8) below apply.

(dd) If the fill meets the requirements of the respective estuary zone and the requirements of State and Federal agencies.

(g) (i) Uses. All buildings and uses permitted conditionally or by special use permit in the respective zone or zones with which the /MD-RCP Zone is combined, subject to the development, setback and area requirements of this section, or except as expressly prohibited by LC 16.241(5) below.

(ii) Criteria. The use is water dependent or water related or, if the parcel(s) are unsuited to water dependent uses, then uses which are nondependent, nonrelated, conforming to the requirements of the underlying zone and the requirements of LC 16.241(3),(4) and (5) above and below.

(5) Determination of Land Suitable for Water Dependent/Water Related Uses. The following criteria shall be used to determine the suitability of land found subject to the requirements of the /MD-RCP Zone, based on the results of the Preliminary Investigation, for water dependent, water related uses. Land not possessing one or more of the following characteristics shall be considered unsuitable for such uses:

(a) Land adjacent to deep water close to shore with supporting land transport facilities suitable for ship and barge facilities.

(b) Aquaculture suitability.

(c) Protected areas adjacent to shore, subject to scour which would require little dredging for marina use.

(d) Potential for high intensity recreational use of water body and existing riparian resources. Such areas include those areas used traditionally for high intensity recreation or exceptional aesthetic resources.

(6) Site and Development Requirements. If found subject to the requirements of the /MD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.241(8) below, the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /MD-RCP Zone is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /MD-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.

(a) Riparian vegetation shall be maintained or encouraged to promote bank stabilization, maintain water quality and temperature, reduce erosion and for general aesthetics, except where unfeasible in connection with a water dependent or water related use.

(b) The applicant must submit a complete analysis of all physical and biological impacts upon the shorelands area and upon coastal waters and water

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resources. The report shall consider, at a minimum, the critical relationships which exist between coastal shorelands and coastal water resources and the potential for geological and hydrological hazards:

(c) The benefits of the proposed activity to the long-term economic development or improved public recreational use shall outweigh the negative impacts on water quality, temperature and resources, bank stabilization, erosion control and general aesthetics.

(d) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /MD-RCP Zone, based on the Preliminary Investigation in LC 16.241(8) below. These criteria are in addition to minimum area requirements of any zone combined with the /MD-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development: Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criterion, plus the following:

(i) There is a need which cannot adequately be accommodated on nonshoreland locations.

(ii) There is a lack of suitable shoreland locations within urban or urbanizable areas or within areas developed or committed to development.

(8) Preliminary Investigation. Any proposal for development within the /MD-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /MD-RCP Zone shall apply. The requirements of the /MD-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply:

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

(i) Floodways and floodway fringe.

(ii) Land lying between the mean high, high water and mean low watermark of coastal water bodies.

(iii) Dikes, dams, levees or steep embankments which control the coastal water body.

(iv) Lands along the ocean coast at or below the 26-foot elevation line.

(b) Adjacent areas of geologic instability which are composed of;

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone, LC 16.243, would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources.

These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat, composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat, other than that listed in LC 16.241(8)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(9) Fees for Preliminary Investigation. To partially defray the expense in performing the preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(10) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /MD-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.241(8) above.

(11) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(12) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(13) Application of Zone to Federal Lands. The application of the /MD-RCP Zone shall be held in abeyance until such time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

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DREDGE MATERIAL/MITIGATION SITE COMBINING ZONE (/DMS-RCP)RURAL COMPREHENSIVE PLAN16.242 Dredge Material Mitigation Site Combining Zone (/DMS-RCP)

(1) Purpose. The Dredge Material/Mitigation Site Combining Zone (/DMS-RCP) is intended for application to all dredge material disposal sites or mitigation sites within the Siuslaw Estuary as identified in the Lane County Rural Comprehensive Plan. The purpose of the /DMS-RCP Zone is to ensure that sites designated for use for dredged material disposal or mitigation are not developed in a manner which would preclude that use. The /DMS-RCP Zone may only be applied, where appropriate, in combination with the three Estuary Zones (/NE-RCP, /CE-RCP, or /DE-RCP), or with the Significant Natural (/SN-RCP), Natural Resources Conservation (/NRC-RCP), Residential Development (/RD-RCP) and Mixed Development (/MD-RCP). Shorelands Combining Zones and the underlying zones with which the Shorelands zones are combined.

(2) Permitted Uses and Buildings.

(a) Farm uses as allowed in the respective zone or zones with which the /DMS-RCP Zone is combined.

(b) Propagation and harvesting of forest products as allowed in the respective zone or zones with which the /DMS-RCP Zone is combined.

(c) Dredged material deposition; provided, however, such activity is limited to sites identified for that purpose in the Siuslaw River Dredged Material Disposal Plan.

(d) Activities in conjunction with a mitigation plan approved by the Division of State Lands; provided, however, such activities are limited to sites identified for that purpose by the Coastal Resources Management Plan.

