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**AGENDA ITEM SUMMARY****ITEM NO:****FLORENCE CITY COUNCIL**

Meeting Date: April 15, 2013  
Dept.: Public Works and  
Community Development  
Presented by: Carol Heinkel,  
City Planning Consultant

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**ITEM TITLE:** Joint Planning Commission-City Council Work Session on Siuslaw Estuary Partnership Grant Products and Council action on Comprehensive Plan and Code Amendments and Siuslaw Estuary Trail Vision

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**REQUEST:****I. Hold a Joint Planning Commission-City Council Work Session on:**

- Exhibit B to City Ordinance No. 2, Series 2013 and Lane County Ordinance No. PA 1299: Proposed Amendments to the Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013
- Exhibit C to Ordinance No. 2, Series 2013: Proposed Amendments to the Florence City Code for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013
- Siuslaw Estuary Trail Vision

**II. City Council action to:**

- Initiate amendments to the Florence Realization 2020 Comprehensive Plan and Code (Exhibits B and C) via Resolution No. 3, Series 2013. A joint City-County Planning Commission Public Hearing date has been set for May 7, 2013, at 7:00 pm in Florence City Council Chambers.
- Approve Estuary Trail Vision, via Resolution No. 4, Series 2013.

**DISCUSSION:****I. Joint Planning Commission-City Council Work Session**

Note: All documents referenced in this report can be found at:  
<http://www.ci.florence.or.us/council/city-councilplanning-commission-work-session>

**Background**

These three items are products of the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0). The mission of the Partnership is to protect and improve water quality and fish and wildlife habitat in the lower Siuslaw watershed.

Community concern for the Siuslaw estuary, the North Florence Sole Source Dunal Aquifer and the area's streams, lakes, and wetlands is well-documented in Comprehensive Plan policies and Code provisions. In response to this concern, in October, 2009, the City and its partners from 19 federal, state, tribal, and local agencies embarked on a multi-year project called the Siuslaw Estuary Partnership. This project is funded by project partners and the US Environmental Protection Agency (EPA). The Siuslaw Estuary Partnership Guiding Principles, endorsed by the City and its partners, provided guidance for these products.

### **Property Owner Notification**

Ballot Measure 56 Notice of the May 7, 2013 public hearing on City Ordinance No. 2, Series 2013 and Lane County Ordinance No. PA 1299 will be sent on April 11<sup>th</sup> to owners of property in the urban growth boundary (UGB) with wetlands and riparian areas or that are within the Drinking Water Protection Areas (DWPAs) of the existing and proposed wellfield. In accordance with Florence City Code, adjacent property owners affected by the Drinking Water Protection Overlay Zone will also receive notice and notice will be posted in the Siuslaw News.

### **Public Involvement**

The Public Involvement Plan (PIP) for the Siuslaw Estuary Partnership was approved by the Florence Planning Commission on January 12, 2010 and is included as Appendix B of the Aquifer Protection Plan. Public involvement involved Technical Advisory Committees, Stakeholder Groups, and Public Education and Outreach.

#### Technical Advisory Committees

The Siuslaw Estuary Partnership Inter-disciplinary Team served as the Technical Advisory Committee (TAC) for the plans and Trail Vision with additional agency staff added for specific products. These staff committees met regularly throughout the course of the project and recommended draft products to the Stakeholder Groups.

#### Stakeholder Groups

The Florence City Council approved the use of two Stakeholder Groups for the Partnership: a Community Stakeholder Group and an Elected Official Stakeholder Group. The Community Stakeholder Group was expanded in order to include representative interests in the Drinking Water Protection Areas on the Group. Specifically, these interests were: Ocean Dunes Golf Links, Coast Village, Sand Ranch, Florentine Estates, Koning and Cooper business owners, and Recycling and Garbage. The Community Stakeholder Group met most recently on February 28, 2013 to review and comment on the draft products. The Elected Official Stakeholder Group met on March 14 and agreed by consensus with the products, as revised.

#### Public Education and Outreach

In the fall of 2012, a targeted public outreach effort commenced on the draft Comprehensive Plan and Code amendments. This outreach included presentations, re-

sponse to questions, and submission of comments on the draft proposals with the following groups:

- Coast Village Homeowners Association: 10/29/12
- Central Oregon Coast Board of Realtors: 11/29/12
- Florence Area Chamber of Commerce: 2/21/13
- Golf Course Owners/Managers: 2/25/13
- Property owners within Drinking Water Protection Areas (DWPAs): 2/25/13
- Property owners with wetlands or riparian areas: 2/27/13

Letters were sent to the owners in DWPAs and with wetlands or riparian areas on February 8<sup>th</sup> inviting them to the meeting, informing them of the draft products, and instructing them on ways they can be involved. Revisions to the draft were made based on feedback from meetings with property owners and Stakeholders in February and March 2013 and further changes may be made as needed to respond to comments raised during the public adoption process.

Public Education and Outreach also involved three Open Houses and three newsletters, "Waters in Common," which were distributed throughout the UGB to residents, property owners, or both. Each of these newsletters provided information about the aquifer, wetlands and riparian areas, and the trail vision and the need to protect water quality. The third newsletter, distributed in April 2012, provided information about the draft plans and inventories and ways to provide comment. That newsletter was included in water bills and mailed directly to all owners of property in the DWPAs. At the third Open House, the elements of the plans were presented in detail in the power point presentation and in hard copies available for the public. Comment forms were available, although no one submitted a completed form. Over 50 members of the public attended the April 30, 2012 Open House and heard the presentation.

In addition, public involvement efforts were conducted specifically for wetlands and riparian areas. Prior to beginning the inventory field work, selected landowners (i.e. those suspected of having wetlands or waters of the state on their property) were mailed notices describing the project and asking permission to enter their property. Right of access was granted by landowner permission only. The properties of those not responding were not accessed. Access information was collected in a database and then transferred to a base map for use in the field. At the May 5, 2010 Open House, the public was informed about the wetland inventory process and staff answered questions from property owners deciding whether or not to grant access to their property. Following completion of initial fieldwork, a public meeting was held on September 22, 2010 to allow citizens to observe the location of mapped wetlands and comment as appropriate.

On March 6, 2012, the Wetlands and Riparian Area Team concurred with criteria and application of the criteria for determining the significance of, and measures to protect, wetlands and riparian corridors in the Florence urban growth boundary (UGB). At their meetings in March and April, the Stakeholder Groups forwarded this

proposal to the public for comment. Then, the proposal was presented to the public at the April 30, 2012 Open House. On January 31, 2013, the Wetland and Riparian Team reviewed and commented on the revised 2013 Plan and forwarded it for public review and adoption. All products and Stakeholder meeting packets have been posted to the project web site: [www.SiuslawWaters.org](http://www.SiuslawWaters.org) and the public has been encouraged to review and comment.

■ **EXHIBIT B (Attached)**

**Proposed Amendments to the Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013**

The proposed Comprehensive Plan amendments in Exhibit B are as follows:

**1. Aquifer Protection**

- a. Amend Florence Comprehensive Plan Chapter 5 to protect groundwater resources for consistency with state law and to adopt the Aquifer Protection Plan.
- b. Consistency Amendments: Amend Comprehensive Plan Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.

**2. Wetlands and Riparian Corridors**

- a. Amend Florence Comprehensive Plan Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources for consistency with Statewide Planning Goal 5, including adoption of the 2013 Florence Area Wetlands and Riparian Inventory (2013 Inventory) and 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan).
- b. Consistency Amendments: Amend Florence Comprehensive Plan Chapter 1, Definitions and Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.

**3. Housekeeping Amendment**

- a. Amend Comprehensive Plan Chapter 1, Introduction, to make the Comprehensive Plan consistent with state law which changed the DLCD notice requirement from 45 to 35 days.

■ **EXHIBIT C (Attached)**

**Proposed Amendments to the Florence City Code for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013**

**1. Aquifer Protection**

- a. Adopt a new Drinking Water Protection Overlay Zone Map, attached to Exhibit C.

- b. Amend Florence City Code Title 10: Zoning Regulations to insert a new Chapter 32: Chapter 32 Drinking Water Protection Overlay District

## **2. Wetlands and Riparian Corridors**

- a. Amend Florence City Code Title 10 Chapter 7: Special Development Standards to add a new section 10-7-4: Development Standards for Wetlands and Riparian Areas, and renumber sections sequentially.
- b. Consistency Amendments: Amend FCC Title 9 Chapter 5 stormwater management definitions and buffer zone provisions; Title 10 Chapter 1 Definitions, and Title 10 Chapter 19, Prime Wildlife District, for internal Code consistency and for consistency with state law.

## **3. Housekeeping Amendment**

- a. Adopt an amendment to FCC Title 10 Chapter 19 to make the Code consistent with Statewide Planning Goal 16.

## **■ Siuslaw Estuary Trail Vision**

This item was last before the Council on November 19, 2012 when the Council agreed to proceed with application for Oregon Parks and Recreation Department Recreational Trails Grant for Siuslaw Estuary Trail (on Port property) and with an application to include the Siuslaw Estuary Trail in the 2015-2018 Statewide Transportation Improvement Program (STIP). The Lane Area Commission on Transportation (ACT) has included the project in the list of Tier One projects recommended to the Oregon Department of Transportation. No word has yet been received on the Oregon Recreational Trails grant request.

The January 31, 2013 “Siuslaw Estuary Trail Vision: Preferred Location and Design,” report was prepared by project staff, with input and guidance from the Siuslaw Estuary Trail Technical Team (see back of front cover for a list of technical team members) and the Siuslaw Estuary Partnership Interdisciplinary Team. All sections of the trail will be multi-use, i.e., accessible by foot and bicycle, and all constructed surfaces will be ADA<sup>1</sup>-approved. Each of these sections is described in detail below.

As shown in Figure 1, the 1.34 mile trail is divided into four sections, as shown below. In November 2012, the Siuslaw Estuary Trail Preferred Vision in Figure 1 was submitted by the City and the Port of Siuslaw for 2015-2018 State Transportation Improvement Program (STIP) funding; and, in January 2013, a 2013 Oregon Recreational Trails Grant application was submitted for Trail Sections 1 and 2.

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<sup>1</sup> Americans with Disabilities Act.

**\*Section 1: South Trailhead to Boardwalk (4,114 feet)**

- Existing Old Town Scenic Route (2,544 feet)
- Upland Trail Link with Port of Siuslaw Boardwalk (1,570 feet)
- Signed Natural Footpath

**\*Section 2: Port Campground Link (350 feet)**

- Cantilevered Steel Grate Walkway

**\*\*Section 3: Bridge in Estuary (330 feet)**

**Section 4: Link to Highway 126 (2,292 feet)**

- Upland trail along estuary\*\*
- Upland trail along Munsel Creek\*\*
- Redwood right-of-way Trail parking\*\*
- Redwood Street Crosswalk
- Munsel Creek Multi-use Path Link: Trail and Bridge\*\*

\*Trail Sections 1 and 2 were included in the 2013 Oregon Recreational Trails grant application. \*\*These items in Trail Sections 3 and 4 were included in the 2015-2018 STIP funding request. The Redwood Street Crosswalk is a project in the current STIP.

**II. City Council action is requested to:**

1. Initiate amendments to the Florence Realization 2020 Comprehensive Plan and Code (Exhibits B and C) by Resolution No. 3, Series 2013. A joint City-County Planning Commission Public Hearing date has been set for May 7, 2013, at 7:00 pm in Florence City Council Chambers.
2. Approve Estuary Trail Vision, by Resolution No. 4, Series 2013.

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**PROCESS:** If the Council approves request #1, the proposed amendments to the Florence Comprehensive Plan (Exhibit B) will be submitted for joint public hearing and recommendation by the City and Lane County Planning Commissions on May 7, 7:00 pm in Florence; and the proposed Code amendments (Exhibit C) will be the subject of the City Planning Commission's May 7 public hearing and recommendation. Exhibit B, as revised, will then be submitted to the City Council and Lane County Board of Commissioners for a joint public hearing and decision, followed by City Council action on Exhibit C, as revised (date to be set). If the Council approves request #2, the Siuslaw Estuary Trail Vision will be submitted to EPA as a final grant product.

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**FISCAL IMPACT:** Work on this project is performed by City Planning Consultant Carol Heinkel with support from City staff and is funded through the Siuslaw Estuary Partnership EPA grant funds and committed match.

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## OPTIONS FOR COUNCIL:

1. Approve requests #1 and #2 as submitted.
2. Revise proposals and approve requests #1 and #2, as revised.
3. Do not approve request #1 and/or #2.
4. Take no action and continue discussion to a date certain. This option will require setting a new date for the joint public hearing with Lane County.

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<b>CITY MANAGER'S RECOMMENDATION:</b>	Approve/Disapprove/Other
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## ATTACHMENTS:

Note: All of the following documents can be found at:

<http://www.ci.florence.or.us/council/city-councilplanning-commission-work-session>

- Florence City Council Resolution No. 3 Series 2013
  - Exhibit B to City of Florence Ordinance No. 2 Series 2013 and Lane County Ordinance No. PA 1299: Proposed Amendments To The Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013
  - Exhibit C to City of Florence Ordinance No. 2, Series 2003: Proposed Amendments to the Florence City Code for Aquifer Protection and Wetlands And Riparian Corridors, April 15, 2013
  - Figure 1: Proposed Siuslaw Estuary Trail Map
  - 2013 Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer and Appendix D: Drinking Water Protection Areas Delineation Report
  - 2013 Florence Area Local Wetlands and Riparian Inventory
  - 2013 City of Florence Significant Wetlands and Riparian Corridors Plan
  - 2013 Siuslaw Estuary Trail Vision: Preferred Location and Design
- Florence City Council Resolution No. 4, Series 2013.

