

TITLE 10
CHAPTER 19

ESTUARY ,SHORELANDS, AND BEACHES AND DUNES

SECTION:

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10-19-1: ESTUARY DISTRICT ADMINISTRATION

A. Applicability

1. The following three Estuary Zoning Districts apply to the Siuslaw River Estuary within the Florence city limits: Natural Estuary, Conservation Estuary, and Development Estuary. These districts implement the requirements of Statewide Planning Goal 16 and policies in the Florence Comprehensive Plan and corresponding “management units.” In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 16, Siuslaw Estuarine Resources.
2. Estuary Zoning Districts are applied to portions of the estuary within city limits as classified on the City of Florence Zoning Map.

B. Resource Capability Assessment:

1. Purpose: Uses Requiring a Special Use Permit (Administrative Review) or Conditional Uses in the Natural Estuary (NE) and Conservation Estuary (CE) Districts are allowed only if determined to be consistent with the Resource Capabilities of the area and the purpose of the management unit in which the use or activity occurs. The purpose of this subsection is to establish a procedure for making a Resource Capabilities Assessment. Major activities or uses in the estuary may require an Estuarine Impact Assessment. Those uses do not also require this Resource Capability Assessment.
2. Definition of Resource Capability Assessment: An assessment used to determine if a use or activity is consistent with the resource capabilities of an area. Definitions specific to Estuary Management Units (MUs) are as follows:
 - a. In the Natural Estuary District, a use or activity is consistent with the resource capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.
 - b. In the Conservation Estuary District, a use or activity is consistent with the resource

capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

3. Identification of Resources and Impacts: The required assessment need not be lengthy or complex, but it should enable reviewers to gain a clear understanding of the impacts to be expected. The application for a proposed use or activity in which a resource capability determination must be made shall submit information on the following. The Planning Director may waive inapplicable items for any particular use or project.
 - a. The type and extent of alterations expected.
 - b. The type of resources affected. The type of resources likely to be affected by the proposed action shall be inventoried. The City shall assist the applicant in locating sources of information. Sources which can be used include: Lane County Coastal Resources Inventory, environmental impact statements for the Siuslaw River, or other published information concerning the Siuslaw estuary, or more current resource information from federal or state agencies, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians or other public sources.
 - c. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary.
 - d. The methods which could be employed to avoid or minimize adverse impacts. Where adverse impacts have been or can be identified, information shall be provided on reasonable methods which could be employed to avoid or minimize adverse impacts.
4. Resource Capability Assessment: Information on resources present and impacts to be expected will be evaluated as part of the Special Use Permit or Conditional Use Permit procedure, based on the requirement that the estuary can still function to achieve the purpose of the zone in which the activity will be located. Information developed by resource agencies and information submitted by the applicant may be used in the determination, and will be used whenever possible to reduce duplication of effort between agencies.
5. Resource Capability Findings: Unless fully addressed during the development and adoption of the Comprehensive Plan, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings shall be concluded in approving the use permit, otherwise it shall be denied:
 - a. The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or
 - b. The impacts of the use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or
 - c. In the Natural Estuary District, that 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 for scientific research and education; or

d. In the Conservation Estuary District, 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 biologic productivity, recreational and aesthetic values and aquaculture.

6. Notification of Agencies: Any application that is subject to the provisions of this section shall, at a minimum, be referred to the following:

- a. U.S. Fish and Wildlife Service
- b. U.S. Environmental Protection Agency
- c. U.S. Army Corps of Engineers
- d. National Marine Fisheries
- e. Oregon Dept. of Fish and Wildlife
- f. Oregon Dept. of Land Conservation and Development
- g. Oregon Department of State Lands
- h. Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

C. Estuarine Impact Assessment:

1. Purpose: The purpose of this subsection is to provide a procedure for evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. Activities which require an Estuarine Impact Assessment do not also require a Resource Capability Assessment. Uses which are permitted outright do not require an Estuarine Impact Assessment. Uses in Estuary Districts requiring a Special Use Permit or a Conditional Use Permit will require an Estuarine Impact Assessment only when an Environmental Impact statement (EIS) is required through the Corps of Engineers Section 10/404 permit process.

2. Information to be presented in the Estuarine Impact Assessment: Information contained in an Estuarine Impact Assessment shall be used in the evaluation of a use or activity during a Special Use Permit or Conditional Use Permit procedure. As part of the permit review, information developed by resource agencies may be requested and used in the determination. Any possibilities of reducing duplication of effort by the City and other agencies will be utilized so long as necessary information is adequately analyzed. Information contained in the Estuarine Impact Assessment may be drawn from available data and analysis contained in the Lane County Coastal Resources Inventory, environmental impact statements and assessments for projects in the Siuslaw River estuary, other published studies pertaining to the Siuslaw River estuary or more current information provided by application.

The Estuarine Impact Assessment shall apply available information to the following general areas of analysis: the type and extent of alterations expected; the type of resources affected; the expected extent of the impact of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary; and the methods which could be employed to avoid or minimize adverse impacts, and specifically detailed below. The Planning Director may waive inapplicable items for any particular use or project.

- a. Aquatic life forms and habitat, including information on: habitat type and use (e.g., rearing, spawning, feeding/resting, migration), species present, seasonal abundance, sediment type and characteristics and vegetation present. The type of alteration, including information detailing the extent of alteration (e.g., area measurement, depths to which alteration will extend, volumes of materials removed and/or placed as fill), impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
- b. Shoreland life forms and habitat, including information on: habitat type and use