(3) Special Uses Subject to Further Review. Farm or forestry uses, as allowed in the underlying zone, are permitted without further review. All other uses which are permitted or which are conditional or special uses in the underlying zone are subject to approval of the Planning Director as provided for in LC 14.100, based on the criteria below. The following criteria apply to review of a use in the /DMS-RCP Zone:

(a) The proposed use is temporary in nature or design and will be removed if or when the site is required for the purposes of this zone; or

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(b) The proposed use is designed or sited on the parcel so as not to limit or preclude future use of the parcel for dredged material disposal as indicated in the Siuslaw River Dredged Material Disposal Plan, or for a potential mitigation project.

(4) Stabilization of Dredged Materials. It shall be the responsibility of the party depositing dredged materials on a site to stabilize the site with appropriate vegetation when the materials are adequately drained.

(5) Responsibility to Acquire Mitigation/Restoration Sites. It shall not be the responsibility of Lane County to acquire for use sites to mitigate for actions for which other agencies or persons are responsible, including the dredging of the navigation channel and development of the estuary. It shall also not be the responsibility of Lane County to acquire sites for restoration to the estuary.

BEACHES AND DUNES COMBINING ZONE (/BD-RCP)RURAL COMPREHENSIVE PLAN16.243 Beaches and Dunes Combining Zone (/BD-RCP).

(1) Purpose. The Beaches and Dunes Combining Zone (/BD-RCP) is intended to be used in conjunction with the underlying zones in all coastal beach and dune areas in order to:

(a) Ensure the protection and conservation of coastal beach and dune resources.

(b) To prevent economic loss by encouraging development consistent with the natural capability of beach and dune landforms.

(c) To provide for clear procedures by which the natural capability of dune landforms can be assessed prior to development.

(d) To prevent cumulative damage to coastal dune resources due to the incremental effects of development.

(e) To provide for such protection of beach and dune resources above and beyond that provided by the underlying zone.

(2) Intent. The requirements imposed by the /BD-RCP Zone shall be in addition to those imposed by the underlying zone. Where the requirements of the /BD-RCP Zone conflict with those of the underlying zone, the more restrictive requirements shall apply.

(3) Permitted Uses. All permitted buildings and uses allowed in the respective zone with which the /BD-RCP Zone is combined, except as may be provided otherwise by the provisions of LC 16.243(4) below.

(4) Special Uses Approved by the Planning Director. The following specified uses are allowed subject to prior submittal of an application pursuant to LC 14.050 and approval by the Director pursuant to LC 14.100, upon satisfaction of the applicable criteria:

(a) (i) Uses. Beachfront protective structures.

(ii) Criteria.

(aa) The structure is to protect development existing on January 1, 1977.

(bb) Visual impacts are minimized.

(cc) Public access is preserved.

(dd) Negative impacts on adjacent property are minimized.

(ee) Long-term or recurring costs to the public are avoided.

(b) (i) Uses. Buried fuel tanks.

- (ii) Criteria.
 - (aa) The tanks are entirely free of leaks and have an impermeable coating.
 - (bb) The tank is located, to the greatest extent feasible, in a well-drained area.
 - (cc) The tank is not located in active foredunes, on other conditionally stable foredunes which are subject to ocean undercutting or wave overtopping, and on deflation plains subject to ocean flooding.
- (c) (i) Uses. Commercial removal of sand.
 - (ii) Criteria.
 - (aa) The area is not an ocean beach.
 - (bb) Historic surplus accumulations of sand exist.
 - (cc) A Site Investigation Report, as specified by LC 16.243(9) below is conducted.
 - (dd) Removal of surplus sand can be accomplished without significant impairment of the natural functions of the beach and dune system, and hydraulic processes according to the Site Investigation Report.
- (d) (i) Uses. Foredune breaching.
 - (ii) Criteria and Conditions.
 - (aa) The breaching is required to replenish sand supply in interdune areas; or
 - (bb) Emergencies on a temporary basis.
 - (cc) Such breaching does not endanger existing development.
 - (dd) The breaching does not adversely impact critical wildlife habitat.
 - (ee) The areas affected by the breaching are restored.
- (e) (i) Uses. Commercial drift log removal from beaches.
 - (ii) Criteria.
 - (aa) The removal will result in significant public benefit, improved recreational access, improved scenic values or protection of wildlife habitat.
 - (bb) The removal will not result in increased beach or foredune erosion which will endanger existing development.
- (f) (i) Uses. Jetties on beach areas.
 - (ii) Criteria.
 - (aa) Adverse impacts on existing beach and shoreline development are minimized.
 - (bb) Public need is demonstrated.

(g) (i) Uses. All buildings and uses allowed conditionally or by special use approval in the respective zone with which the /BD-RCP Zone is combined.

(ii) Criteria and Conditions.

(aa) Applicable criteria provided within the respective zone with which the /BD-RCP Zone is combined.

(bb) All other provisions of this section.

(5) Prohibited Development Areas. No development, with the exception of minimal development, shall be permitted on the following dune landforms:

(a) Beaches, except as provided for in LC 16.243(4)(a) above.

(b) Foredunes, if subject to wave overtopping or ocean undercutting.

(c) Active dune forms.

