



**Memorandum:**

**To:** Florence Planning Commission  
**From:** Wendy Farley Campbell, Community Development Director  
**Meeting Date:** May 9, 2023  
**Subject:** Housing Implementation Plan Proposed Code Updates

**Introduction:**

On October 6, 2021 the Department of Land Conservation and Development (DLCD) awarded the City of Florence a technical assistance grant to identify housing development strategies, and update City codes to address state statutes and rules.

In March 2022 City Council created a Housing Implementation Plan (HIP) Stakeholder Advisory Team (SAT) made up of community stakeholders. The team met four times since April 2022. Additionally, two Open Houses were held at the Florence Events Center in September and November, whereby the public was solicited for their input via a virtual survey and in-person input session. Two subcommittees were created from the HIP SAT to address Short-Term Rentals and Transitional Housing.

**Purpose:**

This work session is intended to introduce the Planning Commission to the initial round of proposed code updates in preparation for PC to initiate changes on May 23<sup>rd</sup>. By reviewing the materials prior to the initiation PC can request additional considerations, ask questions about the changes and hold lengthier general discussion with the group. A similar PC-Council joint work session was held on December 5<sup>th</sup>. Those materials are available here: <https://www.ci.florence.or.us/council/city-council-and-planning-commission-joint-work-session>. Below is a summary of the information that will be reviewed on the 9<sup>th</sup> and is included as an attachment to this memo.

**Attachment--Draft Code Update Memo, dated July 21, 2022:**

This memorandum was prepared by the consultant to the stakeholder committee and provided preliminary code amendment recommendations based on the issues identified in their Code audit. An explanation of the purpose and layout of code updates starts on page 1. Then in the pages that follow the consultant provided recommendation rationale and summaries in gray commentary boxes followed by the specific proposed code changes. The work session discussion will include the information on pages 1-12 and 19-22 as well as a handful of housing related code updates identified by staff for inclusion.

There are other housing-related code changes and additions that are in various stages of completion and will be brought to the PC when they are ready for consideration. These are related to short term rentals, emergency and transitional housing and hazards and coastal goals (Chapters 7 and 19 of Title 10). The emergency housing and transitional housing code recommendations outlined on Pages 13-19 are not proposed for discussion at this meeting nor is anything after page 22.

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**MEMORANDUM****DRAFT Code Update****Florence Housing Implementation Plan**

DATE July 21, 2022  
TO HIP Stakeholder Advisory Team  
FROM Darci Rudzinski and Brandon Crawford, MIG|APG  
CC Florence HIP Project Management Team

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**INTRODUCTION**

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The Florence Housing Implementation Plan (HIP) will provide recommended housing programs and funding strategies that will guide future housing development in the City. The project includes a review of the requirements in the Florence City Code (FCC) Title 10 (Zoning Code) and Title 11 (Subdivision Code) and local compliance with recent State legislation related to residential development. With prior grant funding from DLCD, Florence updated Titles 10 and 11 in 2019 to reduce barriers to development. This project will complete the next step of amendments and reflects more recent guidance on complying with State legislation. The Housing Implementation Plan Stakeholder Advisory Committee discussed the Code Audit Findings (June 8, 2022 memorandum) at their June meeting.

**CODE UPDATE OUTLINE**

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The Code update recommendations are organized in sequential order by FCC title and chapter. This memorandum is intended to provide preliminary code amendment recommendations based on the issues identified in the Code audit. The code recommended amendments focus on the following:

- State housing definition compliance
- Clear and objective standards for housing in natural resources/hazard areas
- Address inconsistencies between the Zoning and Subdivision Codes related to housing land use permitting
- Incorporate new State housing rules related to affordable housing and emergency shelter
- Minimum compliance standards with HB 2001 and OAR 660-046 – middle housing requirements for medium-sized cities

The City is also exploring Code updates addressing transitional housing. Specific amendments for transitional housing are not included in this memorandum, pending direction and guidance from the Stakeholder Advisory Team (HIP SAT) and the community. The City also anticipates revising the existing definition for Transitional Housing. An attachment to this memorandum provides case studies showing how

other cities implement transitional housing programs. The attachment includes sample code language for the City to consider. In addition to the Transitional Housing attachment, the draft clear and objective amendments for the natural resource and hazard areas are also included as attachments. The draft amendments for these chapters are extensive and are still "working drafts"; they are provided for SAT consideration and comment but are not the focus of this memorandum. The attachments to this memorandum are as follows:

- **Attachment A:** Transitional Housing Case Studies and Sample Code Language
- **Attachment B:** FCC Chapter 7 Special Development Standards Clear and Objective Amendments
- **Attachment C:** FCC Chapter 19 Estuary and Shorelands Clear and Objective Amendments

While not discussed in detail at the HIP SAT June meeting, Florence will soon be subject to House Bill 2001 which passed in 2019. Pursuant to HB 2001, Oregon's medium-sized cities (population over 10,000) are required to allow duplexes on any lot or parcel that allows single-family detached dwellings, and medium cities cannot apply siting and design standards or procedures that are more restrictive than what applies to single family detached. Although Florence does not yet meet the threshold for a medium-sized city, the City's most recent population estimate is approximately 9,600 people.<sup>1</sup> Further, the City's urban growth boundary (UGB) currently contains over 11,000 people.<sup>2</sup> Based on current growth rates and the likelihood of future annexations, Florence will need to comply with HB 2001 in the near future. To prepare for the near-term HB 2001 requirements, this memorandum includes minor amendments related to duplex standards.

A summary and rationale for proposed updates precedes each section in a gray commentary box. Note that many of the referenced Code sections and tables are abbreviated to only show the provisions that will be amended. The recommended Code updates are written as legislative amendments in a ~~strikethrough~~/underline format.

## CODE UPDATE RECOMMENDATIONS

Several definitions in the FCC conflict with housing-related definitions and rules that have been updated per recent State legislation. House Bill 2583 (2021) prohibits jurisdictions from establishing or enforcing occupancy limits based on familial or non-familial relationships. The City should replace "family" with "household" for each dwelling type definition. The term "household" is inclusive of related and non-related dwelling occupants. **The recommendation is to replace the general definition of "family," which includes the non-related occupancy limit with the Census definition for "household."**

Furthermore, the City should distinguish "Household Living" as the residential occupancy of a dwelling unit that contains eight or fewer bedrooms and "Group Living" as the residential occupancy of a dwelling unit that contains more than eight bedrooms or occupancy of a

<sup>1</sup> Portland State University Population Reports: <https://www.pdx.edu/population-research/population-estimate-reports>

“congregate” housing facility. Congregate housing and group housing facilities are generally synonymous, and therefore should be combined into the same definition. In addition, the City should remove the occupancy limits for “Boarding House” to comply with the recent legislation. Overall, these amendments avoid any regulations based on familial relationships or number of residents and instead focuses on the overall residential capacity of dwellings or congregate housing facilities by regulating the number of bedrooms. See the Code Audit Findings for further discussion on HB 2583 and occupancy options.