- (e.g., feeding, resting or watering areas, flyways), species present, seasonal abundance, soil types and characteristics, and vegetation present. Impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
- c. Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of naturally occurring water temperatures, changes due to reduction, diversion or impoundment of water.
 - d. Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential of erosion or accretion in adjacent areas, changes in the floodplain, decreases in flushing capacity or decreases in rate of water flow from reduction, diversion or impoundment of water sources.
 - e. Air quality, including information on: quantities of emissions of particulates, expected inorganic and organic airborne pollutants.
 - f. Impact of the proposed project on navigation and public access to the shoreline and aquatic areas.
 - g. Demonstration of public need to warrant such a modification to the estuary.
 - h. Demonstration that non-water-dependent uses will not preempt existing or future water-dependent use of the area.
 - i. Determination of the potential cumulative impact of the proposed development, including alteration of adjacent significant fish and wildlife habitat and essential properties of the estuary.
 - j. Presentation of upland alternatives and methods to minimize preventable adverse impacts.
 - k. Determination of need for mitigation.
3. Estuarine Impact Assessment Findings: Unless fully addressed during the development and adoption of the Comprehensive Plan, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings shall be concluded in approving the use permit, otherwise it shall be denied:
- a. The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or
 - b. The use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or
 - c. In the Natural Estuary District, that 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 for scientific research and education; or
 - d. In the Conservation Estuary District, 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 biologic productivity, recreational and aesthetic values and aquaculture.
4. Notification of Agencies: Any application that is subject to the provisions of this section shall, at a minimum, be referred to the following:

- a. U.S. Fish and Wildlife Service
- b. U.S. Environmental Protection Agency
- c. U.S. Army Corps of Engineers
- d. National Marine Fisheries
- e. Oregon Dept. of Fish and Wildlife
- f. Oregon Dept. of Land Conservation and Development
- g. Oregon Department of State Lands
- h. Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians.

D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the application may be required to submit a supplementary report containing findings prepared by an environmental scientist, hydrologist, engineer, geologist, biologist, or other qualified consultant.

E. Uses Subject to State and Federal Permits:

- 1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.
- 2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary. .
- 3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

F. Emergencies: Estuarine alterations performed under emergency conditions for which the Department of State Lands or other agency with such authority has issued an emergency permit, shall not be deemed to violate this Chapter. The party performing work must submit a copy of written confirmation of such an emergency permit to the city.

10-19-2: NATURAL ESTUARY DISTRICT (NE):

A. Purpose and Extent: The purpose of the Natural Estuary District (NE) is to assure the protection of significant fish and wildlife habitats and continued biological productivity of the estuary and to accommodate the uses which are consistent with these objectives. The boundaries of the NE District are determined by the natural estuarine features. The NE District includes all major tracts of salt marsh, tideflats, eelgrass and algae beds. These are as identified on the City Zoning Map as specified by this Title.

B. The following uses and no others shall be permitted outright, provided that no such use shall involve dredge or fill:

- 1. Undeveloped low-intensity water-dependent recreation
- 2. Research and educational observations
- 3. Navigational aids, such as beacons and buoys
- 4. Protection of habitat, nutrient, fish, wildlife and aesthetic resources;
- 5. Passive restoration measures;
- 6. Maintenance of existing riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits; and such maintenance shall not increase the size, extent, or scope of the riprap or otherwise alter the estuary.
- 7. Bridge crossings.

- C. Special Uses Approved by Administrative Review: The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the NE District; and upon satisfaction of the applicable criteria in F. A Resource Capability Assessment is required as set forth FCC subsection 10-19-1-B except for major projects requiring an Estuarine Impact Assessment as set forth in FCC subsection 10-19-1-C.
1. Bridge crossing support structures and dredging necessary for their installation; and dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels.
 2. Expansion of existing riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits.
- D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the NE District, and upon satisfaction of all of the applicable criteria in F and below. A Resource Capability Assessment is required as set forth in FCC 10-19-1-B, except for major projects requiring an Estuarine Impact Assessment as set forth in FCC 10-19-1-C.
1. 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.
 2. Communication facilities.
 3. Active restoration of fish and wildlife habitat or water quality and estuarine management.
 4. Boat ramps for public use where no dredging or fill for navigational access is needed
 5. Pipelines, cables and utility crossings, including incidental dredging necessary for their installation.
 6. Temporary alterations, subject to the requirements in d and the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition.
 7. Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill. All other fills, regardless of volume, are prohibited in this MU.
 8. Installation of new riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities.
- E. A use or activity is consistent with the resource capabilities of Natural Estuary District when 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 for scientific research and education.
- F. Dredging and fill and other activities which could potentially alter the estuary are prohibited in this District except as expressly permitted through a Special Use Permit or Conditional Use Permit in Sections C and D. When allowed in C or D, these uses or activities shall meet all of the following criteria:
1. no feasible alternative upland locations exist;

2. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in C and D above;
3. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in C or D, rip; and fill, whether located in the waterways or on shorelands above ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
4. dredge or fill activities, found to be subject to state mitigation requirements, must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and
5. all federal and state requirements, including mitigation requirements, are met as a condition of approval.

10-19-3: CONSERVATION ESTUARY DISTRICT (CE):

- A. Purpose and Extent: The purpose of the Conservation Estuary District (CE) 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 District. The boundaries of the CE District are defined by natural features. The CE District includes minor tracts of salt marsh, tideflats, eelgrass and algae beds; and those not included in the Natural Estuary District (NE). This District also includes oyster and clam beds and areas immediately adjacent to developed estuarine areas. These are as identified on the City Zoning Map as specified by this Title.
- B. The following uses and no others shall be permitted outright, provided that no such use shall involve dredge or fill:
 1. All uses permitted outright in the Natural Estuary District Section B.
 2. Maintenance of existing riprap which is currently serviceable and was previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the riprap, or otherwise alter the estuary.
 3. Maintenance and repair of existing, functional, public and private docks and piers, provided that the activity: does not require dredging or fill of the estuary; minimizes adverse impacts on estuarine resources; and does not alter the size, shape, or design of the existing structure, or otherwise alter the estuary.
- C. Special Uses Approved by Administrative Review: The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the CE District; and upon satisfaction of the applicable criteria in F. A Resource Capability Assessment is required as set forth FCC subsection 10-19-1-B except for major projects requiring an Estuarine Impact Assessment as set forth in FCC subsection 10-19-1-C.
 1. All uses permitted through a Special Use Permit in the Natural Estuary District Section C.
 2. Expansion of existing riprap, provided the riprap shall be necessary to protect an existing use or a use that is permitted outright or with Special Use Permit approval. The existing riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits.