(d) Nearshore deflation plain. The prohibition of development of active dune areas is not intended to prohibit the stabilization of open sand areas with appropriate pioneer and successional species, thereby removing these lands from the active dune classification.

(6) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special permit review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement of similar type of authorization.

(7) Coastal Shore Setback Requirements. Any development, with the exception of development provided for as special uses in LC 16.243(4)(a) above, which is permitted adjacent to ocean beaches must be setback from the mean high tide line a minimum of 50 feet measured horizontally. This setback may be increased if the Preliminary Investigation indicates hazard to the site due to:

(a) Low elevation of the site with respect to potential for wave action.

(b) Instability of dune landforms protecting the site from wave action.

(8) Additional Site and Development Requirements. The following requirements apply to all development, except the harvesting of timber as allowed by the Zone with which the /BD-RCP Zone is combined. Timber harvesting activities shall conform to Oregon Forest Practices Act rules regulating logging practices in dune areas:

(a) Development shall not result in the clearance of natural vegetation in excess of that which is necessary for the structures, required access, fire safety requirements and the required septic and sewage disposal system.

(b) Vegetation free areas which are suitable for development shall be used instead of sites which must be artificially cleared.

(c) Areas cleared of vegetation during construction in excess of those indicated in LC 16.243(7)(a) above shall be replanted within nine months of the termination of major construction activity.

(d) Sand stabilization shall be required during all phases of construction and post-construction as specified by standards set forth in the Lane Manual.

(e) Development shall result in the least topographic modification of the site as is possible.

(f) Slopes in excess of 25 percent shall be prohibited from development.

(g) Significant structural loads or structural fills to be placed on dune areas where, based on the Development Hazards Checklist, compressible subsurface areas are suspected, shall be allowed only after a thorough foundation check and positive findings are reported.

(h) The requirements for yards, setback, area, vision clearance and parking spaces shall be as provided in the respective zone with which the /BD-RCP Zone is combined, unless specifically provided otherwise by the provision of the /BD-RCP zone.

(9) Area Requirements. The minimum area for the division of land may be increased where the requirement otherwise is insufficient to meet the following standards:

(a) Environmental Quality Commission nitrate nitrogen loading standards for subsurface sewage disposal.

(b) No more than five percent impermeable surface shall be allowed.

(10) Preliminary Investigation Required. Any proposal for development, with the exception of minimal development or timber

harvesting zone is combined, shall require a Preliminary Investigation (Development Hazards Checklist) by the Planning Director to determine:

- (a) The dune landform(s) present on the site.
- (b) Hazards associated with the site.
- (c) Hazards presented by adjacent sites.
- (d) Existence of historical or archeological sites.
- (e) Existence of critical fish or wildlife habitat as identified in the Lane County Coastal Inventory or sites identified by Nature Conservancy.
- (f) Potential development impacts, including cumulative impacts.
- (g) If a full or partial Site Investigation Report shall be required, the form of the Development Hazards Checklist is as specified by the Lane Manual.

(11) Fee for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of the development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(12) Site Investigation Reports (SIR). The Preliminary Staff Investigation (Development Hazards Checklist) shall determine if a Site Investigation Report is required and, if so, what components of the SIR must be completed.

(13) Notification of SIR Requirement. The Planning Director shall notify the applicant of the results of the Preliminary Investigation and if a SIR shall be required. The notification shall be by mail within 10 days of completion of the Preliminary Investigation.

(14) Responsibility for SIR Preparation. Preparation of the SIR is the responsibility of the applicant. All costs borne in preparation shall be paid by the applicant.

(15) Qualifications for SIR Preparation. The SIR shall be prepared by a person or team of persons qualified by experience, training and area. The applicant shall either:

- (a) Choose a person or team of persons from a current list of qualified persons or firms to be compiled and maintained by the Department of Public Works, Land Management Division, and approved by the Board of County Commissioners;
- or

- (b) Designate a person or team of persons to prepare the SIR with said persons' qualifications, subject to the approval of the Planning Commission, based on standards established by the Board of County Commissioners.

(16) Contents of SIR. The contents of the Site Investigation Report are specified in the standard SIR document as set forth in the Lane Manual.

(17) Condition Imposed Based on SIR Recommendations. Based on the information and recommendations provided in the SIR,

the Planning Director may impose conditions upon the proposed development for the purposes of safety, health, welfare and in keeping with the purpose of the /BD-RCP Zone.

(18) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, or the imposition of conditions based on the SIR, and the manner for such an appeal shall be as provided by LC 14.500.

(19) Applicable Geographical Features. The /BD-RCP Zone is applied to all coastal beach and dune landforms as specified in the Lane County Rural Comprehensive Plan. These are:

- (a) Beaches.
- (b) Foredunes.
- (c) Active dune forms.
- (d) Recently stabilized dune forms.
- (e) Older stabilized dune forms.
- (f) Interdune forms.

The boundaries of the /BD-RCP Zone are shown on the Lane County zoning maps as specified by LC 16.252.

(20) Application of Zone to Federal Lands. The application of the /BD-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands.

CLASS I STREAM RIPARIAN REGULATIONSRURAL COMPREHENSIVE PLAN16.253 Class I Stream Riparian Regulations.