Recommended minor amendments to the “affordable housing” definition will bring the City into compliance with Senate Bill 8 (SB 8, 2021). The criteria for SB 8 includes income limits below 80% of the Area Median Income (AMI) to qualify for affordable housing, whereas the income limit established in House Bill 2008 (HB 2008, 2021) is 60% AMI. The City should continue to use the 80% threshold in the official definition and clarify the 60% threshold only for affordable housing development that is implemented through HB 2008. Furthermore, the City should reduce the “percent of gross household income” from 40% to 30%. “Affordable” is generally defined as housing costs (rent/mortgage plus utilities, taxes, etc.) being less than 30% of household income. The 30% threshold is used by the U.S. Department of Housing and Urban Development (HUD) in their affordable housing definition.<sup>3</sup>

Finally, the City should add, remove, or revise definitions for the following housing types:

- **Duet:** *Remove* this definition/housing type. A duet is the same as a two-unit single family attached dwelling (townhouse). The duet definition also conflicts with the “duplex” definition, as a duplex is two households/units on a single lot. Removing the duet definition and keeping duplex and single-family attached definitions as is (aside from “family” revisions) will help avoid confusion and redundancy of housing type definitions.
- **Prefabricated dwelling:** *Add* this definition/housing type to be consistent with House Bill 4064 (HB 4064, 2022).
- **Transitional Housing:** *Revise* this definition/housing type to be more specific.

Note that this memorandum does not modify every instance of “family” or “duet” in the Code, rather it offers a general recommendation for removing these terms throughout. Complete amendments that include removal/replacement for these terms will be provided in adoption-ready drafts of the Code amendments at a later stage in this project.

<sup>3</sup> HUD Affordable Housing Definition: <https://archives.hud.gov/local/nv/goodstories/2006-04-06glos.cfm>

## 10-2-13: DEFINITIONS

**AFFORDABLE HOUSING** Dwellings available for rent or purchase, with or without government assistance, by households who meet applicable maximum income limits, not to exceed 80 percent of the Lane County median income, adjusted for household family size, as determined based on data from the United States Department of Housing and Urban Development or its successor agency, and in a manner so that no more than ~~30~~<sup>40</sup> percent of the household's gross income will be spent on rent and utilities or on home loan or mortgage payments, amortized interest, property taxes, insurance, and condominium or association fees, if any. Equestrian

**BOARDING HOUSE** A building with a single kitchen where lodging, with or without meals, is provided for compensation for any number of ~~10 or fewer~~ occupants, not open to transient and/or overnight guests, in contradistinction to hotels and motels open to transients and/or overnight guests, but, a Boarding House / Dormitory is not occupied as a single household family unit and it shall not include assisted living facilities, or senior housing, group care homes, homes for the aged or nursing homes.

[...]

**DUET** ~~A Duplex as defined under 'DWELLING, DUPLEX' in which each unit is on a separate lot and can be owned separately.~~

**DWELLING** A building or portion thereof which is occupied in whole or in part as a residence, either permanently or temporarily by one or more households families; but excluding lodging intended to accommodate visitors and recreation, such as the Coast Village, hotels, motels, short term rentals, and tourist courts; with permanent provision for living, sleeping, eating, food preparation, and sanitation. Dwellings include both buildings constructed on-site and manufactured homes.

**DWELLING, ATTACHED** A dwelling that shares a common wall or walls, roof, or foundation with adjacent dwellings. Attached dwellings may be on a common lot or with each dwelling on its own lot.

**DWELLING, DUPLEX** A building designated or used exclusively for the occupancy of two (2) households families on a single lot living independently from each other and having separate facilities for each household family as defined under "DWELLING" above.

DENSITY	<p>Density, Gross: The number of dwelling units per each acre of land, including areas devoted to dedicated streets, neighborhood parks, sidewalks, and other public <u>and private</u> facilities/<u>utilities</u>.</p> <p>Density, Net: The number of dwelling units per each acre of land, excluding from the acreage dedicated streets, neighborhood parks, sidewalks, and other public <u>and private</u> facilities/<u>utilities</u>.</p>
DWELLING, FOUR- PLEX / QUAD-PLEX	A building designed and used for occupancy by four (4) <del>households</del> <u>families</u> on a single lot, all living independently of each other and having certain separate facilities for each <u>household</u> <del>family</del> as defined under 'DWELLING' above.
DWELLING, <del>MULTIPLE</del> MULTI-UNIT <del>FAMILY</del>	A building designed and used for occupancy by five (5) or more <u>households</u> <del>families</del> on a single lot, all living independently of each other and having certain separate facilities for each <u>household</u> <del>family</del> as defined under "DWELLING" above and certain shared facilities such as laundry, open space and other amenities.
DWELLING, SECONDARY	See ACCESSORY DWELLING.

DWELLING, SINGLE-  
UNIT FAMILY  
DETACHED

- A. A dwelling on a single lot either constructed on-site or a modular constructed in accordance with Oregon Building Codes and assembled on site, and designed or used exclusively for the occupancy of one family and having separate facilities for only one household family as defined under “DWELLING” above; or
- B. A manufactured home designed and used exclusively for the occupancy of one household family as defined under “DWELLING” above and which is located and maintained in compliance with Section 10-12 of this Title.
- C. Except as authorized in A and B of this definition, in determining compliance with the provisions and uses of this Code, a mobile home, manufactured home, or a modular resembling a mobile home or manufactured home, is not considered a single-unit family dwelling. (Ord. No. 7, Series 1994)

DWELLING, SINGLE-  
UNIT FAMILY  
ATTACHED

A dwelling constructed in a row of two or more attached dwellings, where each dwelling is located on its own lot and shares a common wall or walls, roof, or foundation with adjacent dwellings. Commonly referred to as a townhouse or row house.

DWELLING, TRI- PLEX A building designed and used for occupancy by three (3) households families on a single lot, all living independently of each other and having certain separate facilities for each household family as defined under ‘DWELLING’ above.

[...]

GROUP OR  
CONGREGATE  
HOUSING

A dwelling that provides nine or more bedrooms and whose occupants share basic household amenities, such as a kitchen, bathroom(s), and other shared living spaces.