- D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the CE District, and upon satisfaction of all of the applicable criteria in F and G, and below. A Resource Capability Assessment is required as set forth in FCC 10-19-1-B, except for major projects requiring an Estuarine Impact Assessment as set forth in FCC 10-19-1-C.
1. All Conditional Uses in Natural Estuary District Section D.
 2. Water-dependent uses requiring occupation of water surface area by means other than dredge or fill (e.g., on pilings or floating), including mooring buoys which are permanently anchored to estuary floor, dolphins, docks and piers, and other such uses.
 3. High-intensity water-dependent recreation, including public beaches, boat ramps, marinas and new dredging for boat ramps and marinas.
 4. Minor navigational improvements.
 5. Aquaculture requiring dredge or fill or other alteration of the estuary.
 6. Active restoration for purposes other than those listed above.
 7. Installation of new riprap, provided the riprap shall be necessary to protect an existing use or a use that is permitted outright or with Special Use Permit or Conditional Use Permit approval.
- E. A use or activity is consistent with the resource capabilities of Conservation Estuary District when 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 or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.
- F. Dredging and fill and other activities which could potentially alter the estuary are prohibited in this District except as expressly permitted through a Special Use Permit or Conditional Use Permit in Sections C and D. When allowed in C or D, these uses or activities shall meet all of the following criteria:
1. no feasible alternative upland locations exist;
 2. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in B, C, and D above;
 3. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in C or D, rip; and fill, whether located in the waterways or on shorelands above ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
 4. dredge or fill activities must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and
 5. all federal and state permit requirements, including mitigation requirements, are met as a condition of approval.
- G. Public and private piers and docks, shall meet the following additional criteria:
1. The size and shape shall be limited to that required for the intended use.
 2. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
 3. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an

existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

10-19-4: DEVELOPMENT ESTUARY DISTRICT (DE):

- A. Purpose and Extent: The primary purpose of the Development Estuary District (DE) is to provide for navigational needs and public, commercial and industrial water-dependent uses which require an estuarine location. Uses which are not water dependent which do not damage the overall integrity or estuarine resources and values should be considered, provided they do not conflict with the primary purpose of the District. The DE District is designed to apply to navigation channels, sub-tidal 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 City Zoning Map as specified by this Title.
- B. Permitted Uses: Activities and uses permitted outright in the estuary throughout all portions of Development Estuary Districts are as follows, provided that these specific uses and activities do not involve dredge or fill:
 - 1. Maintenance of existing riprap and other erosion control structures which are currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the structure or otherwise alter the estuary.
 - 2. Maintenance and repair of existing, functional, public and private docks and piers, provided that the activity: does not require dredging or fill of the estuary; minimizes adverse impacts on estuarine resources; and does not alter the size, shape, or design of the existing dock or pier or otherwise alter the estuary.
- C. Permitted Uses in Areas Managed for Water Dependent Activities. In addition to the activities specifically permitted in B, the following uses and no others are permitted outright in the estuary in Areas Managed for Water Dependent Activities:
 - 1. Navigation, provided no dredging or fill is involved.
 - 2. Maintenance dredging and maintenance of the north jetty are permitted outright where they have been established as appropriate in the Florence Comprehensive Plan for specific Management Units. Maintenance dredging must also meet the following additional criteria: 1) the footprint of the area to be dredged shall be the same as the area that has been dredged in the past; and 2) the dredging shall be approved by all applicable federal and state permitting agencies. For example, maintenance dredging of the Federal Navigation Channel, as authorized in the Siuslaw River Dredge Material Disposal Plan, is automatically approved and need not go through a local permit process for each individual project.
- D. Special Uses Approved by Administrative Review: The following specified uses and no others require a Special Use Permit throughout all portions of Development Estuary Districts. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):
 - 1. All uses permitted through a Special Use Permit in Natural and Conservation Estuary Districts.
- E. Conditional Uses in Areas Managed for Water Dependent Activities: The following uses are

allowed in the estuary in Areas Managed for Water Dependent Activities with approval of a Conditional Use Permit, subject to the applicable criteria. A Conditional Use Permit may be approved according to the procedures set forth in Chapter 4 of this Title upon affirmative findings that the use is consistent with the purposes of the DE District and the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):

1. Navigation where dredging is involved.
2. Water-dependent commercial and industrial uses, and dredging and fill necessary to support these uses, subject to the applicable criteria below. Examples of water-dependent commercial and industrial uses include, but are not limited to, the following (for additional water-dependent commercial and industrial uses, see the Definition of this term in FCC 10-1):
 - a) Docks and piers, provided they are necessary to support water-dependent commercial and industrial uses
 - b) Flood and erosion control structures such as jetties, bulkheads, seawalls, and groin construction, may be installed and maintained, and riprap may be installed and expanded; provided all such uses are needed to protect water-dependent commercial and industrial uses
 - c) Flow-lane disposal of dredged material, where consistent with the Dredged Materials Disposal Plan, and monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected Natural and Conservation MUs
 - d) Water storage areas where needed for products used in or resulting from industry, commerce, and recreation
 - e) Marinas
 - f) Temporary alterations, subject to the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan as defined in the Definitions in the Introduction to this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition
 - g) Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill.

F. Conditional Uses: Outside of Areas Managed for Water Dependent Activities, the following uses and activities are allowed in the estuary with a Conditional Use Permit, subject to the applicable criteria. A Conditional Use Permit may be approved according to the procedures set forth in Chapter 4 of this Title upon affirmative findings that: the use or activity is consistent with the purposes of the DE District; it must not be detrimental to natural characteristics or values in the adjacent estuary; and it must comply with the specific criteria below, and the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):

1. Dredge or fill.
2. Flood and erosion control structures such as jetties, bulkheads, seawalls, and groin construction, may be installed and maintained, and riprap may be installed and expanded; provided all such uses are needed to protect existing uses or uses specifically allowed in this Code section
3. Navigation and water-dependent commercial enterprises and activities, including docks and piers to support existing uses or uses specifically permitted in this Code section.
4. Water transport channels where dredging may be necessary.
5. Flow-lane disposal of dredged material, where consistent with the Dredged Materials Disposal Plan, and monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected Natural and Conservation Districts.
6. Water storage areas where needed for products used in or resulting from industry,