(1) Purpose. The purpose of the Class I Stream Riparian Regulations is to implement the Goal 5 Flora and Fauna policies and the Goal 6 Water Resources policies of the Lane County Rural Comprehensive Plan.

(2) Removal of Vegetation Within the Riparian Setback Area. The following standards shall apply to the maintenance, removal, destruction and replacement of indigenous vegetation within the riparian setback area along Class I streams designated for riparian vegetation protection by the Rural Comprehensive Plan. For purposes of LC 16.253(2)(b)(i) and (iii) below, Resource Zones shall be: LC 16.210 (F-1); LC 16.211 (F-2); LC 16.212 (EFU); LC 16.213 (NR); LC 16.214 (ML); LC 16.215 (PR); LC 16.216 (QM); LC 16.227 (IWC); and LC 16.232 (DR). For purposes of LC 16.253(2)(b)(i) and (iii) below, Nonresource Zones shall be: LC 16.219 (PF); LC 16.220 (C-1); LC 16.221 (C-2); LC 16.222 (C-3); LC 16.223 (C-R); LC 16.224 (M-1); LC 16.225 (M-2); LC 16.226 (M-3); LC 16.229 (RA); LC 16.230 (RG); and LC 16.231 (RR).

(a) A minimum of seventy-five percent (75%) of the total area within the riparian setback area of any legal lot shall remain in an unaltered, indigenous state except as provided in LC 16.253(2)(b)(i) and LC 16.253(5)(b) below; and

(b) Removal of existing vegetation from within the riparian setback area of any legal lot shall not exceed the shoreline linear frontage and square footage limitations calculated as follows:

(i) The maximum allowable removal for any legal lot having frontage of 200 feet or less in length along a Class I stream shall not exceed 50 linear feet along the shoreline and an area not greater than 2,500 square feet within the riparian setback area of a Nonresource Zone, or 5,000 square feet within the riparian setback area of a Resource Zone.

(ii) The maximum allowable removal for any legal lot having frontage of more than 200 feet but less than 400 feet in length along a Class I stream shall not exceed 25 percent of the total linear footage along the shoreline, and an area not greater than 25 percent of the total square footage of the entire area within the riparian setback area.

(iii) The maximum allowable removal for any legal lot having frontage 400 feet or greater in length along a Class I stream shall not exceed 100 linear feet along the shoreline of the Class I stream and an area not greater than 5,000 square feet within the riparian setback area of a Nonresource Zone, or 10,000 square feet within the

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riparian setback area of a Resource Zone. Removal of indigenous vegetation from within the riparian setback area in excess of 100 linear feet and the square footage of the applicable zone designation, to provide water access for a water-dependent use or to allow selective thinning of indigenous vegetation to provide viewsapes, may occur subject to compliance with LC 16.253(5)(a)(i) below, prior to removal.

(iv) Removal of vegetation from within the riparian setback area in excess of LC 16.253(2)(a) and (b) above, to allow riparian enhancement projects designed to improve or diversify habitat of designated areas within the riparian setback area may occur subject to compliance with LC 16.253(5)(b) below, prior to removal.

(c) Compliance. Removal of vegetation from within the riparian setback area in excess of the removal provisions in LC 16.253(2)(a) or (b) above, without prior Planning Director approval shall require compliance with the provisions of LC 16.253(4) and LC 16.253(5)(c) below, and may be subject to other remedies available to Lane County for violation of the standards in LC 16.253(2) above.

(d) Exceptions. The following uses and activities are excepted from the riparian setback area removal standards of LC 16.253(2) above and (3) below.

(i) Commercial forest practices regulated by the Oregon Forest Practices Act.

(ii) Removal of dead or diseased vegetation that poses a safety or health hazard, excluding removal of root wads.

(iii) Removal of vegetation necessary for the maintenance or placement of structural shoreline stabilization.

(iv) Normal and accepted farming practices other than buildings or structures occurring on land zoned for exclusive farm use.

(3) Modifications. A modification to the applicable riparian setback standard for a structure may be allowed provided the Oregon Department of Fish and Wildlife (hereafter ODF&W) is consulted by the Planning Director at least 10 working days prior to the initial permit decision and an application for a modification to the setback standard has been submitted pursuant to LC 14.050 and approved by the Planning Director pursuant to the requirements of LC 14.100 with findings of compliance addressing the following criteria:

(a) The location of a structure within the riparian setback area shall not result in the removal or the alteration of vegetation within the riparian setback area in excess of the standards of LC 16.253(2) above. For purposes of LC 16.253, altered means to eliminate, significantly reduce or interrupt the natural growth cycle of indigenous vegetation by removal or destruction of the vegetation caused by a person; and

(b) The riparian vegetation does not actually extend all the way into the riparian setback area to the location of the proposed structure. This determination shall include consideration of any evidence of riparian vegetation existing prior to any removal of indigenous vegetation before or during the application review period; or

(c) It can be demonstrated that an unduly restrictive burden would be placed on the property owner if the structure was not allowed to be located within the riparian setback area.