HOUSEHOLD FAMILY All the people who occupy a single dwelling unit, regardless of relation or familial status. A household has occupancy for eight or fewer bedrooms. A person living alone or any of the following groups living together as a single non-profit unit and sharing common living area:

A. ~~Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relations.~~

B. ~~A maximum of 5 unrelated persons.~~

[...]

PREFABRICATED DWELLING A prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a dwelling.

[...]

PRIVATE FACILITIES Any facility that is owned, leased, operated, or funded by a private entity, including individuals or groups/corporations, which may include but is not limited to buildings, property, recreation areas, and roads.

PUBLIC FACILITIES Any facility that is owned, leased, operated, or funded by a governmental body or public entity, which may include but is not limited to buildings, property, recreation areas, and roads.

PUBLIC FACILITIES AND SERVICES Projects, activities and facilities which the City of Florence determines to be necessary for the public health, safety and welfare.

### 10-3-1 Minimum Required Parking by Use

Cities subject to ORS 197.312 cannot require off-street parking for ADUs, which was an amendment to the existing ORS that was adopted with House Bill 2001 in 2019. The City's current parking requirement for ADU's does not comply with the current State rules, and **therefore the City should remove the minimum parking requirement for this housing type.** In addition, cities subject to HB 2001 cannot require more than two off-street parking spaces for duplexes (i.e., no more than one space per unit). Note that duplexes may be developed with over two off-street parking spaces; cities cannot *require* a minimum over two spaces. **The City should consider reduce minimum off-street parking requirements for duplexes from two spaces per unit to one space per unit.**

**The City should consider applying the existing parking requirement for boarding houses and dormitories to group/congregate housing because these are functionally similar housing types. The City should also base the parking requirement on number of bedrooms, since the number of occupants s impermanent.**



**Table 10-3-1, Minimum Required Parking By Use:**

Single <del>Unit Family</del> Dwelling including attached and detached dwellings and manufactured homes	2 spaces per dwelling unit on a single lot
Accessory Dwelling Units	<u>No minimum parking spaces required. 1 space per unit, see FCC 10-3-8 for additional standards</u>
Boarding houses, group/congregate housing, and dormitories	1 space per each 2 <u>bedrooms</u> <del>occupants at capacity.</del>
Duplex/ <del>Duet</del>	<u>2-1</u> space per dwelling unit

[...]

**~~N. Parking provided for Accessory Dwelling Units:~~**

- ~~1. Parking for Accessory Dwelling Units may be covered or uncovered.~~
- ~~2. Provided parking shall be hard surfaced with asphaltic concrete or cement concrete.~~
- ~~3. Parking for Accessory Dwelling Units may be provided on street where on street parking is available along the lot frontage and the street meets the minimum width for local streets with parking available on both sides (greater than 34 feet curb to curb). Site conditions may prevent the use of this specific area for that purpose, but shall not restrict the ability to count on street parking towards the reduction of parking requirements off street.~~

**10-10 Residential Uses**

HB 4064 requires all cities and counties in the state to allow siting of individual manufactured homes or individual prefabricated structures on any land zoned to allow for single-family dwellings. Manufactured homes and prefabricated structures on individual lots cannot be subject to any standards that do not apply to single-family site-built, detached structures, with the exception of any protective measures adopted pursuant to statewide planning goals or for exterior thermal envelope requirements. Therefore, **the City should update the residential use table to include prefabricated dwellings and allowing them wherever manufactured dwellings and single-family detached dwellings are allowed.**

Similar to HB 4064, cities subject to HB 2001 must allow duplexes on any lot or parcel that allows a single-family detached dwelling in all residential zones. Therefore, **the City should update the use table to allow duplexes outright in the LDR zone.**

Table 10-10-2-A. The following table indicates which uses are permitted in each residential zone.

Uses	LDR	MDR	RMH	HDR
Single-household family detached dwelling	P	P	P	C
Accessory structure	P	P	P	P
Accessory dwelling unit	P	P	P	P
Single-household family attached dwelling	N	SR	SR	P
Duplex/duet	<del>P</del>	P	P	P
Tri-plex	N	C	C	P
Quad-plex	N	C	C	P
Multi-household family (5+ units)	N	N	N	SR
Cluster housing	N	C	C	P
Temporary dwelling/RV – Medical hardship	C	C	C	C
Manufactured home	P	P	P	C
Prefabricated dwelling	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>
Manufactured home park/subdivision	N	C	SR	SR
Mobile home park	N	N	SR	SR
Residential Care Facility/Nursing Home	SR	SR	SR	SR
Boarding house/dormitory	N	C	C	SR
Transitional housing <sup>1</sup>	<del>CN</del>	<del>CN</del>	<del>CN</del>	<del>SRN</del>
Religious institution housing or parsonage	C	C	C	C
Planned Unit Development	D	D	D	D
<sup>1</sup> Subject to requirements in FCC 10-38-5				

P=Permitted with Type I review, SR=Type II site review required, C=Type III conditional use review required and N=Not permitted, D=Type III Planning Commission Review  
[...]

Table 10-10-4-B. Minimum Lot Area by Development Type.<sup>1</sup>

Development Type	LDR	MDR	RMH	HDR
Single-household family detached dwelling	7,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	2,000 sq. ft.
Manufactured home or prefabricated dwelling on an individual lot	<u>7,500 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>2,000 sq. ft.</u>
Single-household family attached dwelling	N/A	3,000 sq. ft.	3,000 sq. ft.	2,000 sq. ft.
Duplex or Duet (both units)	<u>7,500 sq. ft.</u> N/A	5,000 sq. ft.	5,000 sq. ft.	<u>2,000 4,000</u> sq. ft.
Tri-plex	N/A	7,500 sq. ft.	7,500 sq. ft.	5,000 sq. ft.
Four-plex	N/A	10,000 sq. ft.	10,000 sq. ft.	5,000 sq. ft.
All other development types <sup>2</sup>	7,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
<sup>1</sup> Undersized lots of record with area below the minimum may still be eligible for development. See Section 10-10-12 of this Title. <sup>2</sup> Cluster housing shall meet minimum lot sizes in FCC 10-10-8-C-2-a.				

HB 2001 cities cannot apply design requirements to duplexes that do not apply to single-family detached. FCC 10-10-7 includes design requirements for all attached housing types, which includes duplexes. **The City should remove duplexes from these requirements and consider applying any existing clear and objective design standards for single-family detached to duplexes.**

10-10-7: ATTACHED HOUSING: A. Applicability: Single ~~household family~~ attached dwellings, ~~duplexes~~, tri-plexes, and four-plexes are subject to all of the applicable sections of this Title. Where there is a conflict between these standards and standards elsewhere in the code, the Attached Housing standards shall apply.