- commerce, and recreation
7. Marinas.
 8. Temporary alterations, subject to the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan as defined in the Definitions in the Introduction to this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition.
 9. Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill.
 10. Water-related uses, non-water-dependent uses, and non-water-related uses, provided no dredge or fill is involved and it is not possible to locate the use on an upland site. Non-water-dependent and non-water-related uses that existed as of July 7, 2009 will retain their non-conforming status for five years from the date the use is abandoned or the structure is destroyed; and the existing structure for the same use may be replaced; the provisions of non-conforming uses in the Florence City Code not withstanding.
- G. :
- Dredging projects, other than maintenance dredging as permitted in C, above, and any project which requires fill in the estuary, shall be allowed only if the project or activity complies with all of the following criteria:
1. The dredging or fill is expressly permitted in sections D, E, or F, above, or is necessary to support a use expressly permitted in D, E or F, above;
 2. A substantial public benefit is demonstrated and the activity does not unreasonably interfere with public trust rights;
 3. No alternative upland locations are feasible;
 4. Adverse impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary allowed in D, E, or F, above, are minimized;
 5. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in B through F, above, erosion control structures such as jetties, bulkheads, seawalls, groin construction and riprap; and fill, whether located in the waterways or on shorelands above the ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
 6. Dredge or fill activities, as otherwise approved, must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality.
 7. All federal and state permit requirements, including mitigation requirements, are met as a condition of approval.
- H. Activities or uses which could potentially alter the estuary that do not involve dredge or fill shall only be allowed in Development Estuary MUs when the use or activity complies with all of the following criteria:
1. the activity or use is expressly permitted in sections D, E, or F, above;
 2. no feasible alternative upland locations are feasible;
 3. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in B through F, above;
 4. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in B through F, above, erosion control structures such as jetties, bulkheads, seawalls, groin construction and riprap shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

- I. Public and private piers and docks, shall meet the following additional criteria:
 1. The size and shape shall be limited to that required for the intended use.
 2. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
 3. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

10-19-5: COASTAL SHORELANDS OVERLAY DISTRICT ADMINISTRATION

- A. Coastal Shorelands Overlay Districts are applied to Coastal Shorelands within city limits as classified on the City of Florence Coastal Overlay Zoning Map.
- B. As lands are annexed over time, Coastal Shorelands shall include all lands contiguous with the ocean, the Siuslaw Estuary, and four lake areas: Munsel Lake, Heceta Junction Lake, South Heceta Junction Seasonal Lakes, and North Jetty Lake. Upon annexation, Coastal Shorelands Overlay Zoning Districts are applied to the properties depicted on the Map 17-1 *Estuary and Coastal Shoreland Management Units in the Florence* UGB in the Comprehensive Plan. In addition, the Comprehensive Plan designates two sites in the UGB “Water Dependent,” which are zoned Marine (Code Chapter 18) and Waterfront Marine (Code Chapter 24).
- C. These overlay districts implement policies in the Florence Comprehensive Plan and corresponding “management units.” In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 17, Coastal Shorelands: Ocean, Estuary, and Lake Shorelands. Where there are conflicts between the two, the stricter requirements shall apply.

The requirements of the adjacent Estuary District shall supersede the requirements for Coastal Shorelands; and the provisions of the adjacent Estuary District shall be reviewed for any additional uses or requirements that may apply to the respective Coastal Shoreland District. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

- D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the applicant may be required to submit a supplementary report containing findings prepared by an engineer, hydrologist, environmental scientist, geologist, biologist, or other qualified consultant.
- E. Uses Subject to State and Federal Permits
 1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.
 2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary .
 3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.
 4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit

from the State Parks and Recreation Department.

- F. The requirements imposed by the overlay districts shall be in addition to those imposed by the base zoning district, or, if the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements apply.

10-19-6: SHORELAND RESIDENTIAL OVERLAY DISTRICT /SR

- A. Purpose: The Shoreland Residential Overlay District (/SR) is applied to residential development management units in the Comprehensive Plan along the Siuslaw River Estuary and Munsel Lake (a Coastal Lake). It is the purpose of the /SR Overlay District 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 water. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

The /SR District is specifically designed to carry out the following purposes:

1. Protection of such natural resources as soil and such natural systems as drainage courses and waterways.
 2. Enhancement of renewable resources such as the coastal fisheries.
 3. Allow for recreation and public access to coastal water.
- B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses, and no others, are permitted outright when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F:
1. Harvesting of wild crops.
 2. Low intensity recreational activities.
 3. Uses and buildings permitted outright in the base zoning district.
 4. In or adjacent to lake: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
 5. In or adjacent to lake: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
 6. In or adjacent to lake: maintenance of existing riprap which is currently serviceable and was previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the riprap, and shall not otherwise alter the lake. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

7. In lake: Mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
 8. Public boat launching ramps in lake. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
- C. Special Uses Approved by Administrative Review: In addition to Special Uses specifically allowed in the adjacent Estuary District, the following uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title, upon affirmative findings of consistency with all of the requirements of an adjacent Estuary District and applicable site development requirements listed in subsections E and F and upon satisfaction of the following applicable criteria.
1. Uses and buildings permitted in the base zoning district where existing parcel size is insufficient for the proposal to meet the development, setback and area requirements set forth in subsections E and F, subject to the following additional criteria:
 - a. The said parcel existed prior to July 24, 1980.
 - b. The structures shall not occupy more than thirty percent (30%) of lot area.
 - c. All applicable height restrictions are observed.
 - d. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance is minimized.
 - e. All otherwise applicable requirements of this Section are met.
 2. Dredged material disposal when the /SR is used in conjunction with the /DMS Overlay District.
- D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted, subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F and upon satisfaction of the following applicable criteria.
1. All buildings and uses allowed conditionally or by special permit in the base zoning district, except where expressly prohibited by this Section, subject to the following criteria:
 - a. All applicable criteria provided within the base district are met.
 - b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.
 2. In Coastal Lakes, public and private docks and piers, provided the following criteria are met and the use does not conflict with other requirements of this Code. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
 - a. The size and shape shall be limited to that required for the intended use;
 - b. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
 - c. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property

- owners to establish or use a joint-use facility.
- d. the use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.”
3. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
 - a. The stabilization is necessary to protect uses allowed in the base zoning district.
 - b. They are necessary because land use management practices and non-structural solutions cannot be used.
 - c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
 4. Fill in coastal lakes adjacent to the /SR District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
- E. Site Development Requirements: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.
1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section F only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).
 2. 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, and fire safety

- requirements.
3. 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 native 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.
 4. A minimum fifty foot (50') buffer zone of native vegetation shall be retained along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water).
 5. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowed:
 - a) Foot paths
 - b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.
 - c) Replanting of the area or other areas which have been previously cleared.
 6. All mature trees must be retained in the buffer zone.
- F. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional setback requirements specified herein.
1. In addition to the yard setbacks required in the Base zoning district, a 50 foot buffer zone is required along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water). Use of this 50 foot buffer zone shall be as specified in 10-19-6-E.