(4) Restoration of Indigenous Vegetation Within the Riparian Setback Area. Any removal or destruction of indigenous vegetation within the riparian setback area in excess of the provisions of LC 16.253(2) without an approved Riparian Setback Area Alteration Plan shall require an application for a Preliminary Investigation pursuant to LC 16.253(4)(a)-(c) below. Potential impacts identified in LC 16.253(4)(a) below, shall be addressed and/or mitigated through the review, approval and implementation of a Riparian Setback Area Restoration Plan pursuant to LC 16.253(5)(c) below.

(a) Preliminary Investigation. A Preliminary Investigation will provide a basis for identifying the area(s) of vegetation removal, alteration or destruction and the potential impacts of the removal in excess of the standards of LC 16.253(2) above. For the purposes of LC 16.253(2) and (4) above, potential adverse impacts shall include the removal or destruction of vegetation in whole or part, which is detrimental to the functions identified in LC 16.253(4)(a)(i)-(iv) below. This investigation shall identify the approval criteria which must be addressed by the property owner in the Riparian Setback Area Restoration Plan pursuant to LC 16.253(5)(c) below and shall include identification of the removed, altered or destroyed indigenous vegetation in excess of the standards of LC 16.253(2)(a) and (b) above, serving one or more of the following functions:

- (i) Shading of Class I streams.
- (ii) Stabilization of a stream bank or shoreline.
- (iii) Habitat for sensitive aquatic or terrestrial wildlife species.
- (iv) Habitat for rare, endangered or threatened species.

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(b) Notification of Preliminary Investigation Determination. The planning Director shall notify the applicant of the determination of the Preliminary Investigation by certified mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at the appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the riparian setback area, the area of removal in excess of the standard in LC 16.253(2) above, and shall set forth the determination of the potential adverse impacts identified in LC 16.253(4)(a) above.

(c) Fees for a Preliminary Investigation. To partly defray the expense in performing the Preliminary Investigation, a fee shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(5) Riparian Setback Area Alteration Plan Submittal. An application for approval of a Riparian Setback Area Alteration Plan as required by LC 16.253(2)(b) or (c) above, shall be submitted pursuant to one of the following applicable classifications and procedures.

(a) Riparian Setback Area Development Plan. The person proposing the development or removal in excess of the linear and square footage standard of LC 16.253(2)(b)(iii) above, shall submit a Riparian Setback Area Development Plan to the Planning Director pursuant to LC 14.050, which sufficiently identifies the location, nature and scope of the proposed development or removal of vegetation in excess of the provisions of LC 16.253(2)(b)(iii) above, prior to removal. The Riparian Setback Area Development Plan shall establish compliance with LC 16.253(2)(a) above and the following approval criteria:

(i) Vegetation removal or thinning in excess of the standard of LC 16.253(2)(b)(iii) above, shall be limited in scope to accommodate the approved Riparian Setback Area Development Plan only and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g) below;

(ii) The proposed development or removal shall not have a substantial adverse impact on significant wildlife habitat;

(iii) The proposed development or removal shall not have a substantial adverse impact on stream bank or shoreline stabilization; and

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(iv) The removal or alteration of indigenous vegetation from within the riparian setback area of a legal lot shall not exceed 25 percent of the total square footage of the entire riparian setback area and 25 percent of the total linear footage along the shoreline of a Class I stream.

(b) Riparian Setback Area Enhancement Plan. The person proposing the removal of vegetation from within the riparian setback area in excess of LC 16.253(2)(a) and (b) above, to enhance the riparian setback area by replanting with indigenous vegetation, shall submit a Riparian Setback Area Enhancement Plan to the Planning Director pursuant to LC 14.050, which sufficiently identifies the location, nature and scope of the proposed enhancement of indigenous vegetation within the riparian setback area. The Riparian Setback Area Enhancement plan shall establish compliance with the following approval criteria:

(i) Vegetation removal or thinning in excess of LC 16.253(2)(a) and (b) above shall be limited in scope to accommodate the approved Riparian Setback Area Enhancement Plan only and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g) below;

(ii) The proposed alteration and enhancement activities shall provide for the diversification of the indigenous vegetation; and

(iii) The proposed alteration and enhancement activities shall maintain stream bank and shoreline stability.

(c) Riparian Setback Area Restoration Plan. Where required by the Preliminary Investigation, the property owner and the person responsible for removal or destruction of vegetation from within the riparian setback area in excess of the provisions of LC 16.253(2) above shall submit a Riparian Setback Area Restoration Plan to the Planning Director pursuant to LC 14.050, which includes a complete inventory of the previously existing indigenous vegetation which was removed or destroyed. The vegetation inventory shall identify previous plant community locations and the maturity and densities of the previously existing plant species. The submitted Riparian Setback Area Restoration Plan shall provide a recovery and restoration planting schedule to include successional plantings, seasonal maintenance, and other management activities that provide for the recovery of the removed or destroyed indigenous vegetation. An approved Riparian Setback Area Restoration Plan shall establish compliance with the following criteria and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g), below:

(i) Restoration of the riparian setback area shall comply with the indigenous vegetation maintenance, removal and replacement standards established in LC 16.253(2)(b) above;

(ii) Mitigation of adversely impacted significant wildlife habitat identified in the Preliminary Investigation required Pursuant to LC 16.253(4)(a), above; and

(iii) Mitigation of adversely impacted stream bank or shoreline stabilization identified in the Preliminary Investigation required pursuant to LC 16.253(4)(a) above.