## AVAILABLE ON LINE OR AT CITY OF FLORENCE PLANNING OFFICES:

Note: The following documents are included in the public record and are available for review at City of Florence Planning Office or on line at:

<http://www.ci.florence.or.us/council/city-councilplanning-commission-work-session>

- 2013 Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer Appendices:
  - A: Surface and Groundwater Monitoring Report and Secondary Data
  - B: Siuslaw Estuary Partnership Public Involvement Plan
  - C: Oregon Water Resources Department construction logs and well reports



- D: Drinking Water Protection Areas Delineation Report, February 15, 2012, GSI Water Solutions, Inc. (attached, above)
- E: Other Source Water Assessments: Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, June 2007; and Heceta Water District, 9/11/2001
- F: EPA-Approved Quality Assurance Project Plan
- G: 2003 Florence Source Water Assessment
- H: Options for Responding to Contamination Threats in the North Florence Sole Source Dunal Aquifer
- I: Resource List
- J: DEQ Hazardous Waste Technical Assistance for Businesses brochure
- K: Florence Water Management and Conservation Plan, March 2010
- L: Mutual Emergency Water Agreement between City of Florence and Heceta Water District, July 6, 2010
- M: Springfield Drinking Water Protection Overlay Zone

■ 2013 Florence Area Local Wetlands and Riparian Inventory Appendices:

- A: Figures and Sheets
- B: Wetland Summary Sheets
- C: Wetland Determination Data Forms
- D: ORWAP Answers Database
- E: DSL Approval of Significance Criteria for Identifying Locally Significant Wetlands
- F: Riparian Field Forms
- G: Riparian Reach Summary Sheets

■ 2013 City of Florence Significant Wetlands and Riparian Corridors Plan Appendices:

- A. Existing Policies and Code for Wetlands and Riparian Areas
- B. Public Involvement Plan, Approved by the Florence Planning Commission, January 12, 2010 and Letters to Property Owners
- C. Statewide Planning Goal 5 Administrative Rules Related to Wetlands and Riparian Areas
- D. 2013 Florence Area Local Wetlands and Riparian Inventory and Appendices, Pacific Habitat Services, 2013 (under separate cover, see above)
- E. Department of State Lands Approvals: Letter from Louise Solliday, Oregon Department of State Lands (DSL), Approving Florence's use of the ORWAP Method, March 29, 2010; and letter approving the wetland significance criteria, June 23, 2012
- F. Lists and/or maps of planned public infrastructure projects (under separate cover; see adopted Public Facilities Plan)
- G. RMC-Cs Florentine Estates Planning Commission Resolution 98-6-23-33 and PUD map
- H. EPA Introduction and User's Guide to Wetland Restoration

■ 2013 Siuslaw Estuary Trail Vision: Preferred Location and Design Appendices:

- A: Siuslaw Estuary Trail Visioning Project Alternatives Analysis, October 18, 2010; and Siuslaw Estuary Trail Visioning Project Route Options, August 16, 2010
- B: Forest Service Trail Accessibility Guidelines



**Florence City Council  
Resolution No. 3, Series 2013**

**A RESOLUTION INITIATING AMENDMENTS TO THE FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN ("COMPREHENSIVE PLAN") AND FLORENCE CITY CODE (FCC) FOR AQUIFER PROTECTION AND WETLANDS AND RIPARIAN CORRIDORS; AND AMENDMENTS FOR HOUSEKEEPING AND INTERNAL CONSISTENCY**

**WHEREAS**, Florence City Code (FCC) Title 10, Chapter 1, Section 1-3-B provides that a quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by motion of the City Council; and FCC 10-1-3-C provides that legislative changes to the Code or Comprehensive Plan may be initiated by a request of the Council to the Planning Commission that proposed changes be considered by the Commission and its recommendation returned to the Council;

**WHEREAS**, the City of Florence was awarded an EPA grant for the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0) in 2009 and the EPA amended the work plan for the grant in September 2012; and the work plan, as amended includes an adoption process for comprehensive plan and code amendments for aquifer protection and wetlands and riparian corridors;

**WHEREAS**, the City Council and Planning Commission held a joint Work Session on April 15, 2013 on amendments to the Florence Realization 2020 Comprehensive Plan and Florence City Code for aquifer protection and wetlands and riparian corridors and for housekeeping and internal consistency;

**WHEREAS**, on September 10, 2012, the City Council approved the public outreach and adoption process for the Partnership grant products, including the use of a joint City-Lane County adoption process for comprehensive plan amendments; the Lane County Board of Commissioners approved the use of the joint adoption process on October 17, 2012; and a joint City-County Planning Commission public hearing has been set for May 7, 2013 in Florence;

**WHEREAS**, the City Council provided policy direction on protection measures for wetlands and riparian on July 16 and September 10, 2012; and the City Council conceptually approved the Aquifer Protection Plan (Plan) for the North Florence Sole Source Aquifer on July 16, 2012; and the Lane County Board of Commissioners conceptually approved the Aquifer Protection Plan on July 25, 2012;

**WHEREAS**, changes are needed to the Comprehensive Plan and City Code to implement and adopt the Plan and protection measures, as amended, and make these documents mutually consistent and compliant with State Administrative Rules and Statewide Planning Goals;

**WHEREAS**, additional changes are needed to the Comprehensive Plan and Florence City Code in order to achieve the following objectives:

1. Protect the North Florence Sole Source Dunal Aquifer, the city's sole drinking water source, by
  - implementing an Aquifer Protection Plan, with source water components certified by the Oregon Department of Environmental Quality (DEQ);
  - basing management strategies on potential sources of contamination; and
  - using updated wellhead delineations and drinking water protection areas.
2. Protect significant wetlands and riparian areas for their functions and values in controlling floods and protecting water quality in the aquifer and surface waters, and in protecting fish and wildlife habitat, consistent with the requirements of Statewide Planning Goal 5.

**NOW THEREFORE, BE IT RESOLVED THAT THE CITY OF FLORENCE**, a municipal corporation of the State of Oregon, at a regular meeting held on the 15<sup>th</sup> day of April, 2013, initiated **Florence Realization 2020 Comprehensive Plan** amendments in **Exhibit B**, as revised through the public adoption process, for Aquifer Protection, Wetlands and Riparian Corridors, and Housekeeping;

**NOW THEREFORE, BE IT FURTHER RESOLVED THAT THE CITY OF FLORENCE**, a municipal corporation of the State of Oregon, at a regular meeting held on the 15<sup>th</sup> day of April, 2013, initiated **Florence City Code** amendments in **Exhibit C**, as revised through the public adoption process, for Aquifer Protection, including a new Drinking Water Protection Overlay Zone Map and Code section; Wetlands and Riparian Corridors; and for internal consistency and housekeeping.

Passed by the Florence City Council this \_\_\_\_ day of \_\_\_\_\_, 2013.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED BY THE MAYOR, this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Nola Xavier, MAYOR

ATTEST: \_\_\_\_\_  
Kelli Weese, City Recorder

**EXHIBIT B**  
**TO CITY OF FLORENCE ORDINANCE NO. 2 SERIES 2013**  
**AND LANE COUNTY ORDINANCE NO. PA 1299**  
**Proposed Amendments to the Florence Realization 2020 Comprehensive Plan for**  
**Aquifer Protection and Wetlands and Riparian Corridors**  
**April 15, 2013**

Unless noted otherwise, proposed additions are shown in double underline and deletions in strike-out.

**1. AQUIFER PROTECTION**

- a. Amend Florence Comprehensive Plan Chapter 5 to protect groundwater resources for consistency with state law and to adopt the Aquifer Protection Plan.**

**Florence Comprehensive Plan**  
**Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources**

**Groundwater Resources**

**Goal**

To protect the quality and quantity of the North Florence Dunal Aquifer, which has been designated a sole source aquifer by the Federal Environmental Protection Agency and which serves as a drinking water source for the City of Florence.

**Objectives**

1. To maintain recharge of the aquifer.
2. To protect the quality of water that recharges the aquifer.
3. To provide watershed/wellhead protection measures to protect water quality in the aquifer.
4. To protect the drinking water of the City of Florence.

**Policies**

1. The City shall implement the recommendations of the Stormwater management Plan regarding protection of the aquifer for the City's wellfield(s).

~~The City shall prepare and adopt a Wellhead Protection Program to protect the aquifers for the existing and potential wellfields, that supply drinking water for the residents of the City.~~

2. The City shall implement the 2013 *Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer (Aquifer Protection Plan)*, as amended and certified by the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA). The Aquifer Protection Plan shall be implemented by: the policies in this Comprehensive Plan; Florence City Code provisions, including a Drinking Water Protection Overlay Zone; and City programs, as resources allow.
3. All portions of the *Aquifer Protection Plan*, except the Contingency Plan, are adopted as a supporting document to this Comprehensive Plan; and the Plan will be located in Appendix 5 of the Comprehensive Plan.
4. The "Certified Wellhead Delineations Report," (Delineations Report) February 2012, prepared by GSI Water Solutions, Inc. and certified by the Oregon Health Authority, is adopted into this Comprehensive Plan and is physically located in Appendix 5. The Delineations, including all Time of Travel Zones (TOTZ), shall serve as the drinking water source inventory for the City of Florence. The maps in the Delineations Report of Drinking Water Protection Areas (DWPAs) for the existing and proposed wellfield are adopted as part of this Comprehensive Plan. The City shall use the map of the delineated DWPA for the proposed wellfield as the reference map for the Drinking Water Protection Overlay Zone.
5. The DWPA, including all delineated TOTZ, for the existing wellfield is a significant groundwater resource as that term is defined by Statewide Planning Goal 5. The DWPA, including all delineated TOTZ, for the proposed wellfield shall be protected through application of Statewide Planning Goal 2, Land Use; Goal 6, Air, Water and Land Resources Quality; and Goal 11, Public Facilities and Services.
6. Prior to issuing new or replacement septic permits, Lane County shall request the City to inform the County in writing whether municipal wastewater service is "physically and legally available," as those terms are defined in OAR 340-071-0160.
7. Consistent with policies in this Comprehensive Plan, the City shall implement state law that requires the City to provide municipal wastewater services at the time a new or replacement septic system permit is applied for, if the municipal service is physically and legally available, as prescribed in Comprehensive Plan policies and OAR 340-071-0160.
8. As part of the land use referral process under the existing Joint Agreement for Planning Coordination between the City of Florence and Lane County, the County and the City will work cooperatively to discourage the use of Dense Non-aqueous Phase Liquids (DNAPLs) by commercial and industrial busi-

nesses in the 20 year Time of Travel Zone for the proposed wellfield. The City will respond to the referral response for permits in this area by providing information on the effects of DNAPLs in wellfields and on alternative chemicals that may be appropriate for the proposed land use.

## **Recommendations**

~~The City should explore funding sources for delineation of the aquifer for the current wellfield, as well as a more precise estimation of the extent of the aquifers for the potential wellfields identified by Brown and Caldwell.~~

2.1. The City should continue to support attempts by Heceta Water District and Lane County to protect the water quality of Clear and Collard Lakes.

~~The City should identify possible contaminants in the areas of the aquifers, and identify alternative sites for those businesses, if possible, and/or work with the County and those businesses to reduce the use of and to provide for safe disposal of potential contaminants.~~

2. The City should continue to work with the Lane County and the Oregon Department of Environmental Quality Health to identify areas of failing onsite sewage disposal systems in the UGB, and pursue annexation and provision of municipal sewer to those areas, with the areas having the potential for contamination of the aquifer having the highest priority.

3. The City and Lane County should consider amending their Joint Agreement for Planning Services to provide a process for ensuring that DNAPLs are not used in the DWPA for the proposed wellfield.

5.4. The City should investigate the issue of dry wells and sumps for stormwater disposal relative to its potential for contamination of groundwater and attempt to reconcile the State Plumbing Code requirements with Federal prohibitions on discharge of stormwater to surface waters.

5. The City should investigate whether Transfer of Development Rights is a feasible tool for Florence; and, if feasible, work with Lane County to determine applicability in area outside city within UGB.

## **Background**

Florence's groundwater resource has been designated by the Federal Environmental Protection Agency as a sole-source aquifer, the only sole source aquifer in Oregon, one of the few in the State. Protecting the aquifer's ~~its~~ present quality and quantity is ~~are~~ critical to Florence's future, and sound management is essential to avoidance of irreparable harm to that important natural resource. To this end, in 2013, the City and Lane County jointly adopted the 2013 Aquifer Protec-

tion Plan for the North Florence Sole Source Dunal Aquifer (Aquifer Protection Plan), in Appendix 5 of this Comprehensive Plan. The source water components of the Aquifer Protection Plan have been certified by the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) and are adopted as part of this Comprehensive Plan.. In addition, tThe documents titled North Florence Dunal Aequifer – Modeling and Analysis by Ott Water Engineers, 1982 and the August 1987 EPA Resource Document for Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer, are included in Appendix 5-G as supporting documentation for the North Florence Dunal Aquifer and the "Certified Wellhead Delineations Report," (Delineations Report) February 2012, prepared by GSI Water Solutions, Inc. and certified by the Oregon Health Authority, is adopted into this Comprehensive Plan and is physically located in Appendix 5.

The DWPA for the existing wellfield is a “significant groundwater resource,” as that term is defined in Oregon Administrative Rules for Goal 5 (Chapter 660 Division 23). The DWPA for the proposed wellfield is adopted as part of this Comprehensive Plan and protected by Plan policies and Code in order to protect this resource to meet the City’s future needs for drinking water, consistent with Statewide Planning Goal 11; in order to protect water quality, consistent with Goal 6; and the delineation is based on the best available data, consistent with Goal 2.

The Aquifer Protection Plan was one of the products of the multi-year Siuslaw Estuary Partnership project funded by the Environmental Protection Agency to protect water quality and fish and wildlife habitat in the lower Siuslaw Watershed. The Comprehensive Plan and Florence City Code were amended to implement the Aquifer Protection Plan, including adoption of Comprehensive Plan policies and a new City Code Section 10-32: Drinking Water Protection Overlay District. This District regulates, within city limits, the use and storage of hazardous materials within the Drinking Water Protection Areas (DWPAs) of the City’s proposed wellfield. Prohibition on the use of DNPLs is a key requirement of this overlay zone and the applicable Comprehensive Plan policy, above. DNAPLs do not break down in water as other contaminants do; and they are therefore extremely detrimental to a water source. Remediation of DNAPLs, if feasible, comes at a very high price and can be cause for abandoning a source. For this reason, prevention is the best and most effective protection strategy from this type of contaminant.