10-19-7: MIXED DEVELOPMENT OVERLAY DISTRICT (/MD):

- A. Purpose: The Mixed Development Overlay District (/MD) is applied to those coastal shorelands which are recognized in the City Comprehensive Plan and supportive technical data as being all or partially committed to commercial, industrial and public uses. The proximity of these lands to the dredged channel of the Siuslaw River dictates that opportunities shall be provided to preserve and expand existing water-dependent and water-related commercial, industrial or public uses. . If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

In addition, the /MD District is specifically intended to carry out the following purposes:

1. Provision, adjacent to deep water environments, of shorelands sites for use by water-dependent and water-related commercial and industrial uses.
 2. Protection of previously-existing water-dependent and water-related commercial and industrial sites in shorelands areas.
 3. Provision of opportunities for non-water-dependent and non-water-related uses where designated in the Comprehensive Plan.
 4. Protection of coastal waters and avoidance of geographic and hydrologic hazards.
- B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright, provided they are consistent with the requirements of the adjacent Estuary District.

1. Dryland storage.
 2. Shore-secured floating moorage facilities, mooring buoys, and launch ramps.
- C. Special Uses Approved by Administrative Review: In addition to Special Uses specifically allowed in the adjacent Estuary District, the following uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:
1. All permitted buildings and uses permitted outright in the base zoning district, provided the requirements of the base zoning district are met.
 2. Water-dependent and water-related commercial, industrial and public uses, subject to the following criteria and conditions:
 - a. The site has the potential for water-dependent and water-related uses.
 - b. Maintain or encourage riparian vegetation for erosion control and temperature and general aesthetics where feasible.
- D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:
1. All buildings and uses permitted Conditionally or by Special Use Permit in the base zoning district, provided the requirements of the base zoning district are met..
- E. Determination of Land Suitable for Water-Dependent Uses: Land suitable for water –dependent uses has been designated in the Florence Comprehensive Plan and classified on the Zoning Map as the sites zoned Waterfront Marine and Marine. The zoning provisions in these districts protect these sites for water-dependent uses.
- F. Site and Development Requirements for Special and Conditional Uses: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7, Special Development Standards for any applicable requirements.
1. A 50 foot buffer of riparian vegetation measured from the mean high tide shall be maintained 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.
 2. The applicant must submit an analysis of all physical and biological impacts upon the shorelands area and upon coastal waters and water 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.
 3. 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.
 4. For existing lots which are too small to accommodate the buffer zone, development will be allowed within the buffer zone only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

10-19-8: DREDGE MATERIAL/MITIGATION SITE OVERLAY DISTRICT /DMS

- A. **PURPOSE:** The Dredge Material/Mitigation Site Overlay District (/DMS) is intended for application to both dredge material disposal sites and dredge mitigation sites on Siuslaw Estuary Shorelands as identified in the Florence Coastal Overlay Zoning Map. The purpose of the (/DMS) District is to protect designated dredged material disposal sites and mitigation sites. In addition to the requirements in this section, the requirements of the Comprehensive Plan, the base zoning district, the Coastal Overlay District, and the adjacent Estuary District apply. Where there are conflicts among provisions of this Code and between this Code and the Comprehensive Plan, the stricter requirements shall apply. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code.
- B. **PERMITTED USES AND BUILDINGS.** In addition to uses specifically allowed in an adjacent Estuary District, the following uses are permitted outright, provided they are consistent with the requirements of the adjacent Estuary District, the Coastal Overlay District, and subject to the criteria below and in Section C and D:
1. **Dredged Material Deposition.** Dredge disposal is limited to those sites specifically identified for dredged material disposal in the Lane County Dredged Materials Disposal Plan, as amended and co-adopted by the City of Florence.
 2. **The use of Mitigation Sites for disposal of dredged materials is expressly prohibited.**
 3. **Mitigation.** Mitigation is limited to those sites specifically identified as mitigation sites in the Lane County Dredged Materials Disposal Plan, as amended and co-adopted by the City of Florence. Mitigation shall comply with the criteria in Section C.
- C. **Dredging and Mitigation Site Criteria:**
1. **Dredge and fill activities, if found to be subject to the mitigation requirement in state law, must be mitigated by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality.**
 2. **When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effect shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained or findings shall be adopted demonstrating that it is not possible to do so.**
 3. **Responsibility to Acquire Mitigation/Restoration Sites:** It shall not be the responsibility of the City to acquire sites to mitigate for actions for which other agencies are responsible including the dredging of the navigation channel and development of the estuary.
- D. **Dredged Material Disposal Site Criteria:**
1. **In order to protect the navigability of the river, sites (with the exception of designated "stockpile" sites) included in the adopted Siuslaw River Dredged Material Disposal Plan shall be retained for that use until such time as the filling capacity has been reached, such determination to be based upon recommendation of the Army Corps of Engineers and other interested agencies and persons, or the site is removed from the adopted, revised Siuslaw River Dredged Material Disposal Plan. However, sites that have reached their filling capacity which can be reconfigured to accept more material shall continue to be retained. A determination that fill capacity has been reached shall be based upon the recommendation of the Army Corps of Engineers and other interested agencies and persons.**