(d) Riparian Setback Area Plan Receipt and Referral. Upon receipt and acceptance of the applicable Riparian Setback Area Alteration Plan described in LC 16.253(5)(a), (b) or (c) above, the Planning Director shall refer a copy of the Riparian Setback Area Alteration Plan to the ODF&W for review.

(e) ODF&W Review. Within 10 working days of submittal of the Riparian Setback Alteration Plan to the Planning Director as required in LC 16.253(5)(d) above, the property owner shall provide evidence of consultation with ODF&W. Review of the Riparian Setback Area Alteration Plan and any recommendations by ODF&W to the Planning Director shall be consistent with the provisions of OAR 635-405 (May 1991) and OAR 635-415 (November 1991). Any recommendation from ODF&W addressing the proposed Riparian Setback Area Alteration Plan shall be in writing.

(f) Director Action. The Director may approve the Riparian Setback Area Alteration Plan if there are adequate findings of fact supporting compliance with LC 16.253(2) above and the applicable approval criteria for the proposed Riparian Setback Area Alteration Plan. The Director may impose conditions of approval to assure continued compliance with the applicable criteria. Notice of the written decision shall be provided pursuant to LC 14.100.

(g) Conditions of Approval. Reasonable conditions may be placed upon the approval of a Riparian Setback Area Alteration Plan to mitigate impacts and to assure continued compliance with the protection standards as set forth in the Riparian Setback Area Alteration Plan approved under LC 16.253(5)(f) above. Vegetation removed or destroyed in excess of LC 16.253(2) above shall be replaced or restored and maintained within the next replanting season following the removal or alternation. Required subsequent maintenance and successional plantings shall be identified in the Riparian Setback Area Alteration Plan approved by the Planning Director. Conditions may include but are not limited to the following:

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(i) The property owner may be required to enter into a performance agreement to pay all costs associated with implementing the Riparian Setback Area Alteration Plan.

(ii) The Planning Director may require the property owner to record notice of the requirements of the Riparian Setback Area Alteration Plan and performance agreements in the Lane County Deed Records.

(iii) All restored or replaced vegetation plantings within the riparian setback area shall be of an indigenous species as identified in the list of indigenous plant species associated with riparian areas adopted by Board Order and incorporated in Lane Manual.

GREENWAY DEVELOPMENT PERMIT
Rural Comprehensive Plan

16.254 Greenway Development Permit.

(1) Purpose. To establish Greenway Development procedures for certain land use activities as required by the Statewide Willamette River Greenway Goal and the Lane County Willamette River Greenway Plan.

(2) Definitions. For the purposes of this section, except as otherwise provided below, the definitions provided in LC 16.090 and the Goal adopted by the Oregon Land Conservation and Development Commission shall be used:

(a) Ordinary High Water. The high water level is defined as that high level of a river which is attained during mean annual flood. It does not include levels attained during exceptional or catastrophic floods. It is often identifiable by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in character in the soil, destruction or absence of vegetation not adapted for life in saturated soils or the presence of flotsam and debris. In the absence of identifying physical characteristics, ordinary high water may be determined by Step backwater analysis upon a two-year frequency flood as determined by the U. S. Army Corps of Engineers.

(b) Ordinary Low Water. The low watermark of a river is that point to which the waters normally recede when the volume of water is at its low level, not determined by the extraordinary year, and further means the line to which the Willamette River ordinarily recedes annually in season even though the elevation of that line may be higher as a result of the Corps of Engineers flood control structures than would otherwise be the case without such structures. Submersible lands are also considered that land or bank area between the ordinary low and high waterline.

(c) Water Dependent Use. A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

(d) Water Related Use. Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water dependent or water related uses or facilities, residences, parking lots, spoil or dump sites, roads

and highways, restaurants, businesses, factories and trailer parks are not generally considered dependent on or related to water location needs.

(e) Greenway Development Permit; Permit. A permit authorized pursuant to this section or pursuant to a permit authorized in accordance with the provisions of prior Greenway Permit Ordinance Nos. 4-76 and 11-76.

(f) Change of Use. Making a different use of the land or water than that which existed on December 5, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 5, 1975. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this section.

(g) Intensification. Any additions which increase or expand the area or amount of an existing use or the level of activity. Remodeling of the exterior of a structure is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit was issued as of December 5, 1975.

(h) Develop. To construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels or to create or terminate rights of access.

(i) Development. To act, process or result of developing.

(j) Boundaries. The boundaries for the Willamette River Greenway are those adopted by the Land Conservation and Development Commission in 1977, together with any changes when and as approved by LCDC.