## 10-10-10 MANUFACTURED HOMES OUTSIDE OF MH SUBDIVISIONS OR PARKS

Per HB 4064 (2022), cities cannot require siting and design requirements to manufactured homes on individual lots (i.e., outside of MH parks) that do not apply to single-family detached dwellings, with a few minor exceptions relating to building code requirements (e.g., thermal envelope). The City may either remove the non-compliant standards in this FCC section, or remove this section entirely and include the allowed building standards elsewhere in the Code. **The City should retain this section and remove the provisions that do not comply with HB 4064.**

- A. When a manufactured home is placed outside of a manufactured home subdivision or mobile home park in a zone which allows single ~~household family~~ dwellings, in addition to any other requirements that would be imposed were the structure constructed on site, the manufactured home shall comply with the following placement standards:
1. ~~Size: The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.~~
  2. A. Foundation: The manufactured home shall be placed on an excavated and back-filled foundation and skirted in conformance with the requirements of the Building Codes Agency Manufactured Dwelling Administrative Rules in effect at the time of construction.
  3. Roof Pitch: The manufactured home shall have a pitched roof with a nominal slope of at least three feet (3') in height for each twelve feet (12') in width.
  4. ~~Siding and Roofing Requirements: The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community.~~

5. B. Thermal Performance: The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single household ~~family~~ dwellings constructed under the State Building Code as defined in ORS 455.010.

- ~~B. Nothing in this section shall allow a manufactured home to be placed on residential land immediately adjacent to a historic landmark or other property with a historic designation for tax or assessment purposes.~~

## 10-10-11 MOBILE HOME/MANUFACTURED HOME PARKS:

New state rules established by HB 4064 prohibit cities from requiring a minimum lot size greater than one acre for mobile home/manufactured home parks. In addition, cities must allow prefabricated structures in manufactured home parks (see the recommended definition). **Due to the required minimum lot size reduction for MH parks, the City should also consider making a *proportional* reduction for the minimum number of units required in a MH park (1/3 reduction in lot size, and therefore 1/3 reduction in number of units).**

[...]

**10-10-11-2: DESIGN STANDARDS:** The following standards and requirements shall govern the application of a mobile home/manufactured home park development in an area in which it is permitted:

- A. A mobile home/manufactured home park shall not be less than one (1) ~~and one-half (1 1/2)~~ acres in area, nor contain less than ten (10) ~~fifteen (15)~~ rental spaces.  
[...]
- D. No building, structure or land within the boundaries of a mobile home/manufactured home park shall be used for any purpose except for the uses permitted as follows:
- a. Mobile homes/manufactured homes or prefabricated structures for residential uses only, together with the normal accessory buildings such as cabana, ramada, patio slab, carport or garage and storage or washroom building.

## Clear and Objective Standards

As noted in the Code Audit, residential siting and design standards, as well as review/approval procedures, need to be clear and objective, per State regulations. Clear and objective standards also apply to proposed development in areas where there are natural resource or hazard protections. Chapter 7 and Chapter 19 of the FCC apply subjective development and natural resource protection standards to almost all development types, including residential. Therefore, several *preliminary*, working Code updates are recommended for these chapters, many of which either quantify previously

subjective criteria or reference other required City standards (e.g., stormwater design requirements). Some of the newly quantified draft recommendations are largely based on metrics/measures and resource protection or mitigation thresholds that other cities use. In addition, some criteria should defer certain standards and protection requirements to licensed or certified natural resource, engineering, or geotechnical professionals in lieu of adopting a clear and objective standard. It may be necessary to defer to a licensed professional where a certain level of discretion is necessary, as it can be challenging or infeasible to establish a single standard to complex natural resource/hazard circumstances.

Alternatively, the City may elect to prohibit all residential uses from these areas, thereby meeting the clear and objective standards by simply not allowing housing in these areas. The City and SAT will continue to consider and discuss clear and objective options moving forward.

Due to the volume of working/draft amendments in the natural resource/hazard chapters, the recommended updates are provided in Attachment B and Attachment C to this memorandum.

### **10-15-5 Commercial Site and Development Provisions**

Residential structures in commercial zones are required to defer to height limits in residential zones, however there are differing height limits among residential zones. Therefore, the City should use a height limit of 35 feet for residential buildings, which is consistent with the lower height limit in residential zones and the general height limit for all other development in commercial zones.

The City should apply the *highest* density (i.e., 25 du/acre), as opposed to the lowest residential density (5 du/acre). Generally, higher density residential is more compatible with commercial uses, which can help support local businesses. Higher density close to commercial also improves overall access to services to more residents compared to low density residential that is near commercial areas.

The Highway District (FCC 10-16) contains the same criteria that defer to residential standards without specifying which standard. The recommended commercial amendments below should also apply to residential development in the Highway district.

- A. Building or Structural Height Limitations: The maximum building or structural height shall be thirty-five feet (35'). Residential dwellings shall have a maximum height of thirty-five feet (35'), and their associated/accessory structures shall refer to Section 10-10-5 of this Title for requirements.

[...]

- J. Residential and mixed-use development refer to Section 10-6-5-2 of this title for requirements. However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The less more restrictive standards would apply.

### **10-25-5 Office Institutional Design Criteria**

Some residential uses are allowed in the Professional Office Institutional Zoning District (FCC 10-25). Development in this zone must follow certain design criteria that is subjective (e.g., "Buildings shall generally relate in scale and design features..."). This standard is sufficient for most types of development, however it does not meet clear and objective requirements for residential development. Therefore, the City should add a provision specific to residential development in this zone that defers design standards to applicable clear and objective criteria in FCC 10-10.

Any other zone district that allows residential and applies subjective design criteria should defer to FCC 10-10 in the same manner that is proposed below.

[...]

G. All residential uses and development shall conform with applicable clear and objective design standards established in FCC 10-10.

### **10-38 Affordable Housing and Emergency Shelter**

Due to the breadth of the new requirements per SB 8, HB 2008, and HB 3261, the City should adopt a new Code chapter to implement these rules. Each piece of legislation addresses affordable housing or emergency shelters. Specifically, the recent legislation requires cities to allow affordable housing and emergency shelters beyond residential zones, including in commercial zones, on public property or areas zoned for public uses, and on properties used for religious gatherings.

Each Bill is summarized as follows:

- **SB 8** requires cities to allow affordable housing on land that is owned by a public body or religious nonprofit in any zone except "heavy industrial". Affordable

housing that is owned by other types of organizations must be allowed on property zoned for commercial uses, religious institutions, public lands, or industrial lands except those specifically for "heavy industrial." SB 8 provides height and density bonuses in areas zoned for residential uses.