The Aquifer Protection Plan also contains Management Strategies such as inter-governmental coordination and education. These Management Strategies are prioritized in the Aquifer Protection Plan and high priority strategies are already being implemented or will be implemented in the immediate future. Other strategies will be implemented over time as resources allow. Through these efforts, Florence and its partners will ensure that the sole source aquifer is protected for current and future inhabitants of the Florence city limits and UGB.

- The City's municipal wellfield is located on 80 acres adjacent to the Ocean Dunes golf course. The wellfield consists of seven production wells for which the water source is the North Florence Dunal Aquifer. These wells were constructed beginning in the mid-60's with the last four wells constructed in 1994, and range in depth from 120 feet to 182 feet. The untreated water has high levels of iron and some manganese, and is treated to reduce these levels to acceptable concentrations to meet drinking water standards.

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- Clear Lake is one of a series of fresh water lakes located north of Florence which may serve as future water sources. The City has received water from Clear Lake through an agreement with the Heceta Water District. The City, Lane County and the Water District have, until recently, been negotiating on the construction of a filtration plant on Clear Lake. This is necessary to meet federal drinking water standards for surface water sources. However, homeowners on Clear Lake challenged this effort, and the City has decided not to pursue this effort at this time. An agreement between the District, Lane County and a Clear Lake landowner limits withdrawals from Clear Lake to 4 mgd after March 2002.

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- In the absence of an agreement for future water supply from Clear Lake, the City's Water Facilities Plan, (Brown & Caldwell, September 1998) was updated (see Chapter 11, and Appendix 11) to provide for up to five new wells near the existing wellfield, with future well locations identified north and south of Heceta Beach Road. The City may work with Heceta Water District to obtain future withdrawals from Clear Lake up to sustainable levels.

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- The Water Facilities Plan recommends that, "to preserve groundwater quality, the potential wellfield capture zones should be protected from industrial development or other activities that may release contaminants to the subsurface." In another section of the City's Water Facilities Plan, Brown and Caldwell recommends that, "given the potentially rapid recharge and the highly transmissive sands in the study area, a wellhead protection program is recommended for Florence's existing wellfield and any future wellfields."

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- Protection of Oregon's groundwater resources is the primary goal of the Oregon Wellhead Protection Program. This is a voluntary program administered jointly by the Department of Environmental Quality and the Health Division. Under this program, a community:

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- identifies the recharge area for its groundwater supplies,
- determines the potential sources of contamination,
- makes decisions about how the groundwater resource will be managed.

•

- DEQ is responsible for:

•



- ~~certifying a community's Wellhead Protection Plan,~~
- ~~assisting in the inventory of possible contaminant sources,~~
- ~~assisting in development of management strategies.~~
- ~~\_\_\_\_\_~~
- ~~The Health Division is responsible for:~~
- ~~\_\_\_\_\_~~
- ~~certifying the delineation of Wellhead Protections Areas,~~
- ~~providing assistance in developing a Water Contingency Plan,~~
- ~~planning for new groundwater sources.~~
- ~~\_\_\_\_\_~~
- ~~Oregon's voluntary Wellhead Protection Program was approved in 1996, following defeat in the Legislature in 1993 of a proposal for a mandatory Wellhead Protection Program. Since it is a relatively new program, only a few communities have certified wellhead protection programs. Among them are Junction City and Coburg, both small cities, and the City of Springfield.~~
- ~~\_\_\_\_\_~~
- ~~Applicable rules and regulations include:~~
- ~~\_\_\_\_\_~~
- ~~(Wellhead Protection Plans) ORS 468.035, 468B.015(2), 468B.150-180 and implementing OAR Sections 340-40-140—340-40-210,~~
- ~~(Voluntary Wellhead Protection Program, delineation of Wellhead Protection Areas) ORS 448.123(1)(a), 448.131(2)(a)(b), 448.160, 672.525 and implementing OAR Sections 333-61-020, 333-61-050, 333-61-057, 333-61-065.~~

**b. Consistency Amendments: Amend Comprehensive Plan Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.**

**Comprehensive Plan Chapter 11: Utilities, Facilities, and Services**

**Water System Supplies and Needs**

**Policies**

2. The City shall develop ~~identify~~ new sources of water identified in the 2013 Aquifer Protection Plan to meet anticipated demands during the 2010-2030 period, and will provide treatment as appropriate for those sources.
3. The City will pursue strategies in the 2013 Aquifer Protection Plan to protect domestic water sources.

**Recommendations**

1. The City should implement the management strategies in the 2013 Aquifer Protection Plan, including adoption of a Drinking Water Protection Overlay Zone.

4. ~~The City should pursue ownership of private lands containing the proposed future wellfields.~~

5. ~~The City should initiate development of a wellhead/aquifer protection plan in order to assure that the aquifer, and the area around the wellheads is managed with a goal of maintaining the aquifer as a source of domestic water meeting state and federal standards for potability.~~

## **2. WETLANDS AND RIPARIAN CORRIDORS**

- a. **Amend Florence Comprehensive Plan Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources for consistency with Statewide Planning Goal 5.**

### **Florence Comprehensive Plan**

#### **Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources**

Florence's 20-year plan focuses on existing natural resources and their protection, which Oregon law now requires. This plan presents inventories of those selected resources, an understanding of each resource's environmental role in defining Florence's future, the identification of ways in which to protect those resources and to develop a local implementation program.

This chapter provides policy direction for the following specific resources:

- Wetlands and Riparian Areas
- Groundwater Resources
- Rare, Threatened, Endangered, and Sensitive Species
- Native Vegetation
- Mineral and Aggregate Resources
- Scenic Resources and Visual Quality
- Historic Resources

#### **Goal**

To conserve natural resources such as wetlands, riparian areas, groundwater supplies, air and water, and fish and wildlife habitat in recognition of their important environmental, social, cultural, historic and economic value to the Florence area and the central Oregon Coast.

#### **Wetlands and Riparian Areas**

#### **Objectives**

(Note: the following combine the objectives in the adopted Comprehensive Plan for wetlands and riparian areas and propose no changes.)

1. To maintain an accurate inventory of significant wetlands and riparian areas for use in land use planning and development review.
2. To protect significant wetlands and riparian areas for their critical functions and values in protecting surface and groundwater quality, flood control, habitat for fish, and terrestrial creatures, and for enhancing the visual character of the Florence community.

## **Policies**

*(Note: the following edits combine redundant policies in the adopted Comprehensive Plan for wetlands and riparian areas and propose amendments.)*

1. For the purpose of land planning and initial wetland and riparian identification within the Florence Urban Growth Boundary (UGB), the City and Lane County shall rely on the 2013 ~~1997~~ Florence Area Local Wetland and Riparian Area Inventory (2013 Inventory), approved by the Oregon Department of State Lands, and as amended hereafter. The 2013 Inventory within the Florence UGB, as amended, is adopted as part of this Comprehensive Plan and is physically located in Appendix 5.
2. Disturbance of significant<sup>2</sup> wetlands for land development activities shall be permitted within the Florence UGB only as determined by the permitted provisions of permits issued by the Department ~~Division~~ of State Lands (DSL) and/or the Army Corps of Engineers.
3. In accordance with ORS 215.418, the City and County shall notify DSL when wetlands are present on a property that is subject to a local land use or building permit approval. The City shall notify DSL when riparian areas are present on a property that is subject to a local land use or building permit approval.
4. The City and County shall consider formal wetland delineation reports approved by the Oregon ~~Division~~ Department of State Lands as a valid source of wetland information specific to a land use action or limited land use action. Such reports, if approved by DSL, will be incorporated by reference into the City's ~~1997~~ 2013 Florence Area Local Wetlands and Riparian ~~Area~~ Inventory.
5. No significant wetland or riparian corridor as defined by the ~~2013~~ 1997 Florence Area Local Wetlands and Riparian Inventory shall be drained by re-routing of natural drainage ways.

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<sup>2</sup> Significant wetlands and riparian corridors as identified by the ~~1997~~ 2013 Florence Area Local Wetlands and Riparian ~~Area~~ Inventory, Pacific Habitat Service, Inc., Comprehensive Plan Appendix 5.

6. The City shall protect the functions and values of significant<sup>3</sup> Goal 5 riparian corridors and wetlands for flood control, water quality, and fish and wildlife habitat through Code provisions that protect these resources from development in accordance with Statewide Planning Goal 5 administrative rules (OAR 660 Division 23) and the Economic, Social, Environmental, and Energy (ESEE) Analysis and Limited Protection Program.

The ESEE Analysis is included, and significant wetlands and riparian corridors are listed and mapped, in the<sup>4</sup> “2013 City of Florence Significant Wetlands and Riparian Corridors Plan” adopted by reference into this Comprehensive Plan. The Program exempts public infrastructure, as defined in the ESEE Analysis, from local wetland protection measures, and allows special setback reductions and other allowances for development along the Munsel Creek Side Channel (Reach RMC-Cs in the 2013 Riparian Inventory).

2. ~~Riparian areas shall be prevented from permanent alteration by grading or the placement of structures or impervious surfaces, except for the following uses provided they are designed to minimize intrusion into the riparian area:~~

~~streets, roads and paths,  
drainage facilities,  
utilities and irrigation pumps,  
water-related (outside of coastal shoreland areas) and water-dependent uses,  
replacement of existing structures in the same location that do not disturb additional riparian surface area.~~

7. The City shall include a procedure in the Code to consider hardship variances, claims of map error, and reduction or removal of the restrictions for any existing lot or parcel demonstrated to have been rendered unbuildable<sup>5</sup> by application of the significant wetlands and riparian areas standards in the Code.

8. The City shall encourage restoration and protection of privately-owned wetlands and riparian areas through Code incentives, and, as resources allow, through education in partnership with the Siuslaw Watershed Council and the Siuslaw Soil and Water Conservation District.

~~3. While not required to adopt safe harbor policies and ordinances under the requirement of this periodic review, the City has chosen to modify the riparian setback on Munsel Creek to require a 50 foot minimum setback from the thread of the creek, which must include at least 15 feet from the top of the~~

<sup>3</sup> “Significant” means wetlands that meet the definition of significant in Statewide Planning Goal 5.

<sup>4</sup> The ESEE and Limited Protection Program are contained in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive Plan.

<sup>5</sup> The term “unbuildable” is defined in the definitions section of Chapter 1 of the Comprehensive Plan and in FCC 10-1. See Consistency Amendments, below.

bank. The minimum must be increased as necessary to meet the 15 foot requirement.

4. The riparian setback from the Siuslaw River shall be 50 feet from the top of the cut bank.

5. The retention of native vegetation in riparian areas is critical to their function. Therefore, the City shall adopt effective regulations ensuring the retention, or if necessary, the replanting of native species in riparian areas and may include conditions regarding fertilizer and pesticide runoff. The regulations will address the following:

A. Control the removal of riparian vegetation, except for:

- (1) removal of non-native vegetation and replacement with native plant species; and
- (2) removal of vegetation necessary for the development of water-related or water-dependent uses;

9. Plan Amendment Option: Any owner of property affected by the Significant Wetlands and Riparian Areas Standards in City Code may apply for a quasi-judicial comprehensive plan amendment. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove the requirement to comply with these standards from all or a portion of the property. The applicant shall demonstrate that such an amendment is justified by completing an Environmental, Social, Economic and Energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040. If the application is approved, then the ESEE analysis shall be incorporated by reference into the Florence Comprehensive Plan, and the Florence Significant Goal 5 Wetlands and Riparian Areas Maps shall be amended to remove the wetland or riparian area from the inventory.

The ESEE analysis shall adhere to the following requirements:

A. The ESEE analysis must demonstrate to the ultimate satisfaction of the Florence City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource. The City will confer with the Department of Land Conservation and Development (DLCD) prior to making their ultimate decision.

B. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the significant wetland or riparian area and that there are no other sites within the City that can meet the specific needs of the proposed use.

C. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review by DLCD.

## Recommendations

~~As the City's buildable lands begin to fill-in and prior to moving the UGB limit outward, the City should consider conducting an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use for each of the locally identified significant wetlands. From this analysis, lesser quality wetlands may be found eligible for partial or full development.~~

~~The City should coordinate with the Oregon Division of State Lands (DSL), the U.S. Army Corps of Engineers (ACE), and other appropriate state and federal agencies in the identification, protection and, where appropriate, mitigation of impacts to local wetland resources.~~

1. The City should consider restoring and protecting City-owned wetlands and riparian areas, using the preliminary assessment in the 2013 *City of Florence Significant Wetlands and Riparian Corridors Plan* in Comprehensive Plan Appendix 5.

## Background

*Note: Replace the separate Background sections for wetlands and riparian areas in the adopted Comprehensive Plan (shown in strike out below) with the following Background section:*

The Wetland and Riparian Areas section of Chapter 5 of the Comprehensive Plan is based on the inventories, assessments, significance, and protection measures set out in the 2013 Florence Area Local Wetlands and Riparian Inventory (2013 Inventory) and the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), both located in Appendix 5 of the Comprehensive Plan. The 2013 Inventory and the 2013 Plan and ESEE Analysis and Limited Protection Program are adopted as part of this Comprehensive Plan.

Community concern for the Siuslaw estuary, the North Florence Sole Source Dunal Aquifer, and the area's streams, lakes, and wetlands is well-documented in Comprehensive Plan policies and Code provisions. In response to this concern, in October, 2009, the City and its partners from 19 federal, state, tribal, and local agencies embarked on a multi-year project called the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0). The mission of the Partnership is to protect and improve water quality and fish and wildlife habitat in the lower Siuslaw watershed. This project is funded by project partners and the US Environmental Protection Agency (EPA). The Siuslaw Estuary Partnership Guiding Principles, endorsed by the City and its partners, provided guidance for the policies in this chapter of the Comprehensive Plan.