(3) Uses and Activities Subject to Greenway Development Permits. Greenway Development Permits shall be required for new intensifications, change of use or developments allowed in applicable zones, including public improvements and including partitions and subdivisions as defined in LC 13.020, which are

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proposed for lands within the boundaries of the Willamette River Greenway adopted and as revised from time to time by the Oregon Land Conservation and Development Commission, except as provided below:

(a) Customary dredging and channel maintenance conducted under permit from the State of Oregon.

(b) Seasonal increases in gravel operations as provided under permit from the State of Oregon.

(c) The placing by a public agency of signs, markers, aids, etc. to serve the public.

(d) Activities to protect, conserve, enhance and maintain public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this section.

(e) Erosion control operations required in emergency situations for the safety and protection of property.

(f) Construction or use of a building other than a dwelling whether or not within 150 feet of the ordinary low waterline when the building is customarily provided in conjunction with a farm use; provided the structure does not exceed 12 feet in height nor exists for longer than six months.

(g) Farm use.

(h) Reasonable emergency procedures necessary for the safety or protection of property.

(i) Maintenance and repair usual and necessary for the continuance of an existing use. Landscaping, construction of driveways, modification of existing structures or facilities adjacent to a residence as are usual and necessary to such use and enjoyment.

(j) The propagation of timber or the cutting of timber which is done for public safety or personal noncommercial use.

(k) Irrigation pumps and water intakes and other utility lines in conjunction with an agricultural use.

(l) Uses which are pursuant to one of the following Lane County Land Development actions when such action has been approved or adopted consistent with the Greenway Development Permit approval requirements of 16.254(4) below and notification requirements of LC 16.254(7) below.

(i) Planned Unit Developments, as provided in 10.700.

(ii) Unzoned Area Development Permits, as provided in LC 9.700.

(4) Greenway Development Permit Approval. A decision to approve a Greenway Development Permit shall require findings that the proposed intensification, change of use or development conforms to the following criteria, and setback requirements:

(a) Criteria.

(i) The development protects or enhances the existing vegetative fringe between the activity and the river. Where such protective action is shown to be impractical under the circumstances, the maximum landscaped area or open space shall be provided between the activity and the river and the development provides for the reestablishment of vegetative cover where it will be significantly removed during the process of land development.

(ii) Public access to and along the river either is not necessary or the necessary access will be provided by appropriate legal means.

(iii) Preserve and maintain land inventoried as "agriculture" in the adopted Willamette River Greenway Plan for farm use, as provided for in Goal 3 and minimize interference with the long-term capacity of lands for farm use.

(iv) Protect, conserve or preserve significant scenic areas, viewpoints and vistas.

(v) Harvest timber in a manner that wildlife habitat, riparian and other significant vegetation and the natural scenic qualities of the Greenway will be preserved, conserved or restored and otherwise result in only the partial harvest of timber beyond the vegetative fringe.

(vi) Minimize vandalism and trespass.

(vii) Locate development away from the river to the greatest possible degree.

(viii) Protect significant fish, wildlife habitat and natural areas.

(ix) Is compatible with the Willamette River Greenway based upon the following considerations:

(aa) A development which is a mining or a mineral extraction and/or processing operation must include mining or extraction and/or processing methods which are designed to minimize adverse effects upon water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety and to guarantee necessary reclamation.

(bb) Protection, preservation, rehabilitation, reconstruction or restoration of significant historic and archeological resources.

(cc) Preserve areas of annual flooding, floodplains and wetlands.

(dd) Protection, conservation or preservation of areas along the alluvial bottomlands and lands with severe soil limita-

tions from intensive development.

(ee) Consideration of the impacts from consumptive uses of water (i.e., domestic, agriculture, industrial) and nonconsumptive uses (i.e., recreation and natural resources) in efforts of maintaining sufficient flows to support water users.

(ff) Sustenance and enhancement of water quality by managing or controlling sources of water pollution from uses, such as domestic and industrial wastes, agricultural and timber runoff, septic tank seepage, gravel operations and other intermittent sources.

(gg) Maintenance and sustenance of natural riparian vegetation found upon the lower alluvial bottomlands and upper terraces bordering the river for the following reasons: provide habitat, food and shade for wildlife; protect natural areas; anchor river bank soils and protect agricultural land from seasonal erosion; ensure scenic quality and screening of uses from the river; control trespass; and to control pollution sources to the river.

(hh) Protection from erosion.

(ii) Protection and conservation of lands designated as aggregate resources within the adopted Willamette Greenway Plan.

(b) Setback Requirement; Exceptions. New intensifications, developments and changes of use shall be set back 100 feet from ordinary high waterline of the river, Except for a water related or water dependent use.

(5) Conditions. Reasonable conditions may be imposed in connection with a Greenway Development Permit as necessary to meet the purposes of this section. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, requiring:

- (a) Special yards and spaces.
- (b) Fences and walls.
- (c) Special off street parking and loading requirements.
- (d) Street and road dedications and improvements (or bonds).
- (e) Control of points of vehicular ingress and egress.
- (f) Special provisions on signs.
- (g) Landscaping and maintenance thereof.
- (h) Maintenance of grounds.
- (i) Control of noise vibration, odors or other similar nuisances.