- **HB 2008** requires jurisdictions to allow the development of affordable housing on property not zoned for housing provided the property is contiguous to a zone that does allow housing and is not zoned for industrial uses. Density is based on standards for the contiguous zone that allows housing.
- **HB 3261** requires jurisdictions to allow the conversion of a hotel or motel to an emergency shelter or affordable housing when certain criteria and standards are met.

Note that most of the recommended requirements below draw directly from the language in the legislation. The following recommended amendments are not provided in the underline/strikethrough format because the entire chapter would be new text.

### **10-38-1 Purpose:**

The Oregon State Legislature passed affordable housing bills in 2021 that require local governments to allow affordable housing in certain non-residential areas and to allow conversions of hotels/motels into emergency shelters. This Chapter also includes transitional housing rules and standards.

### **10-38-2 Affordable Housing on Non-Residential or Public Land**

Senate Bill 8 (2021) requires local governments to allow affordable housing without requiring a zone change or conditional use permit if certain criteria and standards are met. These requirements are implemented by this subsection.

#### **A. Applicability.**

1. Affordability. The affordability of the units is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years; and either
  - a. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or
  - b. The average cost among all units on the property is made available to families with incomes of 60 percent or less of the area median income.
2. Ownership. The housing will be owned by:

- a. A public body, as defined in ORS 174.109, which includes state government bodies, local government bodies, and special government bodies; or
  - b. A nonprofit corporation that is organized as a religious corporation.
- 3. Zoning. The property is zoned to allow the following uses outright:
  - a. Commercial uses, including the Commercial District (C), Neighborhood Commercial District (NC), the Highway District (H), the Old Town District, and the North Commercial District.
  - b. Public lands, which includes lands in the Institutional District.
  - c. Industrial uses provided the property is publicly owned, adjacent to lands zoned for residential uses or schools, and not specifically designated for heavy industrial uses (i.e., not zoned Marine or Service Industrial)
- B. Standards. Only affordable housing developed pursuant to subsection 10-38-2-A is subject to the following standards.
  - 1. Site Suitability. The site shall be suitable for development of affordable housing. Affordable housing shall not be located on lands where the City determines that:
    - a. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;
    - b. The property contains a slope of 25 percent or greater;
    - c. The property is within the 100-year floodplain (Special Flood Hazard Area);
    - d. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:
      - i. Natural disasters and hazards (FCC 10-7)
      - ii. Natural resources, including air, water, coastal, land or natural areas, but not including open spaces or historic resources (e.g., FCC 10-7, FCC 10-18, and FCC 10-19)
    - e. The property is zoned for industrial use and does not meet the criteria in subsection A.3.d.
  - 2. Density and Height in areas that are zoned for residential uses. Except as provided by subsection c, the greater of density and height standards in subsections a or b shall apply:
    - a. Any City density bonus for affordable housing; or
    - b. Without consideration of any local density bonus for affordable housing:



- i. For property with existing maximum density of 16 or fewer units per acre, 200 percent of the existing density and 12 additional feet;
    - ii. For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, 150 percent of the existing density and 24 additional feet; or
    - iii. For property with existing maximum density of 46 or more units per acre, 125 percent of the existing density and 36 additional feet.
  - c. Exceptions to the density and height bonuses.
    - i. The density and height bonuses provided by this section do not apply to housing in areas that are not zoned for residential uses.
    - ii. The City may reduce the density or height of the density bonus as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal provided the City adopts findings supported by substantial evidence demonstrating the necessity of this reduction.
3. Density and Height in zones that don't allow housing:
- a. Commercial zones – The maximum density shall be based on the maximum allowable density applicable to the contiguous/adjacent property with a residential zoning designation. If there is more than one contiguous/adjacent residential property, the zoning of the property with the greatest allowable density applies. If the site is not contiguous/adjacent to a residentially zoned site, then the density standards of the HDR zone shall apply. The height standard of the base zone shall apply.
  - b. Industrial zones (other than Marine and Service Industrial) – The maximum density shall be based on the maximum allowable density applicable to the contiguous/adjacent property with a residential zoning designation. If there is more than one contiguous/adjacent residential property, the zoning of the property with the greatest allowable density applies. Affordable housing is not allowed on industrial properties that do not border (i.e., adjacent/contiguous) any property with a residential zoning designation. The height standard of the base zone shall apply.
  - c. Professional Office/Institutional Zoning District - The maximum density shall be based on the maximum allowable density applicable to the contiguous/adjacent property with a residential zoning designation. If there is more than one contiguous/adjacent residential property, the

zoning of the property with the greatest allowable density applies. If the site is not contiguous/adjacent to a residentially zoned site, then the density standards of the HDR zone shall apply. The height standard of the base zone shall apply.

4. Development and Design Standards.

- a. Affordable housing projects allowed pursuant to this section are subject to the multihousehold development standards of the underlying or adjacent residential zone. If the property does not border a residential zone, or if the underlying or adjacent residential zone does not allow multihousehold development, then the affordable housing must follow the multihousehold development standards of the High Density Residential (HDR).
- b. Affordable housing projects allowed pursuant to this section are subject to the multihousehold design standards established by FCC 10-10-9.

**10-38-3 Affordable Housing Provided by a Religious Nonprofit**

A. Applicability Criteria. Affordable housing projects allowed under this section must meet the following criteria:

1. Affordability. The affordable housing meets the definition in ORS 197.311.
2. Ownership. The property is owned by a nonprofit corporation organized as a religious corporation.

B. Standards.

1. Residential and nonresidential sites. The City shall only apply restrictions or conditions of approval to the development of affordable housing that are:
  - a. Clear and objective as described in ORS 197.307 (4); or
  - b. Discretionary standards related to health, safety, habitability or infrastructure. For the purposes of this standard, that means that affordable housing shall not be located on lands where the City determines that the development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete.
2. Nonresidential sites.
  - a. For sites that are not zoned to allow residential development, the City shall allow affordable housing development under the following circumstances:
    - i. The property is not zoned for industrial uses; and
    - ii. The property is contiguous to a residentially zoned property.

- b. Affordable housing allowed under this subsection shall be subject only to the restrictions applicable to the contiguously zoned residential property as limited by subsection 10-38-3.B.1 without requiring that the property be rezoned for residential uses. If there is more than one contiguous residential property, the zoning of the property with the greatest density applies.