The 2013 Local Wetlands and Riparian Inventory updated the “City of Florence Local Wetlands and Riparian Area Inventory,” prepared on December 30, 1996 by Pacific Habitat Services, Inc. and approved by DSL in 1997 (1997 Inventory). That inventory used the Oregon Freshwater Wetland Assessment Methodology (OFWAM). For the 2013 Inventory, an alternative wetland assessment, the Oregon Rapid Wetland Assessment Protocol (ORWAP; 2009), was used. The ORWAP provides much more detailed data on wetland functions, values and condition. The 1997 Inventory identified 270 wetlands, totaling 572 acres, and about 315 acres of riparian area. In the 2013 Plan, all of the 16 wetlands that are not subject to Goal 17 within the UGB were considered “significant” under Goal 5.

The improved inventories and assessment information in the 2013 Inventory assist the City in complying with Statewide Land Use Planning Goal 5 and will help the City and the County to make more informed land use decisions within the city and unincorporated lands within the study area.

On September 1, 1996, the Land Conservation and Development Commission adopted a revised Statewide Planning Goal 5. The Goal requires local jurisdictions to inventory the natural resources covered under the Goal, determine the significance of these resources, and develop plans to achieve the Goal. In other words, local jurisdictions must adopt land use ordinances regulating development in and around significant resource areas.

The purpose of the 2013 Inventory and Plan was to update the 1997 Inventory and to adopt protection measures, as required by state law. This inventory involves only freshwater wetland and riparian areas; it does not include the estuary or estuarine wetlands. Specific objectives were to:

- update the 1997 biological and functional assessment;
- assess omitted wetlands;
- include delineations made since 1997;
- adopt policies and measures to protect the unique functions and values of the resources; and
- conduct preliminary work to assess the potential for restoration of riparian areas and wetlands on City-owned property. This preliminary work is set out in Chapter 5 of the 2013 Plan in Appendix 5.

The 2013 Inventory provides a comprehensive functional assessment of wetlands and riparian areas. This is especially important in this watershed because this 2013 Plan, once adopted, will ensure: retention of the capacity of existing natural wetlands and riparian areas to store and slow the velocity of stormwater prior to discharge to area creeks and the estuary; critical water quality benefits for the North Florence Sole Source Dunal Aquifer, the source of the City’s drinking water; and protection of the quality of area surface waters, habitat to numerous fish and wildlife. The protection measures in this 2013 Plan will enhance the carrying capacity of the land to fully address the anticipated impacts from



planned urbanization. The functional assessment thus provides critical information to help guide future urbanization policy and stormwater management policy and capital programs.

Public involvement for the Wetlands and Riparian Areas project consisted of three annual open houses; three annual newsletters distributed to all residents and/or property owners in the study area; targeted outreach; a Stakeholder process; media outreach; and public hearings before the Planning Commission and City Council. In addition, public involvement efforts were conducted specifically for wetlands and riparian areas. Prior to beginning the inventory field work, selected landowners (i.e. those suspected of having wetlands or waters of the state on their property) were mailed notices describing the project and asking permission to enter their property. Right of access was granted by landowner permission only. The properties of those not responding were not accessed. Access information was collected in a database and then transferred to a base map for use in the field.

The City of Florence held an open house meeting May 5, 2010 to inform the public and property owners about the wetland inventory process and answer questions from property owners deciding whether or not to grant access to their property. Following completion of initial fieldwork, a second public meeting was held on September 22, 2010 to allow property owners to observe the location of mapped wetlands and comment as appropriate. A third meeting with property owners was held on February 27, 2013 to present the draft Comprehensive Plan and Code amendments and to address comments and concerns.

The Wetlands and Riparian Area Team met from 2010 through January 2013 and concurred with the proposal for determining the significance of, and measures to protect, wetlands and riparian areas in the Florence urban growth boundary (UGB). At their meetings in March, April, and July 2012 and February and March 2013, the Stakeholder Groups reviewed and commented on the draft products and amendments. The draft products were also presented to the public at Open Houses in 2011 and 2012 and summarized in newsletters distributed throughout the study area in 2011 and 2012. The proposal, and all updates to the proposal, have been consistently posted to the project web site at [www.SiuslawWaters.org](http://www.SiuslawWaters.org) with an invitation for public comment on the home page.

## **Background**

~~In 1996, Florence's local wetland inventory was conducted and included all UGB land and some land outside where UGB expansion was anticipated. In January 1997, the Division of State Lands officially accepted the Florence Local Wetland Inventory (LWI), replacing the National Wetlands Inventory (NWI) prepared many years ago for identifying such resources in the Florence area. The Florence inventory is helpful for at least two reasons:~~

~~It helps determine for planning purposes what land is “buildable” and what was not due to the anticipated presence of wetlands.~~

~~It will help the City and County review development proposals and identify when a wetland might possibly be impacted as a result of such development.~~

~~The LWI will also help the City’s and County’s required DSL notification when a land use action is proposed near an identified wetland.~~

~~After the City’s Periodic Review work program was approved in November 1995, the State adopted amendments to Statewide Planning Goal 5. Goal 5 requires conservation of a variety of natural resources, including wetlands and riparian areas. The amendments included the LWI requirement, a requirement for the City to make determinations of local significance for identified wetland resources, and a requirement that the City and County protect those significant wetland resources.~~

~~The analysis and results of the City’s determination of local significance for Florence’s wetlands are included in Appendix 5, City of Florence Local Wetlands and Riparian Area Inventory, 1997.~~

~~Once local wetlands are identified and evaluated as to their significance, the Statewide Planning Goal 5 provides local jurisdictions with two planning options for mandated protection of wetlands. This protection must occur in addition to that protection provided by current State and federal regulations.~~

~~Under option one, Florence can use the “safe harbors” provisions of Oregon law. By adopting a safe harbors ordinance, restrictions are placed on grading, excavation, placement of fill and removal of vegetation within all locally significant wetlands within the Florence UGB.~~

~~Or, under option two, by conducting an economic, social, environmental and energy (ESEE) analysis, Florence may further refine its wetland protection program by allowing, limiting, or prohibiting conflicting uses of wetland resources depending on that analysis. The ESEE process is relatively intensive, especially in Florence’s case, where 270 wetlands totaling 572.25 acres are identified by the LWI.~~

~~While it may be desirable for Florence to conduct an ESEE analysis for its significant wetland resources in the future, staff has identified sufficient “buildable lands” within the existing UGB to meet the City’s residential, commercial, and industrial land needs. As such, the most expedient and effective path at this point to comply with Goal 5 and protect significant wetlands is adoption of a safe harbor ordinance by the City and Lane County.~~

~~However, since adoption of a safe harbor ordinance is not required of this periodic review, the City has chosen not to adopt such an ordinance at this time, but to continue to rely on DSL/ACE permits for wetland protection.~~

## **Background**

The City's LWI also included a riparian area inventory. A riparian area can be best defined as a buffer of variable width between an aquatic resource and an upland area. The buffer is typically vegetated, and provides several beneficial functions to the lake or stream.

Those functions are:

- Acts as a natural filter of stormwater, limiting pollution of streams and waterways.
- Cools stream temperatures in summer and traps heat in winter when canopy is sufficient to screen all or part of the stream channel.
- Holds the stream bank in place and therefore reduces erosion.
- Adds controls to flood velocities of streams and drainage ways.
- Provides valuable wildlife habitat.
- When properly integrated into a development design or recreational greenway, riparian buffers yield aesthetic benefits as well.

To some extent, Florence has been protecting its riparian areas within City limits prior to 1988, through the Munsel Creek and drainage way setback restrictions found in Florence City Code, Title 10, Chapter 7, Special Development Standards.

While not required by periodic review, the City realizes the importance of riparian buffers and has chosen to increase the protection of the riparian area on Munsel Creek which has been classified as a salmon stream and which is a teaching/management area for the Salmon and Trout Enhancement Program (STEP).

On the Siuslaw River, the riparian setback will remain at 50 feet from the top of the bank. Existing development is grandfathered. Expansions of existing development and new development must provide for the required setback, or request a variance and include provisions to mitigate the proposed intrusion into the setback.

- b. Consistency Amendments: Amend Florence Comprehensive Plan Chapter 1, Definitions and Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.**

## Definitions

*Note: Delete the following definition from the Comprehensive Plan because this term is not used in the Comprehensive Plan.*

**~~SENSITIVE AREA.~~** ~~Natural streams (perennial or intermittent), rivers (including the estuary portion of the river), lakes, or wetlands hydraulically connected by surface water to streams, rivers, or lakes and areas defined by the City of Florence's Local Wetlands and Riparian Inventory. Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon Division of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service and Oregon Department of Transportation.~~

*Note: Add this definition of unbuildable to the Comprehensive Plan definitions:*

**UNBUILDABLE.** Lots that are rendered “unbuildable” by the required setback for significant wetlands and riparian areas.

- a) For single family housing, lots are considered unbuildable if the required setback for the significant wetland or riparian area is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet.<sup>6</sup>
- b) For all affected properties, lots are deemed unbuildable if strict adherence to the applicable setback standards and conditions would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.
- c) For the Munsel Creek side channel (Reach RMC-Cs in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive Plan), the “required setback” for the purpose of the unbuildable definition, is the reduced setback allowed through the ESEE Analysis adopted into this Comprehensive Plan Appendix 5.

## Florence Comprehensive Plan Chapter 11: Utilities, Facilities, and Services

*Note: The following amendment makes this policy consistent with the Limited Protection Program.*

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<sup>6</sup> Note: A 50 foot by 27 foot area allows the siting of a typical double-wide manufactured home, a form of affordable housing.

## Stormwater Management

### Policies

#### Water Quality

2. Protect the quality of water in surface waters, i.e., the estuary, significant wetlands and riparian corridors, ~~creeks, lakes, wetlands~~, and ocean/beach, from contamination threats that could impair the quality of the water for fish and wildlife habitat and human recreation.
3. **Housekeeping Amendment: Amend Comprehensive Plan Chapter 1, Introduction, to make the Comprehensive Plan consistent with state law which changed the DLCD notice requirement from 45 to 35 days.**

*Note: The following amendment makes the Comprehensive Plan consistent with state law which changed from 45 to 35 days.*

### Florence Comprehensive Plan

#### Chapter 1: Introduction

Amendments to the Plan may be initiated by citizens, citizen groups, the Citizen Advisory Committee, the Planning Commission or the City Council. In any amendment proceedings, the City Council shall obtain the recommendation of the Planning Commission and the Citizen Advisory Committee before taking action on a proposed major amendment. Minor changes which do not have significant effects beyond the immediate area of the change require the recommendation of the Planning Commission. Minor changes may be initiated at any time. Notice to the Oregon Department of Land Conservation and Development (DLCD) of a public hearing for a proposed plan amendment shall be required at least 4535 days prior to the first Planning Commission hearing.

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**EXHIBIT C**  
**TO CITY OF FLORENCE ORDINANCE NO. 2, SERIES 2003**  
**Proposed Amendments to the Florence City Code for**  
**Aquifer Protection and Wetlands and Riparian Corridors**  
**April 15, 2013**

**1. AQUIFER PROTECTION**

- a. Adopt a new Drinking Water Protection Overlay Zone Map, attached.**
- b. Amend Florence City Code Title 10: Zoning Regulations to insert a new Chapter 32:**

**Chapter 32 Drinking Water Protection Overlay District**

**SECTION**

- 10-32-1 Purpose
- 10-32-2 Applicability
- 10-32-3 Warning and Waiver of Liability
- 10-32-4 Time of Travel Zones (TOTZ)
- 10-32-5 Review
- 10-32-6 Exemptions
- 10-32-7 Standards for Hazardous Materials within TOTZ
- 10-32-8 Conditions
- 10-32-9 Appeals

**10-32-1: PURPOSE:**

- A.** The Drinking Water Protection (DWP) Overlay District is established to protect from contamination the North Florence Sole Source Dunal Aquifer, used as the sole potable water supply source by the City. This Section establishes procedures and standards for the physical use of hazardous or other materials harmful to groundwater within TOTZ by new and existing land uses requiring development approval. The provisions of this Section are designed to:
  - 1. Protect the City's drinking water supply, which is obtained from groundwater resources, from impacts by facilities that store, handle, treat, use, produce, or otherwise have on premises substances that pose a hazard to groundwater quality; and
  - 2. Provide standards for hazardous or other materials that pose a risk to groundwater within the TOTZ.
- B.** In order to accomplish this purpose, the DWP Overlay District includes methods and provisions to:



1. Restrict or prohibit the use of hazardous or other materials which are potential groundwater contaminants;
2. Set standards for the storage, use, handling, treatment, and production of hazardous or other materials that pose a risk to groundwater within TOTZ; and
3. Review new or expanded uses of hazardous or other materials that pose a risk to groundwater.

#### **10-32-2: APPLICABILITY:**

This DWP Overlay District applies to industrial and commercial land uses within the Drinking Water Protection Area (DWPA) for the proposed wellfield. As of (DATE OF ORDINANCE ADOPTION), 2013, all areas in an industrial or commercial zoning district within the specified wellhead TOTZ are automatically rezoned to add the DWP Overlay District to the underlying zoning district. The areas to which the DWP Overlay District is applied are shown on the Drinking Water Protection Overlay Map, on file in the Community Development Department and incorporated in this Section by reference.

#### **10-32-3: WARNING AND WAIVER OF LIABILITY:**

The degree of aquifer protection required by this Section in the areas designated in Section 10-32-2 is based on scientific and engineering considerations. The nature of these considerations is that the exact boundaries of Time of Travel Zones (TOTZ) have an associated uncertainty that renders conclusions based on them to be estimates. Under no conditions should this Section be construed to guarantee the purity of the ambient ground water or guarantee the prevention of ground water contamination. Therefore, this Section shall not create liability on the part of the City, or any City personnel, for any contamination that may result from reliance on this Section or any administrative decision made under this Section.

#### **10-32-4: TIME OF TRAVEL ZONES (TOTZ):**

- A. The DWP Overlay District includes 3 TOTZ for the proposed wellfield: 5-10 years; 10-20 years; and 20-30 years. The Overlay District does not include the 0-5 year TOTZ because there are no industrial or commercial properties or zones in that TOTZ. The locations of the TOTZ for the proposed wellfield are shown on the Drinking Water Protection Area Map for the Proposed Wellfield on file with the City's Planning Department; Public Works Department; the Siuslaw Valley Fire and Rescue Agency; and Heceta Water District (HWD).