2. The re-classification of any applicable dredge material disposal site protection overlay zoning shall require positive findings that one or both of the conditions in Criteria #1 are met, following public hearing. Following removal of the overlay zone, the permitted uses on the site will be the same as those allowed in the base zoning district. Rezoning of the base zoning district may be considered at the same time as removal
 3. Stabilization of Dredged Materials: It shall be the responsibility of the Port of Siuslaw, the Corps of Engineers or other lead agency to stabilize any dredged materials deposited on a site. Stabilization shall be done with appropriate vegetation after the materials are appropriately drained. These requirements for stabilization are not applicable to in- water or beach nourishment sites designed to be erosive/dispersive.
 4. Sites designated for "stockpile" use, where the spoils will be hauled away and the site used again for spoils, shall be retained and zoned as a disposal site until such time as an appropriate alternative for disposal is zoned and the "stockpile" site is deleted in the adopted, revised Siuslaw River Dredged Material Disposal Plan for the estuary.
 5. Temporary use of dredged material disposal sites shall be permitted, providing no permanent facilities or structures are constructed or no man-made alterations take place which would prevent the use of the land as a disposal site, and the use is consistent with other policies contained in the Comprehensive Plan and Florence City Code.
 6. Dredge spoil disposal must provide adequate run-off protection and, wherever possible, maintenance of a riparian strip along the water.
- E. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District and in the Coastal Overlay District, the Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following when found to be consistent with the requirements of the Coastal Overlay District and adjacent Estuary District and the criteria below.
1. Temporary uses permitted outright or conditionally in the base district, provided they meet the following additional criteria:
 - a. No use shall be permitted which would interfere with the timely availability of sites for deposition of dredged materials.
 - b. Stock pile sites shall remain open and available for removal as well as deposition of dredged material.
 - c. Recommendations of the Port of Siuslaw shall be weighed heavily in consideration of proposed use.
- F. Notification of Port of Siuslaw: Applications for permits or actions on designated sites for dredged material disposal or mitigation/restoration shall require notification in writing to the Port of Siuslaw within ten (10) days of receipt of application. Application for permits or actions including, but not necessarily limited to, the following shall require notification:
1. Land division.
 2. Conditional use permit.
 3. Special use.
 4. Building permit.
 5. Rezoning.
- G. Responsibility to Acquire Mitigation/Restoration Sites: It shall not be the responsibility of the City to acquire sites to mitigate for actions for which other agencies are responsible including the dredging of the navigation channel and development of the estuary.

- G. Stabilization of Dredged Materials: It shall be the responsibility of the Port of Siuslaw, the Corps of Engineers or other lead agency to stabilize any dredged materials deposited on a site. Stabilization shall be done with appropriate vegetation after the materials are appropriately drained. (Ord. 669, 5-17-82)

10-19-9: PRIME WILDLIFE OVERLAY DISTRICT /PW

- A. Purpose and Application:

Purpose: The purpose of the /PW District is to protect areas in and adjacent to the North Jetty Lake and the South Heceta Junction Seasonal Lakes that have native vegetation and habitats of specific species of concern and to protect wildlife habitat, water quality, bank stability and provide flood control. The requirements imposed by the /PW District shall be in addition to those imposed by the base zoning district. Where the requirements of the /PW District conflict with the requirements of the base zoning district or the Comprehensive Plan, the more restrictive requirements shall apply.

Application: The Prime Wildlife Overlay District (/PW) is applied within the Florence city limits to Coastal Lake Shorelands identified in inventory information and designated in the Comprehensive Plan as possessing areas of unique biological assemblages, habitats of rare or endangered species, or a diversity of wildlife species. The /PW Overlay applies to the North Jetty Lake Shorelands as shown on the Florence Coastal Overlay Zoning Map. The extent of the /PW Overlay application for the South Heceta Junction Seasonal Lakes shall be determined through a Preliminary Investigation as specified below.

Preliminary Investigation: Any land use or building permit application within the /PW District as it applies to the South Heceta Junction Seasonal Lakes shall require a preliminary investigation by the Planning Director to determine the specific area to which the requirements of the district shall apply. The requirements of the district shall apply in an area generally identified on the Florence Coastal Overlay Zoning Map and, specifically, in the site-specific information submitted by an applicant to determine whether the site possesses areas of unique biological assemblages, habitats of rare or endangered species, or a diversity of wildlife species identified in the Coastal Resources Inventory, or function to provide or affect water quality, bank stability or flood control.

- B. Permitted Uses. The following structures and uses and no others are permitted outright, as hereinafter specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of vegetation adjacent to the lakes shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "significant wildlife habitat." These areas will be specially evaluated prior to approval of vegetation removal plans to ensure the habitat has been adequately considered.
1. Harvesting of wild crops.
 2. Low-intensity recreation.
 3. Shore-secured floating moorages, mooring buoys, and other moorage facilities not physically anchored in adjacent lakes.
- C. Special Uses Approved by Administrative Review: The following specified uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be given 14 days to review and comment on the impact of development on critical habitats and shall be requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.

1. Single family homes, mobile homes and such accessory buildings as allowed in the base zoning district.
 2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in City Code Section 10-19-9-F, G, & H, subject to the following criteria and conditions:
 - a. The said parcel existed prior to July 24, 1980.
 - b. The structures shall not occupy more than 30% of the lot area.
 - c. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.
 - d. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.
 - e. All otherwise applicable requirements of this section are met.
 3. All buildings and uses permitted outright in the respective base zoning district, except as expressly prohibited by 10-19-9-E, and subject to meeting all of the following criteria:
 - a. Maintain the natural quality of surface and subsurface waters.
 - b. Maintain bank stability.
 - c. Avoid sedimentation of coastal waters including the lakes.
 - d. Maintain a buffer zone at least comparable to that required in Code Section 10-19-9 F through H, below or greater if necessary to provide flood control and preserve important wildlife habitat.
 - e. 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.
 - f. Any other applicable criteria provided within the base District.
 - g. All requirements set forth in Code Section 10-19-9-F, G, & H.
- D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be give 14-days to review and comment on the impact of development on critical habitats and should requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.
1. Riprap and other erosion control structures, provided the following additional criteria are met.
 - a. The stabilization is necessary to protect uses allowed in the base zoning district.
 - b. They are necessary because land use management practices and non-structural solutions cannot be used.
 - c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
 2. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-9-E below, and subject to the following

criteria and the criteria in sections F, G, and H:

- a. Maintain the natural quality of surface and subsurface waters.
- b. Maintain bank stability.
- c. Avoid sedimentation of coastal waters including lakes.
- d. Maintain a buffer zone at least comparable to that required in 10-19-9-F, G, & H below or greater if necessary to provide flood control and preserve important wildlife habitat.
- e. 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.
- f. Any other applicable criteria provided within the base zoning district.
- g. All requirements set forth in 10-19-9-F, G, & H.