#### **10-38-4 Emergency Shelter Conversions and Affordable Housing**

- A. Definitions. The definitions of “affordable housing,” “conversion” and “lawful use” applicable to this section are specified below.
  1. “Affordable housing” means housing in which all units are affordable to households with incomes equal to or less than 60 percent of the area median income as defined in ORS 458.610 and whose affordability is enforceable by an affordable housing covenant, as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.
  2. “Conversion” includes an alteration to a building that changes a building’s intended use as a hotel or motel to an emergency shelter and/or changes the number of units but does not expand the building footprint. A conversion under this section is not a land use decision as defined in ORS 197.015.
  3. “Lawful use” includes a nonconforming use as described in ORS 215.130 (6) or any other local land use regulation allowing for the continuation of a use that was lawful when first enacted.
- B. Applicability Criteria. The proposal is for a conversion which meets one of the following.
  1. The proposed conversion is from use as a hotel or motel, to use as an emergency shelter; or,
  2. The proposed conversion is from use as a hotel or motel to use as affordable housing; or
  3. The proposed conversion is from an emergency shelter to use as affordable housing.
- C. Standards.
  1. Site Suitability. The conversion of a hotel or motel to an emergency shelter or affordable housing pursuant to this section is not permitted on sites where the City determines that:
    - a. There is inadequate transportation access to commercial and medical services;

- b. The site is zoned specifically for heavy industrial uses, which includes areas zoned Marine; or
  - c. The site is designated for a statewide land use planning goal relating to natural disasters or hazards, including flood plains (FCC 10-7 and FCC 10-19) or mapped environmental health hazards unless the converted use complies with regulations directly related to the disasters or hazards.
- 2. Emergency Shelters. Conversion of a hotel or motel to an emergency shelter if no site alterations are proposed is subject only to the following standards:
  - a. Applicable building codes; and
  - b. Occupancy limits.
- 3. Affordable Housing. Conversion of a hotel or motel to affordable housing, or conversion of a hotel or motel that was previously converted to an emergency shelter to affordable housing are subject to the following standards:
  - a. Applicable building codes; and
  - b. Occupancy limits.
  - c. Standards applicable to multihousehold uses in the High Density Residential Zone (HDR – FCC 10-10).
  - d. Site alteration. Site alterations, including but not limited to alterations to parking areas and landscaping, are subject to the applicable standard in FCC 10-34.

## Subdivision Code Updates

The Florence Subdivision Code (Title 11) includes a few instances where standards or procedures could be written to be more clear and objective. Recommend amendments are provided to the following subdivision provisions that will establish clear and objective standards, as well as ensure consistency with other FCC standards and requirements.

### ***11-3-4 Approval of Tentative Subdivision***

After giving notice as required by FCC 10-1-1-6, the Planning Director or its designee shall grant approval or deny the subdivision tentative plan. The hearing decision and further consideration of a similar application shall be reviewed under a Type II process as defined by paragraph 10-1-1-6 of this Code. If approval involves implications of new or modified standards or policy, the Planning Commission and not its designee shall render a decision. Approval shall be based on compliance with the following criteria.

[...]

C. Adequate public facilities are available or can be provided to serve the proposed parcels pursuant to City requirements, including those in Streets and Sidewalks pursuant to FCC 8-2, Water pursuant to FCC 9-2, Sewer pursuant to FCC 9-3, Solid Waste pursuant to FCC 9-4, Stormwater pursuant to FCC 9-5, and FCC 10-36 Public Facilities.

### **11-4-2 Requirements**

[...]

- B. Information Required: The application itself, or the proposed partition or subdivision plat, must contain the following with respect to the subject area:

[...]

8. The date, north point and scale of the drawing, and a ~~sufficient~~ description ~~to define~~ defining the location and boundaries of the partition or subdivision.

### **11-5-1 Streets**

[...]

- C. Reserve Strips: The Planning Commission may require the applicant to create a reserve strip controlling the access to a street, said strip to be placed under the jurisdiction of the City Council and the Planning Commission, when the Planning Commission determines that a strip is necessary:
1. To prevent access to abutting land at the end of a street in order to assure the ~~proper~~ extension of the street pattern and the ~~orderly~~ development of land lying beyond the street, consistent with the planned transportation system and land use; or
  2. To prevent access to the side of a street on the side where additional width is required to meet the right of way standards provided in the table under subsection B2 above; or
  3. To prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself; or
  4. To prevent access to land unsuitable for building development, in accordance with areas defined in FCC 10-7 and FCC 10-19.

### **11-5-2 Lots and Parcels**

- A. Size and Frontage:

[...]

2. Area: Minimum lot size shall be in conformance with the provisions of the Florence Zoning Ordinance. Where either a community water supply or sewer system are not presently provided, the lot area shall be sufficient to meet State and County health standards and the lot area shall be at least twice the number of square feet normally required in the zoning district where the lot is located. Where an oversize lot as described above is required due to lack of services, the Planning Commission may require the developer to submit a plan for later division of said lot(s) into lots meeting the minimum lot sizes for allowed housing types ~~single-family detached dwellings~~ in the underlying zone.

B. Exceptions:

[...]

4. Flag Lots: Flat lots shall be permitted provided they meet the following requirements:

[...]

d. Accessway Design and Emergency Vehicle Access

[...]

iii. Accessways shall be centered within the flag lot accessway to minimize impacts on adjoining lots except in cases to ~~when otherwise warranted to~~ preserve existing vegetation or meet the intent of this subsection.

5. Lot and Parcel Side Lines: ~~As far as is practicable, lot~~ and parcel side lines shall run at right angles to the street upon which the lot or parcel faces; except to adjust for encroachments or those that border existing non-right angle lot lines or those on curved streets, they shall be radial to the curve.

6. Suitability for Intended Use: All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the residents of the subdivision or partition or of such lot or parcel, pursuant to County or State health, safety, and sanitary standards, or ~~parcel~~ as determined by the Planning Director in accordance with the purpose of this Title.

## SUMMARY AND NEXT STEPS

The FCC has many residential development standards and requirements that are not clear and objective, most of which apply to the natural resources and hazards zones in Chapters 7 and 19. In addition to the clear and objective updates, the City has the option to amend various standards to be consistent with recent State housing legislation. While cities are not required to incorporate these new rules (standards that conflict with the new statutes are invalidated), the amendments outlined in this memorandum if adopted would facilitate local implementation and administration of the new housing requirements. Also recommended are Code modifications that will ensure that the City is in compliance with HB 2001, given the likelihood the City will meet the “medium city” threshold in the near future.

The FCC update recommendations will be presented and discussed with the HIP SAT at their August meeting. Subsequently, the proposed amendments will be summarized in an online open house and the subject of a survey where community members can share their thoughts on the preliminary recommendations. The project team will also share examples of how other cities implement transitional housing programs and how transitional housing is treated in local land use ordinances. A transitional housing case study analysis and example code language is included as Attachment A. HIP SAT and community input on these recommendations will inform the Final Code Update recommendations. The HIP SAT will make recommendations related to adoption to the Planning Commission and City Council in Fall/Winter 2022.