- B. The areas within specified wellhead TOTZ are those drinking water protection areas for which the Oregon Health Authority issued a “provisional delineation,” stating, “OHA approves the use of this delineation for protection of possible future drinking water sources,” under the Oregon Administrative Rules that apply to Oregon’s EPA-approved Drinking Water Protection Program, in Oregon Health Authority Delineation Certification #0016, March 16, 2012.
- C. In determining the location of a property within a TOTZ, the following criteria apply:
  - 1. The Lane County Department of Assessment and Taxation maps shall be used as a base map with the addition of TOTZ boundaries.
  - 2. That portion of a tax lot that lies within a TOTZ is governed by the restrictions applicable to that TOTZ.
  - 3. Tax lots having parts lying within more than one TOTZ are governed by the standards of the more restrictive TOTZ.
  - 4. EXCEPTION: The Public Works Director (Director) may waive the requirement that the more restrictive standards apply when all of the following apply:
    - a. Storage, use, handling, treatment, and/or production of hazardous or other materials that pose a risk to groundwater will not take place within the portion of the tax lot having the more restrictive TOTZ standards; and
    - b. Storage, use, handling, treatment, and/or production of hazardous or other materials that pose a risk to groundwater will not take place within 50 feet of the portion of the tax lot having more restrictive TOTZ standards; and
    - c. The tax lot is 20,000 square feet or larger.
  - 5. A property owner may request the TOTZ be modified by submitting a Zone Change application to the City. Any request for modification of the TOTZ shall be accompanied by certification of the TOTZ as proposed to be modified by the Oregon Health Authority, under the Administrative Rules that apply to Oregon’s EPA-approved Drinking Water Protection Program.

**10-32-5: REVIEW:**

- A. A DWP Overlay District Development Application is required when all of the following criteria are met:

1. Industrial and commercial land uses that are affected by one or more of the following: a land use permit application or building permit application;
  2. The action in Subsection A.1., above will:
    - a. Affect the storage, use, and/or production of hazardous or other materials that pose a risk to groundwater; or
    - b. Increase the quantity of hazardous or other materials that pose a risk to groundwater that are stored, used and/or produced.
- B. Prior to the submittal of a DWP Overlay District Development Application, an exemption request may be submitted to the Director as specified in Section 10-32-6-B-1.
- C. DWP Overlay District applications shall be reviewed under Administrative Review procedures in 10-1-1-6.
- D. Prior to undertaking an activity covered by Section 10-32-5-A, the owner or tenant shall submit a DWP Overlay District Application to the City for review and approval. Applications shall include the following information:
1. A Hazardous Material Inventory Statement and a Material Safety Data Sheet for any or all materials entered in the Statement unless exempted under Section 10-32-6. Hazardous material weights shall be converted to volume measurement for purposes of determining amounts; 10 pounds shall be considered equal to one gallon as specified in Florence Fire Code;
  2. A list of the chemicals to be monitored through the analysis of groundwater samples and a monitoring schedule if ground water monitoring is anticipated to be required;
  3. A detailed description of the activities conducted at the facility that involve the storage, handling, treatment, use or production of hazardous materials in quantities greater than the maximum allowable amounts as stated in Section 10-32-7-A;
  4. A description of the primary and any secondary containment devices proposed, and, if applicable, clearly identified as to whether the devices will drain to the storm or sanitary sewer;
  5. A proposed Hazardous Material Management Plan for the facility that indicates procedures to be followed to prevent, control, collect and dispose of any unauthorized release of a hazardous material;

6. A description of the procedures for inspection and maintenance of containment devices and emergency equipment;
  7. A description of the plan for disposition of unused hazardous materials or hazardous material waste products over the maximum allowable amounts including the type of transportation, and proposed routes.
- E. The Director shall review the application and make a decision based on the standards contained in Section 10-32-7, after consulting with the Building Official, Fire Marshall, Planning Director, and the manager of HWD, as appropriate.

#### **10-32-6: EXEMPTIONS:**

This Section does not exempt any material or use from Fire Code regulations adopted by the City.

- A. Exemptions are as specified in this Section unless the Director, in consultation with the Fire Marshall, determines that a hazardous material, activity, and/or facility that is exempt pursuant to this Section has a significant or substantial potential to degrade groundwater quality. Then the Director may require compliance with the requirements of this Section related to that hazardous material, activity or facility. This determination will be based upon site and/or chemical-specific data and are eligible for appeal to the Planning Commission, as specified in Section 10-32-9.
- B. Unless otherwise provided herein, the following materials are exempt from regulation hereunder:
1. Use, storage and handling of specific hazardous materials that do not present a risk to the aquifer, as determined and listed by the Director, are exempt from all regulation under this Section with the exception of the potential requirement to list these hazardous materials on the Hazardous Material Inventory Statement as found in the most recent Fire Code regulations adopted by the City. A Hazardous Materials Exemption Request may be submitted to the Director for Hazardous Materials that can be demonstrated to pose no threat to the aquifer. These materials may be exempted from regulation and added to the list. The demonstration of no threat is the responsibility of the applicant seeking the exemption and will be subject to review by technical experts.
  2. Hazardous materials offered for sale in their original sealed containers of 5 gallons or less are exempt from the 500-gallon storage limit specified in Section 10-32-7-A-1.

3. Hazardous materials in fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the motoring operation of that vehicle, or machinery, including, but not limited to: fuel, engine oil and coolant.
4. Fuel oil used in existing heating systems.
5. Emergency use, storage, and handling of hazardous materials by governmental organizations in the public interest.
6. Hazardous materials used and stored specifically for water treatment processes of public water systems and private systems for the same purposes when approved by the Director.
7. Hazardous materials contained in properly operating sealed units (including, but not limited to: transformers, refrigeration units) that are not opened as part of routine use.
8. Local natural gas distribution lines, when available.
9. Fuel for emergency generators located at facilities that provide essential community services (including, but not limited to: hospitals, fire/life safety, police, public shelters, and telephone systems).
10. Any commonly used office supply—including, but not limited to: correcting fluid for typewriters, toner for computer printers or cleaners for windows and bathrooms—where the supplies are purchased off-site for use on-site.
11. Aggregate quantities equal to or less than 20 gallons of hazardous materials that do not contain DNAPLs.<sup>7</sup>

#### **10-32-7: STANDARDS FOR HAZARDOUS MATERIALS WITHIN TOTZ**

Applications shall comply with the following standards. Where the following standards are more restrictive than the standards of the Florence Fire Code, the following standards shall apply:

##### **A. Five to Ten Year TOTZ Standards.**

1. The storage, handling, treatment, use, application, or production or otherwise keeping on premises of more than 20 gallons of hazardous materials

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<sup>7</sup> DNAPLs are organic substances that are relatively insoluble in water and more dense than water. DNAPLs tend to sink vertically through sand and gravel aquifers to the underlying layer. The most common are chlorinated solvents. Significant amounts of DNAPLs are present at chlorinated solvent-contaminated sites, such as manufacturing and degreasing facilities, dry cleaners, wood treaters, and former manufacturing gas plants.

that pose a risk to groundwater in aggregate quantities not containing DNAPLs are allowed only upon compliance with containment and safety standards specified by the most recent applicable Fire Code.

2. Unless exempted, all hazardous or other materials that pose a risk to groundwater shall be stored in areas with approved secondary containment in place (Fire Code).
3. All new use of DNAPLs are prohibited.
4. Any change in the type of use or an increase in maximum daily inventory quantity of any DNAPL is considered a new use and is prohibited.
5. The following certain types of facilities or changes in chemical use and/or storage of hazardous or other materials that pose a risk to groundwater are prohibited:
  - a. Hazardous material product pipelines used to transport the hazardous material off of the tax lot where it is produced or used;
  - b. Injection wells, except for dry wells for roof drainage;
  - c. Solid waste landfills and transfer stations;
  - d. Fill materials containing hazardous materials;
  - e. Land uses and new facilities that will use, store, treat handle, and/or produce DNAPLs.
6. Requirements found in the Fire Code for a monitoring program and monitoring methods to detect hazardous or other materials in the secondary containment system shall be met for all amounts of hazardous materials that pose a risk to groundwater unless exempted.
7. The following requirements for inspection and record keeping procedures for monthly in-house inspection and maintenance of containment and emergency equipment for all amounts of hazardous or other materials that pose a risk to groundwater shall be met unless exempted: Schedules and procedures for inspecting safety and monitoring and emergency equipment. The applicant shall develop and follow a written inspection procedure acceptable to the Director for inspecting the facility for events or practices which could lead to unauthorized discharges or hazardous materials. An inspection check sheet shall be developed to be used in conjunction with routine inspections. The check sheet shall provide for the date, time, and location of inspection; note problems and dates and times of

corrective actions taken; and include the name of the inspector and the countersignature of the designated safety manager for the facility.

**B. Ten to Twenty Year TOTZ Standards.**

1. The storage, handling, treatment, use, production or otherwise keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater in aggregate quantities not containing DNAPLs is allowed upon compliance with containment and safety standards specified by the most recent Fire Code adopted by the City
2. All hazardous or other materials that pose a risk to groundwater shall be stored in areas with approved secondary containment in place (Fire Code).
3. All new use of DNAPLs are prohibited.
4. Any change in type of use or an increase in the maximum daily inventory quantity of any DNAPL is considered a new use and is prohibited.
5. The following requirements for inspection and record keeping procedures for monthly in-house inspection and maintenance of containment and emergency equipment for all amounts of hazardous or other materials that pose a risk to groundwater shall be met unless exempted: Schedules and procedures for inspecting safety and monitoring and emergency equipment. The applicant shall develop and follow a written inspection procedure acceptable to the Director for inspecting the facility for events or practices which could lead to unauthorized discharges or hazardous materials. An inspection check sheet shall be developed to be used in conjunction with routine inspections. The check sheet shall provide for the date, time, and location of inspection; note problems and dates and times of corrective actions taken; and include the name of the inspector and the countersignature of the designated safety manager for the facility.

**C. Twenty to Thirty Year TOTZ Standards.** The storage, handling, treatment, use, production or keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater in aggregate quantities is allowed only upon compliance with containment and safety standards specified by the most recent Fire Code adopted by the City.

**10-32-8: CONDITIONS:**

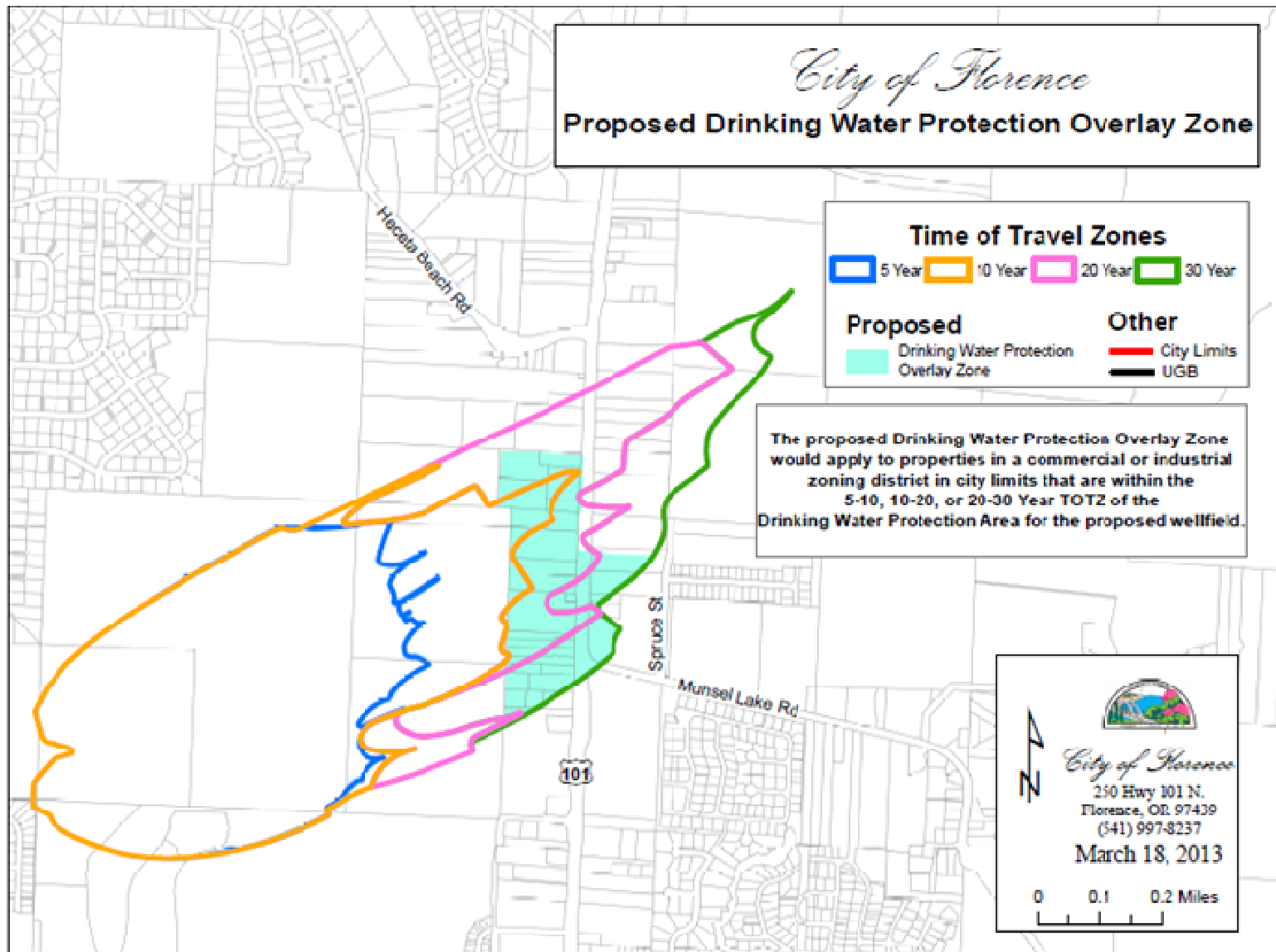
The Director may attach conditions of approval that will minimize negative impacts of regulated substances on groundwater and ensure that the facility or the proposed development can fully meet the standards specified in Section 10-32-7. These conditions may include, but are not limited to: on-site monitoring wells,

Wellhead Protection Area signs, special storm water facilities or other conditions to address specific risks associated with the proposed development.