E. Prohibited Uses: the following uses are specifically prohibited:

1. Fill in coastal lakes.
2. Fill in freshwater marsh areas.
3. Dredged material disposal.

F. Site and Development Requirements: The below specified development requirements shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.

1. Existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone and the construction of a residence and other development requirements will be allowed to build in this total setback providing clearance of vegetation on the remainder of the lot is kept to an absolute minimum and other requirements are met and hazard to life and property is minimal and acceptable.
2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.
3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.
4. Outside the setback area, construction activities shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for public facilities. Where vegetation removal beyond that allowed in 10-18-9-F cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal lakes. The vegetation shall be of native species in order to maintain the natural character of the area.
5. No topographic modification is permitted within 100-foot of the shore.
6. A 100 foot minimum buffer zone must be left in native vegetation, except where unsurfaced trails are provided.
7. All mature trees must be retained within buffer zone except where removal is subject to requirements of Code Section 4-6.
8. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.
9. The exterior building materials shall blend in color, hue and texture to the maximum among feasible with the surrounding vegetation and landscape.

- G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.
 - 1. In addition to the yard setbacks required in the base zoning district, a 100 foot buffer zone shall be required. Use of this 100 feet shall be as specified in 10-19-9-F.
- H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /PW District. These criteria are in addition to minimum area requirements of any base zoning district.
 - 1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, and not increase hazard to life or property.
 - 2. The use will not result in loss of significant wildlife habitat or aesthetic values as identified in the Comprehensive Plan.
 - 3. Minimum area requirements for the division of land shall be five acres.

10-19-10: Natural Resource Conservation Overlay District (/NRC)

- A. Purpose: The Natural Resource Conservation Overlay District (/NRC) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Coastal Resources Management Plan as possessing a combination of unique physical social or biological characteristics requiring protection from intensive human disturbance. Those areas serve multiple purposes, among which are education, preservation of habitat diversity, water quality maintenance and provision of intangible aesthetic benefits. The /NRC District 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. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

Intent. The requirements imposed by the /NRC District shall be in addition to those imposed by the base zoning district. Where the requirements of the /NRC District conflict with the requirements of the base zoning district the more restrictive requirements shall apply. The requirements of the adjacent Estuary District shall supersede the requirements of this Section of the Code.
- B. Permitted Uses: In addition to the uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright as specifically provided for by this section subject to the general provisions and exceptions set forth in this section. 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 plans to ensure the habitat has been adequately considered. The following uses are allowed if consistent with the applicable requirements of the adjacent Estuary District.
 - 1. Harvesting of wild crops.
 - 2. Low intensity recreation.
 - 3. In or adjacent to lakes: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. This use as it pertains to the estuary is regulated by the applicable Estuary District.

4. In or adjacent to lakes: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources, as provided in the Conditional Use requirements in section D. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, refer to the applicable Estuary District requirements.
 5. In or adjacent to lakes: mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
- C. Special Uses Approved by Administrative Review: In addition to the Special Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title upon satisfaction of the applicable criteria set forth in 10-19-10 F, G, & H, except as expressly exempted below and except as expressly prohibited by 10-19-10-E, and provided they are consistent with the requirements of the adjacent Estuary District.
1. Single family homes, mobile homes, and such accessory buildings as allowed in the base zoning district.
 2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in 10-19-10-F, G, & H, provided the following criteria are met:
 - a. The said parcel existed prior to July 24, 1980.
 - b. The structures shall not occupy more than 30% of the lot area.
 - a. All applicable height restrictions are observed.
 - b. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.
 - f. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.
 - g. All otherwise applicable requirements of this section are met.
 3. All buildings and uses allowed as permitted uses in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following additional criteria:
 - a. The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Comprehensive Plan.
 - b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.
 4. Dredged material disposal when the /NRC District is used in conjunction with the /DMS Overlay District, subject to the requirements of the /DMS Overlay District.
- D. Conditional Uses: In addition to the Conditional Uses specifically allowed in the adjacent Estuary District, the Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for the following uses, upon satisfaction of the applicable criteria, provided all applicable requirements set forth in 10-19-10-F, G, & H are met and they are found to be are consistent with the requirements of the adjacent Estuary District.
1. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following criteria:
 - a. All applicable criteria provided within the base district are met.
 - b. The use will not adversely affect the aesthetic and biological characteristics of the site as identified in the Comprehensive Plan.

- c. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.
2. In Coastal Lakes: public and private docks and piers, provided the following criteria are met and the use does not conflict with other requirements of this Code. For this use in or adjacent to the estuary, the requirements of the Estuary Districts shall apply.
- a. The size and shape shall be limited to that required for the intended use.
 - b. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
 - c. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.
 - d. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
3. Fill in coastal lakes adjacent to the /NRC District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.
- a. 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.
 - b. Cumulative and direct impacts on water quality and fish and wildlife must be minimized.
 - c. The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
4. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
- a. The stabilization is necessary to protect uses allowed in the base zoning district.
 - b. They are necessary because land use management practices and non-structural solutions cannot be used.
 - c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
 - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
 - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
 - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

- E. Prohibited Uses: The following uses are specifically prohibited:
1. Fill in freshwater marsh areas.
- F. Site and Development Requirements. The following specified development requirements shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.
1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section G only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).
 2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.
 3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.
 4. 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 10-19-10-F, where vegetation removal beyond that allowed 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 native species in order to maintain the natural character of the area.
 5. The requirements for parking and vision clearance shall be as provided by the respective base zoning district.
 6. No topographic modification is permitted within the 50 foot buffer zone specified by 10-19-10-G.
 7. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowable:
 - a) Foot paths
 - b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.
 - c) Replanting of the area or other areas which have been previously cleared.
 8. All mature trees must be retained within the setback area specified by 10-19-G, except where removal is subject to requirements of the Oregon Forest Practices Act.
 9. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.
 10. The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.
- G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.
1. In addition to the yard setbacks required in the base zoning district, a 50 foot buffer zone shall be required. The buffer zone is measured from the mean high tide for the ocean and estuary and from the average high water for coastal lakes. Use of this 50 foot buffer zone shall be as specified in 10-19-10-F.
 2. Building setbacks on ocean front 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. At a minimum, structures must be set back from the mean higher high tide at least 100 feet measured horizontally.