# DRAFT Code Update Attachment A

## Transitional Housing

Under provisions that implement HB 2916 (ORS 446.265), the State allows jurisdictions the option of permitting transitional housing. Pursuant to the provision, transitional housing is “accommodations (that) are intended to be used by individuals or families on a limited basis for seasonal, emergency or transitional housing purposes and may include yurts, huts, cabins, fabric structures, tents and similar accommodations.” The transitional housing accommodations are limited to persons who lack permanent or safe shelter or cannot be placed in other low income housing. Pursuant to the provision, the City has the authority to limit the maximum amount of time that an individual or family may use the accommodations.

The State provisions allow some requirements to be placed on transitional housing. Accommodations may be required to provide parking facilities, walkways, and access to water, toilets, showers, laundry, cooking, telephone or other services either through separate or shared facilities.<sup>1</sup>

Beyond the definition of transitional housing, there are no standards in Title 10 or 11 that are directly associated with this housing type. Provisions that have been adopted by other jurisdictions include:

City	Use Categories & allowed zones	Types of shelter allowed	Max Stay	Development Standards/misc requirements
Bend	<ul style="list-style-type: none"> <li>Allowed in most zones</li> <li>New is a Type II review, expansion of existing is Type I</li> </ul>	<ul style="list-style-type: none"> <li>Hardship housing</li> <li>Temporary shelter</li> <li>Group shelters</li> <li>Outdoor shelters</li> <li>Multi-room shelters</li> </ul>	180 days (length of time shelter is allowed to operate)	<ul style="list-style-type: none"> <li>“Good neighbor” guidelines</li> <li>On-call or on-site management</li> <li>Underlying zoning requirements apply with some exceptions</li> <li>Waiting/intake areas</li> <li>Transportation access and utility connections required</li> </ul>
Portland	<ul style="list-style-type: none"> <li>“Community Service”</li> <li>Allowed in almost all zones</li> </ul>	<ul style="list-style-type: none"> <li>Occupied RVs</li> <li>Group living</li> <li>Short term, mass, and outdoor shelter</li> </ul>	<ul style="list-style-type: none"> <li>Outdoor and mass shelters – 180 days</li> </ul>	<ul style="list-style-type: none"> <li>Occupied RVs are exempt from base zone development standards and density standards.</li> <li>Prohibited from being an STR</li> <li>Parking requirements for occupied RVs are the</li> </ul>

<sup>1</sup> Note: According to ORS 446.265, the Oregon Health Authority may develop public health best practices for shared health and sanitation facilities for transitional housing accommodations.



				same as parking requirements for unoccupied RVs <ul style="list-style-type: none"> <li>• No min parking for group living</li> </ul>
Salem	<ul style="list-style-type: none"> <li>• Allowed as a “class 1” or “class 2” temporary use permit</li> </ul>	<ul style="list-style-type: none"> <li>• Managed temporary village. Allows:             <ul style="list-style-type: none"> <li>○ Prefab structures, such as tiny homes, yurts, conestoga huts</li> <li>○ Tents</li> <li>○ Vehicles and RVs</li> <li>○ *improvised camps not allowed</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>• Various operational and on-site standards</li> </ul>
Seattle		<a href="#">Transitional Encampments</a>		<ul style="list-style-type: none"> <li>• Various requirements for fire safety/health hazards, utilities/cleaning/cooking facilities, other</li> </ul>
Silverton	<ul style="list-style-type: none"> <li>• Allowed on properties owned by religious use</li> <li>• Conditional use process</li> <li>• Required to undergo periodic review and renewal</li> </ul>	Transitional Shelter Community <ul style="list-style-type: none"> <li>• Allows:             <ul style="list-style-type: none"> <li>○ Stick built or prefab structures</li> <li>○ Must be detached</li> <li>○ Fabric walls prohibited (tents, yurts)</li> <li>○ Vehicles, manufactured dwellings, trailers not allowed</li> </ul> </li> </ul>	18 months	<ul style="list-style-type: none"> <li>• Various development standards</li> <li>• No outdoor storage allowed</li> <li>• Fencing required</li> <li>• Case management/operations plan required</li> <li>• Code of conduct required</li> <li>• Priority given to individual from Silverton</li> <li>• Occupancy limited to 1 person per shelter</li> </ul>

## Definitions

### Portland

**Mass Shelter** - . A building that contains one or more open sleeping areas, or is divided only by non-permanent partitions, and furnished with beds, cots, floor mats, or bunks. Individual bedrooms are not

provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter, with or without a fee, with no minimum length of stay. Where individual bedrooms are provided, the facility is a short term shelter. See also Outdoor Shelter and Short Term Shelter.

**Outdoor Shelter** - Individual shelters grouped together in an outdoor setting. Examples of individual shelters include tents, yurts, huts, cabins, vehicles or other similar accommodation that do not contain sanitary or cooking facilities, and recreational vehicles with or without cooking and sanitary facilities. The shelter is managed by a public agency or a non-profit agency, with or without a fee, and with no minimum length of stay. An outdoor shelter may or may not include buildings that have food preparation or sanitary facilities. See also Mass Shelter and Short Term Shelter.

**Short Term Shelter** - A building that contains one or more individual bedrooms, and where occupancy of all rooms may be arranged with no minimum length of stay. The short term shelter facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency to provide shelters, with or without a fee. Examples include transitional housing, and emergency shelters where individual rooms are provided. Where individual bedrooms are not provided, the facility is a mass shelter. See also Mass Shelter and Outdoor Shelter.

#### *Bend*

**Temporary housing** means a permanent facility providing temporary shelter for individuals and/or families who are homeless or in transition. Services may be provided including, but not limited to, accommodations, meals, toilet/bathing facilities, clothing/laundry, case management services and information on or referral to other community resources.

**Recreational vehicle** means a vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and as further defined, by rule, by the Director of the Department of Consumer and Business Services Transportation. ***(Underlined added by the Planning Commission on March 8, 2022)***

\*\*\*

means a location for overnight accommodation of people who lack housing. A shelter is either a group shelter, outdoor shelter, or a multi-room shelter. See BDC 3.6.600, Shelters. **Shelter**

**1. Group shelter** means a building that contains one or more open sleeping areas, or is divided only by nonpermanent partitions, furnished with cots, floor mats, bunks, or other sleeping accommodations, for use as a shelter. See BDC 3.6.600, Shelters.

**2. Outdoor shelter** means a site on which multiple mobile or permanent units including tents, yurts, huts, cabins, manufactured dwellings, recreational vehicles, travel trailers, and other similar structures are placed for use as a shelter. See BDC 3.6.600, Shelters.