**10-32-9: APPEALS:**

The only portions of this Section that are subject to appeal are: Section 10-32-5-E, the Director's decision on a DWP application, Section 10-32-6, Exemptions, and Section 10-32-7-A-1, Waiver. The decision of the Director may be appealed as specified in Section 10-1-1-7.





## 2. WETLANDS AND RIPARIAN CORRIDORS

- a. **Amend Florence City Code Title 10 Chapter 7: Special Development Standards to add a new section 10-7-4: Development Standards for Wetlands and Riparian Areas, and renumber sections sequentially. Unless noted otherwise, additions are shown in double underline and deletions in strike-out.**

### **SECTION:**

10-7-1: Purpose

10-7-2: Identification of Wetlands and Riparian Areas and Potential Problem Areas

10-7-3: Development Standards for Potential Problem Areas

10-7-4: Development Standards for Wetlands and Riparian Areas

~~10-7-45~~ Site Investigation

~~10-7-56~~: Review and Use of Site Investigation Reports (Amended Ord. 10, Series 2009)

**10-7-1: PURPOSE:** The purpose of this Chapter is to apply additional development standards to areas with wetlands or riparian areas and potential problem areas, such as natural hazards or soils which are particularly subject to erosion, landslide or seasonal surface water. Compliance with these standards is required in order to obtain a Special Use Permit. The standards are intended to: eliminate the danger to the health, safety or property of those who would live in potential problem areas and the general public; and to protect areas of critical environmental concern; areas having scenic, scientific, cultural, or biological importance; and significant fish and wildlife habitat as identified through Goal 5: Open Spaces and Scenic, Historic, and Natural Resources, and Goal 17: Coastal Shorelands. (Amended Ord. No. 10, Series 2009).

**10-7-2: IDENTIFICATION OF WETLANDS AND RIPARIAN AREAS AND POTENTIAL PROBLEM AREAS:** At minimum, the following maps shall be used to identify wetlands and riparian areas and potential problem areas:

A. "Hazards Map", Florence Comprehensive Plan Appendix 7.

B. "Soils Map", Florence Comprehensive Plan Appendix 7. (Ord. 625, 6-30-80)

C. "Beaches and Dunes Overlay Zone." See Chapter 19 for overlay zone requirements. Where conflicts exist between that chapter and this one, the more restrictive requirements shall apply.

D. 2013 City of Florence Significant Wetlands Map and 2013 City of Florence Significant Riparian Reaches Map in Appendix A of the 2013 Florence Area Local Wetlands and Riparian Inventory (2013 Inventory) and in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), in Comprehensive Plan Appendix 5.

~~D. E.~~ Other information contained in the plan or adopted by reference into the plan, or more detailed inventory data made available after adoption of the plan

may also be used to identify potential problem areas. (Amended Ord. No. 10, Series 2009)

*NOTE: Delete 10-7-3 B, below, and renumber sequentially; and amend section H, as shown.*

**10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS:**

The following standards shall be applied to development in potential problem areas unless an approved Phase I Site Investigation Report or an on-site examination shows that the condition which was identified in the Comprehensive Plan or Overlay Zoning Map does not in fact exist on the subject property. These standards shall be applied in addition to any standards required in the Zoning Districts, Comprehensive Plan, and to any requirements shown to be necessary as a result of site investigation. Where conflicts or inconsistencies exist between these Development Standards, City Code, and the Comprehensive Plan, the strictest provisions shall apply unless stated otherwise.

A. Special Flood Hazard Area: All uses proposed in the flood area shall conform to the provisions of the National Flood Insurance Programs.

~~B. Munsel Creek and Other Drainageways: A fifty foot (50') setback shall be required for all buildings from the creek channel, except by Planning Commission approval where it can be shown by accepted engineering practices or treatment that no erosion hazards, slide potential, or possible flood damage are likely to occur, and that riparian vegetation will be protected.~~

H. Yaquina Soils and Wet Areas(except significant wetlands and riparian areas identified in the 2013 Wetland and Riparian Inventory, as amended): In areas with seasonal standing water, construction of a drainage system and/or placement of fill material shall be required according to plans prepared by a registered engineer and approved by the City. (Ord. 625, 6-30-80; amd. Ord. 669, 5-17-82) (Amended Ord. 10, Series 2009)

*NOTE: Insert new code section 10-7-4:*

**10-7-4: DEVELOPMENT STANDARDS FOR WETLANDS AND RIPARIAN AREAS**

**A. Purpose:** Significant wetlands, and their related wetland buffer zones, and significant riparian corridors provide hydrologic control of floodwaters; protect groundwater and surface water quality; provide valuable fish and wildlife habitat, including habitat for anadromous salmonids; improve water quality by regulating stream temperatures, trapping sediment, and stabilizing stream-banks and shorelines; and provide educational and recreational opportunities. It is recognized that not all resources will exhibit all of these functions and conditions.

The purpose of this Subsection (FCC 10-7-4) is to protect significant wetlands, wetland buffer zones, and significant riparian corridors in order to:

1. Implement the goals and policies of the Comprehensive Plan;
2. Satisfy the requirements of Statewide Planning Goal 5 and ensure consistency with adopted City Stormwater requirements in Florence City Code Title 9 Chapter 5;
3. Safeguard the City's locally significant wetland and riparian areas, especially the flood control and water quality functions these areas provide for the community;
4. Safeguard fish and wildlife habitat;
5. Safeguard water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding;
6. Safeguard the amenity values and educational opportunities for City's wetlands and riparian areas for the community; and
7. Improve and promote coordination among Federal, State, and local agencies regarding development activities near wetlands and riparian areas.

#### **B. Applicability.**

1. Affected Property: The procedures and requirements of the Significant Wetland and Riparian Area Standards:
  - a. Apply to any parcel designated as having a Significant Goal 5 Wetland or Significant Goal 5 Riparian Corridor, and Significant Wetland Buffer Zones, as defined in FCC Title 9 Chapter 5 and FCC Title 10 Chapter 1. Significant Goal 5 wetlands and significant riparian corridors are mapped in Appendix A of the 2013 Inventory and Tables 2.1 and 2.2 and the Significant Wetland and Riparian Reaches Maps in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), as amended, in Comprehensive Plan Appendix 5, which is adopted into this Code by reference.
  - b. Apply in addition to the stormwater standards in FCC 9-5-3-3-F (incorporated herein) and the standards of the property's zoning district, except that the required setbacks in this subsection are not in addition to the required setbacks in the underlying zone. Where conflicts exist between this subsection and the underlying zoning district, this subsection shall apply.
2. Applicability to properties adjacent to the side channel of Munsel Creek (Reach RMC-Cs in the 2013 Inventory). These properties are subject to special setback reductions and provisions, as set out below, due to the unique development patterns and history of the area. These special provisions are supported by, and explained in, the Economic, Social, Environmental, and Energy (ESEE) Analysis and Limited Protection Program (ESEE Analysis) in Chapter 3 of the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive

Plan. The ESEE Analysis is adopted as part of the Comprehensive Plan and is incorporated herein by reference.

3. Applicability to public facilities in significant wetlands. Public facilities (transportation, water, wastewater, and stormwater) that are included in the City's Public Facility Plan, as amended, are exempt from the requirements of this subsection provided that permitted uses are designed and constructed to minimize intrusion into the riparian area; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained. This exemption is authorized by the ESEE Analysis in Appendix 5 of the Comprehensive Plan. See Section, "Exemptions," below.

**C. Activities Subject To Standards and Requirements:** Activities subject to the Special Development Standards in this subsection shall include the following, unless specifically exempted by Code:

1. Partitioning and subdividing of land;
2. New structural development;
3. Exterior expansion of any building or structure, or increase in impervious surfaces or storage areas;
4. Site modifications including grading, excavation or fill (as regulated by the Oregon Department of State Lands and the Army Corps of Engineers), installation of new above or below ground utilities, construction of roads, driveways, or paths, except as specifically exempted in the section "exemptions" below;
5. The cutting of trees and the clearing of any native vegetation within a Significant Wetland, Wetland Buffer Zone, or Riparian Corridor beyond that required to maintain landscaping on individual lots existing on the effective date of this title.

**D. Exemptions:**

1. Only the following uses and activities in significant riparian corridors or wetland buffer zones are exempt from these Significant Wetland and Riparian Area Standards, provided: the uses and activities are designed and constructed to minimize intrusion into the buffer zone; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained:
  - a) Replacement of lawfully created existing structures with structures in the same location that do not disturb additional wetland buffer zone or significant riparian surface area. All Coast Village structures existing on (insert date ordinance is adopted) are grandfathered and qualify as "lawfully created existing structures" for purposes of this subsection. This provision supersedes the provisions for non-conforming structures in FCC 10-8.

- b) Installation or maintenance of public and private facilities and utilities (such as transportation, water, wastewater, and stormwater, electric, gas, etc.) in riparian areas.
- c) The sale of property.
- d) Temporary emergency procedures necessary for the safety or protection of property.
- e) All water-related and water-dependent uses as defined in the Definitions in the Florence Code Title 10.
- f) Removal of non-native vegetation and replacement with native plant species.
- g) Removal of vegetation necessary for the development of water-related or water-dependent uses.
- h) Public facilities identified in the City's Public Facility Plan, in Appendix 11 of the Comprehensive Plan, as amended, that are installed in significant wetlands, provided that the facilities are designed and constructed to minimize intrusion into the wetland; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained.

**E. Agency Review:** Decisions made by the City of Florence under this title do not supersede the authority of the state or federal agencies which may regulate or have an interest in the activity in question. It is the responsibility of the landowner to ensure that any other necessary state or federal permits or clearances are obtained. In particular, state and federal mitigation requirements for impacts associated with approved water-related or water-dependent uses may still be required.

**F. General Development Standards and Requirements:** When development is proposed that is subject to these standards, the property owner is responsible for the following. Figure 1 below is a cross section illustrating terms used in the discussion of wetland and riparian setbacks as defined by Oregon Statewide Planning Goal 5.

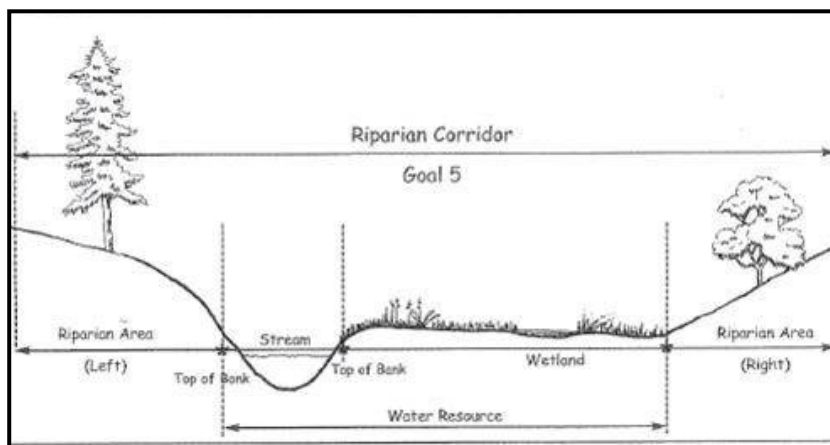


Figure 1: Downstream cross section illustrating terms used in Statewide Planning Goal 5. Source: *Urban Riparian Inventory and Assessment Guide*, Oregon Department of State Lands, 1998.

1. Determination of Significant Wetland and Riparian Area Boundaries.
  - a. For the purpose of showing the boundary of a significant wetland on a site plan, property owners may choose one of the following options:
    - 1) hire a Qualified Professional to do the delineation and have the delineation approved by the Oregon Department of State Lands (DSL); or
    - 2) hire a Qualified Professional to do the delineation but do not request DSL approval of the delineation. The Qualified Professional must have performed prior wetland delineations that were approved by DSL; or
    - 3) If the site plan shows the proposed development is outside the 50 foot Stormwater Buffer Zone, the wetland boundaries shown on the adopted Local Wetland Inventory (LWI) Map can be used to determine the wetland boundary for this purpose.
  - b. For significant riparian corridors, the width of the corridor boundary is the “significant riparian width” in Table 2.2 of the 2013 City of Florence Significant Wetlands and Riparian Corridor Plan in Comprehensive Appendix 5.
  - c. For significant riparian corridors, the boundaries of the riparian corridor will be measured and shown on an approved site plan. The City shall maintain maps of regulated riparian areas, and make them available to the public. These maps will be used to identify the extent of the riparian area unless the applicant can demonstrate through detailed inventory information (including maps, photos, and Lane County aerial photos showing the location and species of vegetation growing in the disputed area) that the city’s maps are in error. For purposes of making these measurements, the following shall apply:
    - 1) Riparian buffer zones are measured horizontally from the top of bank. The top of the bank is the highest point at which the bank meets the grade of the surrounding topography, characterized by an abrupt or noticeable change from a steeper grade to a less steep grade, and, where natural conditions prevail, by a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. Where there is more than one such break in the grade, the uppermost shall be considered the top of bank.
    - 2) If the top of the bank is not identifiable, the riparian buffer zones are measured horizontally from the line of ordinary high water. In a given stream, the line of ordinary high water is the line on the bank or shore to which seasonal high water rises annually and identified in the field by physical characteristics that include one or more of the following:
      1. A clear, natural line impressed on the bank
      2. Changes in the characteristics of soils

3. The presence of water-borne litter and debris
4. Destruction of terrestrial vegetation

If reliable water level data are available for 3 or more consecutive previous years, the line of ordinary high water can be considered the mean of the highest water level for all years for which data are available.