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(j) A time period within which the proposed use shall be developed.

(k) A limit on total duration of use.

(l) Control of scale, bulk and coverage of proposal.

(6) Application and Review Procedure. Application for a Greenway Development Permit shall be made as provided by LC 14.050 and reviewed by the Director as provided by LC 14.100.

(7) Additional Notice. Immediate notice of an application shall be given the State Department of Transportation by certified mail, return receipt requested, and provision shall be made to provide notice to any individual or group requesting notice in writing. Notice of the action taken by Lane County on an application shall be furnished by regular mail to the State Department of Transportation.

(8) Conflicting Provisions. In the case of any conflict between the provisions of this section and other provisions in Lane Code, the more restrictive provisions shall apply.

(9) Nonauthority for Public Use of Private Property. Nothing in this section is intended to authorize public use of private property. Public use of private property is a trespass unless appropriate easements and access have been acquired in accordance with law to authorize such use.

(10) Nonconforming Uses. Except as modified in this section, LC 16.251(1) to (8) shall apply to properties within the Willamette Greenway Boundaries. Any change or intensification as those terms discussed in LC 16.254(2)(f) and (g) above of a nonconforming use shall be prohibited unless a Greenway Development Permit is issued for it.

Ordinance No. 5-96 Findings Exhibit "A"

Finding 1. Lane Code 16.400(6)(i): This subsection of Lane Code requires that amendments to the Rural Comprehensive Plan, and components thereto, be adopted as ordinances. The adoption of Ord. No. 5-96 would amend LC 16 by ordinance and therefore complies with this code requirement.

Finding 2. Lane Code 16.400(6)(h)(iii)(aa) requires Ord. 5-96 to comply with the requirements of applicable state laws and the Statewide Planning Goals. Listed below are findings addressing compliance with applicable state laws and Statewide Planning Goals.

- a. The adoption of this amendment complies with the Statewide Planning Goal 2 that requires, "Opportunities shall be provided for review and comment by citizens ... during the preparation, review and revision of plans and implementation ordinances." Lane County complied with this requirement in Goal 2, because three public hearings were held with the planning commissions and one public hearing was held with the Board. All of these hearings were advertised in the Register-Guard at least 20 days in advance of the hearings, and opportunities were provided for public comment. A number of land use planning consultants and attorneys were provided copies of the proposed changes, notice of the meetings, and opportunities to comment. Comments received were provided to and considered by the planning commissions and the Board.
- b. The adoption of Ord. No. 5-96 would change the level of review for a number of uses from the Hearings Official to the Director. Ord. No. 5-96 does not change any of the uses or any of the substantive requirements that the uses are subject to. Therefore, most of the Statewide Planning Goals and statutes do not apply to the adoption of Ord. No. 5-96. The only other Statewide Planning Goal applicable to the adoption of Ord. No. 5-96 is Goal 15: Willamette River Greenway. Section F.f. allows a governing body to "prepare and adopt, after public hearing and notice thereof to DOT, a design plan and administrative review process for a portion of the Greenway. Such design plan must provide for findings equivalent to those required in subparagraphs 3(b)(1) and (2) of paragraph F so as to insure computability with the Greenway of proposed intensification, changes of use or developments." By a letter from Jim Mann, dated May 9, 1996, to Dick Reynolds of DOT, with a copy to Mel Lucas of DLCD, Lane County provided DOT and DLCD with early notice and a copy of the proposed changes to the level of review for the greenway. No comments or objections have been received from DOT or DLCD. Ord. No. 5-96 complies with the requirement that there be a "design plan" through adherence to LC 16.254 (6) which requires that an application for a Greenway Development be made as provided by LC 14.050. LC

14.050(b) requires that applications "Be completed on the form prescribed by the Department and submitted to the Department." The Department requires a completed plot plan, a site development plan and an application that contains the information necessary to address compliance of the application with the applicable criteria for review. The criteria for Director review of a greenway development permit will be the same as those required for a Hearings Official review. Findings equivalent to those required by the Goal will be made. In addition, notice and an opportunity for hearing will be provided for all applications. Therefore, the change in the level of review from the Hearings Official to the Director administrative review complies with Goal 15.

Finding 3. Lane Code 16.400(6)(h)(iii)(bb) requires Ord. 5-96 to comply with one or more of the requirements listed in the below subsections (i-i) through (v-v). The adoption of Ord. 5-96 would comply with LC 16.400(6)(h)(iii)(bb)(v-v), "otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper." The Board finds the following. Since its adoption in February, 1984, LC 16 has not been amended to change the level of review for the allowable uses. The amendments in Ord. No. 5-86 to LC 16 would change the level of review from the hearings official to the Director for three categories of uses: riparian modifications, greenway development permits and certain uses in the coastal overlay zoning districts. Adoption of Ord. No. 5-96 would allow subsequent land use applications to be more quickly and economically processed at the Director review level than can occur at the Hearings Official level. The adoption of Ord. No. 5-96 is therefore deemed desirable and appropriate and complies with LC 16.400(6)(h)(iii)(bb)(v-v).