- H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /NRC District. These criteria are in addition to minimum area requirements of any base zoning district.
1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, and not increase hazard to life or property.

Code Section 10-19-11: Beaches and Dunes Overlay District

FCC 10-19-11: BEACHES AND DUNES OVERLAY DISTRICT ADMINISTRATION

- A. Coastal areas within the Florence city limits subject to this Section of Florence City Code shall include beaches, active foredunes, and other foredunes which are conditionally stable and which are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. These areas, as they apply within the Florence city limits are shown on the City of Florence Coastal Overlay Zoning Map.
- B. The City of Florence Beaches and Dunes Overlay District implements policies in the Florence Comprehensive Plan. In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 18, Beaches and Dunes.
- C. Site Investigation Report: All land use and development permit reviews in an area where the Beaches and Dunes Overlay District applies shall meet the requirements for a Site Investigation Report in FCC Chapter 7 and the requirements in the Oregon Coastal Zone Management Association's Beaches and Dunes Handbook for the Oregon Coast, Appendix 18 of the Florence Comprehensive Plan, unless specifically exempted in this code.
- D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the application may be required to submit a supplementary report containing findings prepared by engineer, geologist, biologist, or other qualified consultant.
- E. Uses Subject to State and Federal Permits
1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.
 2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary.
 3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.
 4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the State Parks and Recreation Department
- F. The requirements of the Beaches and Dunes Overlay District shall be in addition to those imposed by the base zoning district. If the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements shall apply.

10-19-12: BEACHES AND DUNES OVERLAY DISTRICT (/BD)

- A. Purpose: The Beaches and Dunes Overlay District (/BD) is intended to:
1. Ensure the protection and conservation of coastal beach and dune resources.
 2. Prevent economic loss by encouraging development consistent with the natural capability of beach and dune landforms.
 3. Provide for clear procedures by which the natural capability of dune landforms can be assessed prior to development.
 4. Prevent cumulative damage to coastal dune resources due to the incremental effects of development.
 5. Provide for such protection of beach and dune resources above and beyond that provided by the base zoning District.
- B. Prohibited Development:
1. Residential, commercial, and industrial development shall be prohibited on beaches, active foredunes, on other foredunes which are conditionally stable and which are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding identified on the Coastal Overlay Zoning Map and as further defined determined through a Phase I Site Investigation Report. "Development," in this context, refers to houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Statewide Planning Goal 18 exception to the requirement in Code Section B.1 has been approved.
 2. All development on slopes in excess of 25%;
 3. Buried fuel tanks.
- C. Permitted Uses: No uses are permitted outright in this Overlay District.
- D. Conditional Uses Approved by the Planning Commission: Development other than that identified in Section B shall be allowed that is permitted in the base zoning district, subject to approval by the Planning Commission, upon satisfaction of all of the following criteria.
1. Affirmative findings are adopted demonstrating that the proposed development is:
 - a. adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and
 - b. designed to minimize adverse environmental effects.
 2. The type of use is consistent with the requirements in the Florence Comprehensive Plan and the purpose of this Overlay District;
 3. The use will have minimal adverse effects on the site and adjacent areas;
 4. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation meet the requirements of this Code and the Florence Comprehensive Plan;
 5. The proposal includes proven methods for protecting the surrounding area from any adverse effects of the development; and

6. No hazards to life, public and private property, and the natural environment may be caused by the proposed use.
 7. Archaeological resources and other resources identified in Comprehensive Plan Chapters 5, 16, and 17, and respective inventories and studies shall be protected.
 8. Erosion shall be minimized that is caused by the destruction of desirable vegetation, including inadvertent destruction by moisture loss or root damage; the exposure of stable and conditionally stable areas to erosion; and construction of shore structures which modify current or wave patterns leading to beach erosion.
 9. Groundwater shall be protected from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies.
 10. Sand removal shall be prohibited in the foredune area of the beach except that foredunes may be breached only to replenish sand supply in interdune areas, or, on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards), and only if the breaching and restoration after breaching is consistent with sound principles of conservation.
 11. Due to the sandy soils and the fragile nature of the vegetative covering, care shall be taken during any proposed construction in beaches and dune areas to minimize the amount of grading, excavation, removal of trees and other vegetation in order to insure the stability of the soils. All open sand area (pre-existing or newly created) shall be planted or stabilized as soon as practicable after construction is completed. Using accepted re-vegetation techniques, sand areas shall be returned to their previous level of stability, following completion of construction. For large parcels or tracts, stabilization of the entire area may not be necessary as determined after consideration of a Site Investigation Report.
 12. During extended construction periods, temporary sand stabilization measures shall be employed to minimize sand movement and erosion caused by the removal of groundcover and soil.
 13. Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. "Development" in this context refers to houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Statewide Planning Goal 18 exception to the requirement in Code Section B.1. has been approved. The proposed use must meet all of the following additional criteria:
 - a. Visual impacts are minimized
 - b. Necessary access to the beach is maintained
 - c. Negative impacts on adjacent property are minimized
 - d. Long-term or recurring costs to the public area avoided.
- E. Coastal Shore Setback Requirements: 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. At a minimum, structures must be set back from the mean high tide line at least 100 feet measured horizontally.
- F. Additional Site and Development Requirements: The following additional requirements apply to all development:
1. Development shall not result in the clearance of natural vegetation in excess of that which

is necessary for the structures, required access, and fire safety requirements.

2. Vegetation-free areas which are suitable for development shall be used instead of sites which must be artificially cleared.
3. Areas cleared of vegetation during construction shall be replanted within nine months of the termination of major construction activity.
4. Sand stabilization shall be required during all phases of construction
5. Development shall result in the least topographic modification of the site as is possible.
6. 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.
7. The requirements for yards, setback, area, vision clearance and parking spaces shall be as provided in the base zoning district unless specifically provided otherwise by the provision of the /BD District.

Amended 2-9-88 Ord. 3, Series 1988

Amended 12-16-88 Ord. 19, Series 1988

Amended 6-17-91 Ord. 9, Series 1991

Amended 1-6-98 Ord. 1, Series 1999

Entire Chapter replaced per Ord. 10, Series 2009