2. Preparation and submission of a site plan that shows:
  - a. the wetland boundary or the top of bank of the riparian corridor,
  - b. the significant riparian corridor width or the wetland buffer zone,
  - c. the footprint of the proposed structure measured from the riparian corridor boundary or wetland buffer zone edges,
  - d. any requested setback adjustments as measured from the edge of the wetland or riparian corridor boundary,
  - e. the type and location of dominant existing native plants that would be displaced, and
  - f. the type of native plants to be planted and the location where they will be replanted.
3. It is prohibited to permanently alter a significant wetland by: the placement of structures or impervious surfaces; or by the removal of native vegetation; or by grading, excavation, placement of fill, or vegetation removal (other than perimeter mowing and other cutting necessary for hazard prevention), except as follows:
  - a) where full protection of the Significant Wetland renders a property unbuildable, as defined in the definitions in Title 10 Chapter 1 of this Code; or
  - b) public facilities identified in the City's Public Facility Plan, Appendix 11 of the Comprehensive Plan, as amended, may be installed in significant wetlands or riparian areas, provided that the facilities are designed and constructed to minimize intrusion into the wetland or riparian area; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained.

**G. Stormwater Quality:** As provided in FCC 9-5-5-3-F and the Code Definitions in FCC-10-1, significant wetlands over ½ acre and significant streams are "sensitive areas" that shall be protected by a buffer zone of native, undisturbed vegetation. The outer boundary of the buffer shall be determined by a minimum 50-foot setback from the edge of the significant wetland; for significant riparian areas, the buffer zone shall be the significant riparian width identified in the 2013 Inventory and 2013 City of Florence Significant Wetlands and Riparian Corridors Plan. The width and nature of protection required within the buffer may change as the Endangered Species Act and other state and federal regulations are promulgated. The City requires that the buffer width meet all state and federal requirements.



No land disturbing activities, structures, development and construction activities, gardens, lawns, application of chemicals, pet wastes, dumping of any kind of materials shall be permitted within the buffer zone, except as noted below:

1. Roads, pedestrian, or bike paths crossing the buffer from one side to the other in order to provide access to or across the sensitive area.
2. A pedestrian or bike path constructed within a buffer and parallel to a sensitive area shall have the buffer widened by the width of the path if the path is constructed of impervious material.
3. Pedestrian or bike paths shall not exceed 10-feet in width.
4. Utility/service infrastructure construction (i.e., storm, sanitary sewer, water, phone, gas, cable, etc.) If approved by the City Manager or his/her designee.
5. Measures to remove or abate hazards, nuisance, or fire and life safety violations as approved by the City.
6. Enhancement of the riparian corridor for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.
7. Water quality facilities planted with appropriate native vegetation may encroach into the buffer area as approved by the City and other appropriate authorities.

**H. Additional Statewide Planning Goal 5 exceptions:** The following exceptions are in addition to the exceptions in G, above. Consistent with Statewide Planning Goal 5 [OAR 660-023-0090 (8) (a)], the permanent alteration of significant riparian areas by grading or the placement of structures or impervious surfaces is prohibited, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

1. Water-related and water-dependent uses and removal of vegetation necessary for the development of water-related or water-dependent uses;
2. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area; and
3. Removal of non-native vegetation and replacement with native plant species.

**I. Removal of native vegetation:** In accordance with Goal 5, removal of vegetation from a significant riparian corridor is prohibited, except for the following:

1. Removal of non-native vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, shall maintain or exceed the density of the removed vegetation, and shall maintain or improve the shade provided by the vegetation.
2. Removal of vegetation necessary for the development of approved water-related or water-dependent uses or for the continued maintenance of

dikes, drainage ditches, or other stormwater or flood control facilities. Vegetation removal shall be kept to the minimum necessary.

3. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the Planning Director. If no hazard will be created, the department may require these trees, once felled, to be left in place in the Significant Wetland or Riparian Area.
4. The control or removal of nuisance plants should primarily be by mechanical means (e.g. hand-pulling). If mechanical means fail to adequately control nuisance plant populations, a federally approved herbicide technology for use in or near open water is the only type of herbicide that can be used in a Significant Riparian Corridor. Pre-emergent herbicides or auxin herbicides that pose a risk of contaminating water shall not be used. Herbicide applications are preferred to be made early in the morning or during windless periods at least 4 hours before probable rainfall. Any herbicide use must follow the label restrictions, especially the cautions against use in or near open water.

**J. Special provisions for the Munsel Creek Side Channel:** The following special provisions apply to properties in the significant riparian corridor of the Munsel Creek side channel (Reach RMC-Cs in Table 2.2 of the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan). These provisions are in addition to, or provide relief from, the other standards in this subsection, and, where conflicts exist, this section shall prevail.

1. In addition to the other setback adjustments and Variances allowed by this subsection, a 50% setback adjustment to the required 50-foot significant riparian width for properties along the Munsel Creek side channel will be permitted in order to allow new or expanded development to build up to 25 feet from the top of bank of the creek, as long as any native plants disturbed by the development are replaced elsewhere in the buffer zone, subject to the following exceptions and procedures:
  - a. Properties in Florentine Estates PUD that were granted a reduced setback by the Planning Commission prior to the (inset date of this ordinance) are deemed to comply with the standards in this subsection and do not need to apply for this setback adjustment.
  - b. The setback adjustment for other affected properties shall be granted through the Administrative Review process in 10-1-1-6.
  - c. The applicant shall be granted the setback reduction upon demonstration that any native vegetation displaced by the development shall be replanted in the remaining buffer zone (shrub for shrub, tree for tree, etc.).
  - d. The applicant is not required to retain a professional for this application but a qualified professional may help a property owner identify displaced native plants and show how they will be replanted. To provide technical assistance, the City will provide the applicant with a native

plant guide. Staff from the Siuslaw Watershed Council and Soil and Water Conservation District are available to provide property owners with technical assistance with native plant identification and guidance on replanting.

**K. Setback Adjustments:** The following reductions in setbacks shall be allowed for properties affected by the significant wetland and riparian area standards as set out below.

1. Eligibility for setback adjustment. Property owners affected by these significant wetland and riparian corridor standards shall be eligible for setback adjustments as follows:
  - a. Single family dwellings: when the significant wetland or significant riparian corridor standard or requirement is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet.
  - b. For the Munsel Creek side channel: the “required setback” for the purpose of eligibility for the setback adjustment is the reduced setback allowed in subsection “J” above.
2. If the required setback or standard for the significant wetland or riparian corridor is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet, then a primary dwelling, this size or less, shall be permitted to intrude into the setback area in accordance with the standards of this subsection. Any Code requirements of the applicable zoning district (such as required garages) that would necessitate intrusion into additional riparian area shall not apply.
3. If the proposed primary dwelling will be more than 20 feet from a significant or wetland or stream, the adjustment application shall use the Administrative Review process in FCC 10-1-1-6.
4. If a proposed primary dwelling will be built within 20 feet of a significant wetland or stream, a Hardship Variance from the Planning Commission shall be required in accordance with Florence City Code Title 10 Chapter 4.

**L. Hardship Variances:** A variance to the provisions of this subsection shall be granted by the Planning Commission in accordance with the procedures in Florence City Code Title 10 Chapter 4 only as a last resort and is only considered necessary to allow reasonable economic use of the subject property. The property must be owned by the applicant and not created after the effective date of this title.

1. Eligibility. An application for a hardship variance from the provisions of this subsection shall be available upon demonstration of the following conditions:
  - a. Siting of a primary dwelling 50 feet by 27 feet or less requires intrusion into the significant wetland buffer zone or significant riparian corridor within 20 feet of a significant wetland or stream; or

- b. Strict adherence to the applicable standards or requirements of this subsection would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.
  - c. Due to unique circumstances and historic development patterns outside the control of the property owners, the Variance fee for this application shall be waived for affected Coast Village properties.
- 2. The following additional standards shall apply:
  - a. Demonstration that the intrusion into the setback must be the minimum necessary;
  - b. Demonstration that any native vegetation displaced by the development will be replanted in the remaining significant wetland buffer zone or riparian corridor. The applicant is not required to retain a professional for this application but a qualified professional may help a property owner identify displaced native plants and show how they will be replanted. To provide technical assistance, the City will provide the applicant with a native plant guide; staff from the Siuslaw Watershed Council and Soil and Water Conservation Service are available to provide property owners with technical assistance with native plant identification and guidance on replanting.
  - c. Permanent alteration of the Significant Wetland or Riparian Area by an action requiring a variance is subject any mitigation requirements imposed by federal and state permitting authorities.
  - d. In granting a Variance, the Planning Commission shall impose conditions of approval that address all of the following criteria:
    - 1) The site plan and application shall document the location of the impact, the existing conditions of the resource prior to the impact, a detailed planting plan for the approved setback area with dominant native plant species and density, and a narrative describing how the impacted resource will be replaced and approved setback area restored.
    - 2) Invasive vegetation shall be removed from, and native vegetation planted in, the approved setback area, with a minimum replacement ratio of 1:1 for the impacted area.
    - 3) Herbicides and pesticides not approved for use in buffer zones or riparian areas is prohibited in the approved setback area.
    - 4) All vegetation planted within the approved setback area shall be native to the region. In general, species to be planted shall replace those impacted by the development activity, i.e., trees must replace trees, brush must replace brush, and, within reason, like plants must replace like plants (i.e., dominant plant species).
    - 5) Trees shall be planted at a density not less than the density in place prior to development.
    - 6) The property owners will work with available federal, state, and local agencies, such as the Siuslaw Watershed Council, the Siuslaw

Soil and Water Conservation District, ODFW, DSL, STEP to implement practices and programs to restore and protect the riparian area.

**M. Significant wetland and riparian corridor enhancement incentives:**

1. Enhancement of Significant Wetland Buffer Zones or Riparian Corridors is encouraged, including: riparian or in-channel habitat improvements, non-native plant control, and similar projects which propose to improve or maintain the quality of a Significant Wetland or Riparian Area; however, no enhancement activity requiring the excavation or filling of material in a wetland or jurisdictional stream shall be allowed unless all applicable State and Federal permits have been granted.
2. Incentives shall be provided to improve the continuity of Significant Riparian Corridors in situations where lots would be rendered unbuildable by the setback, as defined in the Definitions in FCC Title 10 Chapter 1. Such incentives may include: reducing the required front yard setback, alternative access, vacating right-of-way, property line adjustments, re-orientation of lots, transfer of development rights (if feasible), and density bonuses, among others. The resulting development will conform, to the maximum extent practical, to the general development patterns in the vicinity of the affected lot.
3. These incentives may also be provided to properties that are severely impacted by the setback when doing so will result in enhancement of the significant wetland, wetland buffer zone, or significant riparian corridor.

**L. Inventory map corrections:** The Planning Director may correct the location of a wetland or riparian boundary shown on the Local Wetland and Riparian Areas Inventory Maps when it has been demonstrated by a property owner or applicant that a mapping error has occurred and the error has been verified by DSL. Wetland delineations verified by DSL shall be used to automatically update and replace the City's Local Wetland Inventory mapping. No variance application shall be required for map corrections where approved delineations are provided.

**b. Consistency Amendments: Amend FCC Title 9 Chapter 5 stormwater management definitions and buffer zone provisions; Title 10 Chapter 1 Definitions, and Title 10 Chapter 19, Prime Wildlife District, for internal Code consistency.**

*The following Code amendments are proposed for consistency with the proposed Comprehensive Plan and Code amendments or are otherwise for consistency with state law. Unless noted otherwise, deletions are in strike out and additions in double underline.*

## FCC TITLE 9, CHAPTER 5

### STORMWATER MANAGEMENT UTILITY, USER FEE SYSTEM AND STORMWATER MANAGEMENT REQUIREMENTS

#### 9-5-1-2: DEFINITIONS

**SENSITIVE AREAS** Significant wetlands greater than ½ acre and significant streams identified in the 2013 Florence Area Local Wetlands and Riparian Inventory, as amended. Natural streams (perennial or intermittent), rivers, including the estuary, and lakes, or wetlands hydraulically connected by surface water to streams, rivers, or lakes and areas defined by the City of Florence's Local Wetlands and Riparian Inventory. Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon ~~Division~~ Department of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service and Oregon Department of Transportation.

#### 9-5-3-3: STORM WATER QUALITY

- F. Sensitive areas shall be protected by a buffer zone of native, undisturbed vegetation. The outer boundary of the buffer shall be determined by a minimum 50-foot setback from the edge of the sensitive area, or as wider if required by other City Code provisions ~~requirements.~~ -(See additional standards and requirements for significant wetlands and significant riparian corridors in Florence City Code Title 10, Chapter 7; and for the Estuary, Coastal Shorelands, and Beaches and Dunes in Title 10 Chapter 19.) The width and nature of protection required within the buffer may change as the Endangered Species Act and other state and federal regulations are promulgated. The City requires that the buffer width meet all state and federal requirements. No land disturbing activities, structures, development and construction activities, gardens, lawns, application of chemicals, pet wastes, dumping of any kind of materials shall be permitted within the buffer zone, except as noted below:
1. Roads, pedestrian, or bike paths crossing the buffer from one side to the other in order to provide access to or across the sensitive area.
  2. A pedestrian or bike path constructed within a buffer and parallel to a sensitive area shall have the buffer widened by the width of the path if the path is constructed of impervious material.
  3. Pedestrian or bike paths shall not exceed 10-feet in width.
  4. Utility/service infrastructure construction (i.e., storm, sanitary sewer, water, phone, gas, cable, etc.) If approved by the City Manager or his/her designee.
  5. Measures to remove or abate hazards, nuisance, or fire and life safety violations as approved by the City.

6. Enhancement of the riparian corridor for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.
7. Water quality facilities planted with appropriate native vegetation may encroach into the buffer area as approved by the City and other appropriate authorities.

## **FCC Title 10, Chapter 1: Zoning Administration**

### **FCC 10-1-4: DEFINITIONS**

*Insert the following definitions in alphabetical order into FCC 10-1-4. Where an existing definition is proposed to be modified, additions are shown in double underline and deletions in strike-out.*

BANKFULL STAGE	Means the elevation at which water overflows the natural banks of the stream.
BIOENGINEERING	Means a method of erosion control and landscape restoration using live plants, such as willows.
BUFFER ZONE	A physical setback from a sensitive area used to protect the <u>flood storage capacity</u> , water quality, the aquatic and riparian wildlife communities, and the habitat value within the sensitive area. <del>The start of the buffer starts at the edge of the defined channel (bank full stage) for streams/rivers, delineated wetland boundary, delineated spring boundary, or average high water for lakes.</del>
BUILDING	Any temporary or permanent structure constructed and maintained for the support, shelter, or enclosure of people, motor vehicles, animals, chattels or personal or real property of any kind. <del>The words "building" and "structure" shall be synonymous.</del>
DELINEATION	Means a wetland delineation report that contains the methods, data, conclusions and maps used to determine if wetlands and/or other waters of the state are present on a land parcel and, if so, describes and maps their location and geographic extent. A wetland determination report documenting wetland presence or absence is included within this definition.
ENHANCEMENT	An action which results in a long-term improvement of existing functional characteristics and processes that is not the result of a creation or restoration action. <u>Enhancement is a modification of a wetland or riparian area to improve its condition. Enhancement is</u>

	<u>conducted only on degraded features, results in a net gain in functions and values, and does not replace or diminish existing functions and values with different ones unless justified as ecologically preferable.</u>
EXCAVATION	Means removal of organic or inorganic material (e.g. soil, sand, sediment, muck) by human action.
IMPERVIOUS SURFACE	Means any material (e.g. rooftops, asphalt, concrete) which reduces or prevents absorption of water into soil.
INVASIVE VEGETATION	Includes plants that appear on the current Oregon Department of Agriculture Noxious Weed List, plus known problem species including <i>Phalaris arundinacea</i> , <i>Holcus lanatus</i> , and <i>Anthoxanthum odoratum</i> . In addition, any non-native plant species may be considered invasive if it comprises more than 15% of the total plant cover and appears to be increasing in cover or frequency over time.
LAWN	Means grass or similar materials usually maintained as a ground cover of less than 6 inches in height. For purposes of this title, lawn is not considered native vegetation regardless of the species used.
MITIGATION	The 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. <u>For wetlands and riparian areas, "mitigation" is a means of compensating for impacts to a Wetland or and Riparian Area or its buffer including: restoration, creation, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, removal of nuisance plants, and restoring streamside vegetation where it is disturbed.</u>
NATIVE VEGETATION	Means plants identified as naturally occurring and historically found within the City of Florence.
QUALIFIED PROFESSIONAL	Means an individual who has proven expertise and vocational experience in a given natural resource field. A qualified professional conducting a wetland delineation must have had a delineation approved by the Oregon Department of State Lands.
REVIEW AUTHORITY	Means the City of Florence.
RIPARIAN AREA	Means the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. For purposes of



RIPARIAN CORRIDOR	<p>this title, riparian areas are identified on the Significant Wetlands and Riparian Areas Map in the Comprehensive Plan.</p> <p>Means a Goal 5 Resource that includes the water areas, adjacent riparian areas, and wetlands within the riparian area boundary. For purposes of this title, riparian corridors are identified on the Significant Wetlands and Riparian Areas Map in the Comprehensive Plan.</p>
SENSITIVE AREA	<p><u>Significant wetlands greater than 1/2 acre and significant streams identified in the 2013 Florence Area Local Wetlands and Riparian Inventory, as amended.</u></p> <p><del>Natural streams (perennial or intermittent), rivers, including the estuary, and lakes, or wetlands hydraulically connected by surface water to streams, rivers, or lakes and areas defined by the City of Florence's Local Wetlands and Riparian Inventory.</del> Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon <del>Division</del><u>Department</u> of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service and Oregon Department of Transportation.</p>
SHRUBS	<p>Consists of woody plants less than 3 inches in diameter at breast height, regardless of height.</p>
SIGNIFICANT WETLANDS AND RIPARIAN AREAS	<p>Wetlands and riparian corridors identified as significant by the 2013 Florence Area Local Wetlands and Riparian Inventory and the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan, as amended, and designated significant by the local government.</p>
SIGNIFICANT WETLAND BUFFER ZONE	<p>The 50 foot buffer zone required by the stormwater management requirements of FCC 9-5-3-3-F, measured on accordance with the boundary determinations in FCC 10-7 standards and requirements for wetlands and riparian corridors.</p>
STATE AND FEDERAL NATURAL RESOURCE AGENCY	<p>The Oregon Department of State Lands, Oregon Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service, U.S. Fish and Wildlife</p>

STREAM	<p>Service, U.S. Environmental Protection Agency, and Department of Environmental Quality.</p> <p>A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels. A perennial stream is one that flows continuously. An intermittent or seasonal stream is one that flows only at certain times of the year.<sup>8</sup></p>
STRUCTURE	<p><del>See "Building." For the purposes of administering Code Chapters 7, 18, 19, and 24, the definition shall also mean</del></p> <p>Anything constructed, installed, or portable, and the use of which requires a location on <u>a parcel of land or on the</u> ground, either above or below water.</p>
SUBSTANTIAL IMPROVEMENT	<p>Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure either:</p> <ul style="list-style-type: none"> <li>(a) Before the improvement or repair is started, or</li> <li>(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: <ul style="list-style-type: none"> <li>(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or</li> <li>(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.</li> </ul> </li> </ul>
TREE	<p>Consists of woody plants 3 inches or more in diameter at breast height, regardless of height.</p>
TOP OF BANK	<p>Refers to the location where the rising ground bordering a stream intersects the side of the stream channel. The stream channel is typically non-vegetated, and the top of bank normally corresponds with the bankfull stage. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to delineate the top of bank.</p>
UNBUILDABLE.	<p>Lots that are rendered "unbuildable" by the required setback for significant wetlands and riparian areas.</p>

<sup>8</sup> Department of State Lands (DSL) and U.S. Geological Survey (USGS) definitions.

- a) For single family housing, lots are considered unbuildable if the required setback for the significant wetland or riparian area is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet.<sup>9</sup>
- b) For all properties, lots are deemed unbuildable if strict adherence to the applicable setback standards and conditions would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.
- c) For the Munsel Creek side channel (Reach RMC-Cs in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive Plan), the “required setback” for the purpose of the unbuildable definition, is the reduced setback allowed in FCC Title 10 Chapter 7.

## WETLANDS

~~Land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semi-aquatic plant life. In marine and estuarine areas, wetlands are bounded at the lower extreme by extreme low water; in freshwater areas, by a depth of six feet. The areas below wetlands are submerged lands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Based on the above definition, three major factors characterize a wetland: hydrology, soils, and plants.~~

## WETLAND BOUNDARY

The edges of a wetland as delineated by a qualified professional or as determined through the standards in FCC Title 10 Chapter 7.

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

*Note: The following Code amendments make the Code consistent with the proposed Comprehensive Plan and Code amendments as well as Statewide Planning Goal 2 (Land Use) and Goal 17 (Coastal Shorelands).*

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<sup>9</sup> Note: A 50 foot by 27 foot area allows the siting of a typical double-wide manufactured home, a form of affordable housing.

## **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 the 2013 Local Wetland Inventory, as amended, 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, as identified in the Lane County Coastal Resources Inventory or the wetland functions and values in the 2013 Florence Area Local Wetlands and Riparian Inventory, as amended.

3. **Housekeeping Amendment: Adopt an amendment to FCC Title 10 Chapter 19 to make the Code consistent with Statewide Planning Goal 16. See discussion, below, for rationale.**

### **FCC 10-19-4: DEVELOPMENT ESTUARY DISTRICT (DE):**

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....

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~~

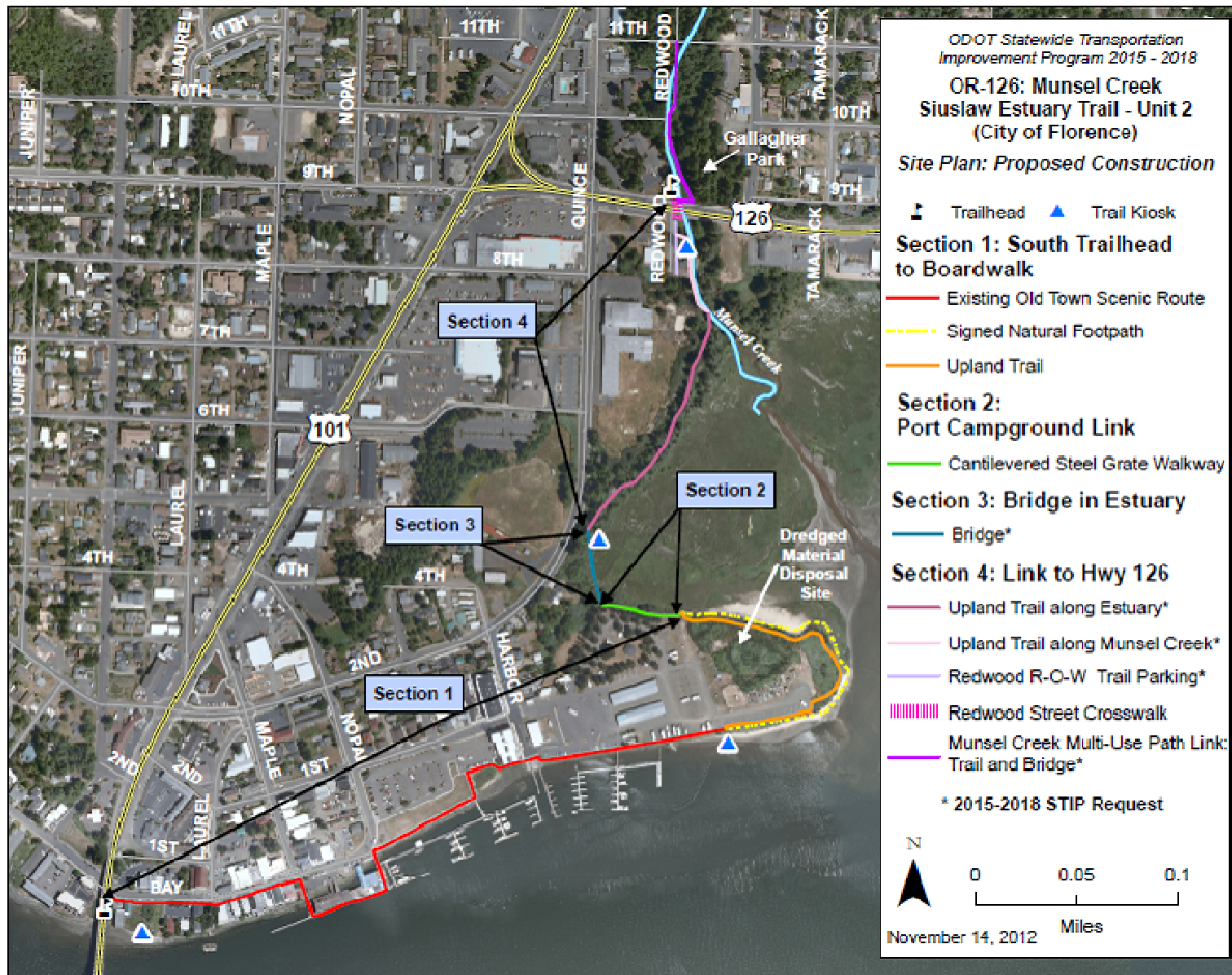
~~on an upland site. In approving these uses, the City shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses.~~ Nonwater-dependent and non-water-related uses that existed as of July 7, 2009 will retain their non-conforming 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 notwithstanding.

*Discussion:*

*The amendment is consistent with the direction in Goal 16:*

**“Oregon’s Statewide Planning Goals & Guidelines, GOAL 16: ESTUARINE RESOURCES, OAR 660-015-0010(1) Management Units** As a minimum, the following kinds of management units shall be established:... 3. Development: ... As appropriate the following uses shall also be permissible in development management units: ... Where consistent with the purposes of this management unit and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and nondependent, nonrelated uses not requiring dredge or fill; mining and mineral extraction; and activities identified in (1) and (2) above shall also be appropriate. In designating areas for these uses, local governments shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses.”

Figure 1



**Florence City Council  
Resolution No. 4, Series 2013**

**A RESOLUTION APPROVING THE SIUSLAW ESTUARY TRAIL VISION: PREFERRED LOCATION AND DESIGN, JANUARY 31, 2013**

**WHEREAS**, the City of Florence was awarded an EPA grant for the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0) in 2009 and the EPA work plan for the grant includes submitting an Estuary Interpretive Trail Final Report to the Florence City Council for approval;

**WHEREAS**, the Siuslaw Estuary Trail Visioning project was conducted as part of the Siuslaw Estuary Partnership, a collaborative effort by the City of Florence and its federal, state, and local partners to protect and improve water quality and fish and wildlife habitat in the lower Siuslaw River Watershed;

**WHEREAS**, the "Siuslaw Estuary Trail Vision: Preferred Location and Design," report was prepared by project staff, with input and guidance from the Siuslaw Estuary Trail Technical Team, the Siuslaw Estuary Partnership Interdisciplinary Team, the Port of Siuslaw, and other partners represented on the two Stakeholder Groups formed to help guide the Partnership;

**WHEREAS**, the vision document incorporates and addresses input from these groups as well as input from the public submitted as part of the public outreach process, including three newsletters and three public open houses;

**WHEREAS**, the City Council and Planning Commission held a joint Work Session on April 15, 2013 on the Siuslaw Estuary Trail Vision: Preferred Location and Design, January 31, 2012;

**NOW THEREFORE, BE IT RESOLVED THAT THE CITY OF FLORENCE**, a municipal corporation of the State of Oregon, at a regular meeting held on the 15<sup>th</sup> day of April, 2013, approved the Siuslaw Estuary Trail Vision: Preferred Location and Design, January 31, 2013.

Passed by the Florence City Council this \_\_\_\_ day of \_\_\_\_\_, 2013.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED BY THE MAYOR, this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Nola Xavier, MAYOR

ATTEST: \_\_\_\_\_  
Kelli Weese, City Recorder