**3. Multi-room shelter** means a building that contains individual sleeping rooms for use as a shelter. See BDC 3.6.600, Shelters.

**Shelter, Temporary** means group shelters, multi-room, or outdoor shelters used for a limited period. See BDC 3.6.400(I). For temporary hardship housing, see Hardship Housing and BDC 3.6.400(H) .  
**(Deleted by the City Council on May 18, 2022)**

#### *Gresham*

**Transitional Housing.** Housing provided for an extended period and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing.

#### *Seattle*

**Transitional Encampment.** Means a use having tents or a similar shelter, including vehicles used for shelter, that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly-used facilities that are separate from the sleeping shelters.

#### *Silverton*

**Transitional Housing Communities.** Per ORS [446.265](#). Accommodations that may consist of separate facilities, in the form of sleeping pods or other approved structures, for use as living units by one or more individuals or by families. The person establishing the accommodations shall provide access to water and toilet through separate or shared facilities, and may provide access to shower, laundry, cooking, telephone or other services either through separate or shared facilities. The accommodations shall provide parking facilities and walkways. Transitional housing accommodations shall be limited to persons who lack permanent shelter and cannot be placed in other low income housing.

#### *HUD*

Transitional Housing (TH) provides temporary housing with supportive services to individuals and families experiencing homelessness with the goal of interim stability and support to successfully move to and maintain permanent housing. TH projects can cover housing costs and accompanying supportive services for program participants for up to 24 months.

Participants in a TH project must have a signed lease, sublease, or occupancy agreement with the following requirements:

- An initial term of at least one month
- Automatically renewable upon expiration, except by prior notice by either party
- A maximum term of 24 months

#### *Sample Code Section*

Under provisions that implement HB 2916 (ORS 446.265), the State allows jurisdictions the option of permitting transitional housing. Pursuant to the provision, transitional housing is “accommodations (that) are intended to be used by individuals or families on a limited basis for seasonal, emergency or transitional housing purposes and may include yurts, huts, cabins, fabric structures, tents and similar accommodations.” The transitional housing accommodations are limited to persons who lack permanent or safe shelter or cannot be placed in other low income housing. Pursuant to the provision, the City has the authority to limit the maximum amount of time that an individual or family may use the accommodations.

The State provisions allow some requirements to be placed on transitional housing. Accommodations may be required to provide parking facilities, walkways, and access to water, toilets, showers, laundry, cooking, telephone or other services either through separate or shared facilities.

Beyond the definition of transitional housing, there are no standards in Title 10 or 11 that are directly associated with this housing type. **To start the discussion, we have drafted provisions for transitional housing that are largely based off what other jurisdictions in Oregon are doing. For more background information, please see the attached Transitional Housing Case Study Analysis (Attachment A). At a minimum, we recommend the City allow transitional housing as a conditional use in all residential, commercial, institutional/office, and commercial zones. Allowing transitional housing in these areas is consistent with the other affordable housing requirements included in the Code update.**

### *10-38-5 Transitional Housing*

- A. Transitional housing is allowed under the following circumstances:
  - 1. On land used as a religious institution or place of worship per FCC 10-2, regardless of the underlying zoning designation.
  - 2. In areas zoned to allow transitional housing, per FCC 10-10
- B. Allowed shelter types.
  - 1. Stick-built detached or attached units
  - 2. Prefabricated or manufactured units
  - 3. Yurts
  - 4. RVs or mobile homes
- C. Maximum Building Footprint. The maximum building floor space for each shelter unit is 400 square feet.
- D. Maximum Number of Units. The maximum number of units per parcel is one for every 1,000 square feet of area of the site the units are to be located on, rounded to the nearest whole number.
- E. Length of stay. An occupant may reside in a transitional housing dwelling for up to 18 months.
- F. Bathrooms and Kitchens. Bathrooms and kitchens are prohibited in the shelter units. Instead, common permanent bathroom facilities available all hours of all days shall be provided for the residents and kitchen facilities may be provided to residents.
- G. Utilities. Water service, sanitary sewer service, natural gas service, propane heaters, and generators are prohibited in the shelter units but are permitted in common facilities. Trash and recycling service is to be provided in the vicinity of the use.

- H. Storage. No outdoor storage is permitted, excluding bicycles. Residents shall be provided with enclosed, secure storage facilities for their belongings.
- I. Minimum Rear and Side Yard Depth. The minimum rear and side yard depth is five feet, except that if the rear or side yard abuts a residential district, the minimum shall be 10 feet from the abutting lot line.
- J. Minimum Structure Separation. Structures shall be separated from one another by a minimum of five feet.
- K. Conditional Use. Transitional shelter communities shall be reviewed as a conditional use; however, no fee shall be charged for such review.
- L. Periodic Review and Renewal. Transitional housing developments shall require periodic review and renewal. The first periodic review and renewal shall be conducted one year from occupancy and shall follow the conditional use review procedure. If renewal is approved, periodic review and renewal shall be conducted bi-annually from that point, following the conditional use review procedure.
- M. Financial security (bonds, petitions, cash, etc.) to ensure the removal of the improvements should approval not be renewed shall be provided to the city prior to occupancy.
- N. Site manager. Each transitional housing development must have an assigned site manager, who can be an owner-occupant, tenant, lessee or person other than an owner who has possession and/or control of the property. The site manager shall provide local contact information, name and telephone number, to all property owners and residents within 500 feet of the site on an annual basis. The site manager must be available to accept and immediately respond to telephone calls during business hours. Any change in local contact person must be reported to the city and property owners and residents within 500 feet of the site at least seven days prior to the date the change takes effect.
- O. Management plan. An operations, security, and case management plan for the transitional shelter community shall be submitted to the city at the time of application for review and approval.
- P. Code of Conduct. The managing agency shall provide to all residents of the transitional housing development a code of conduct for living at the transitional shelter community, including information regarding the noise disturbance standards of FCC XX, the chronic nuisance property standards of FCC XX, and the Periodic Review and Renewal timetable. A copy of the code of conduct shall be submitted to the city at the time of application for review and approval.
- Q. Eligibility. Priority should be given to individuals that have been living within Florence or Lane County (excluding Eugene) for the past year.

#### Other resources

- Rogue Retreats: <https://www.rogueretreat.org/housing-shelter/>

- Portland S2HC: <https://www.portland.gov/bps/planning/s2hc>
- PSU HRAC: <https://www.pdx.edu/homelessness/evaluation-best-practices-village-model>
- Portland Transition Projects: <https://www.tprojects.org/>
- Oregon PSH Program: <https://www.oregon.gov/ohcs/development/Pages/permanent-supportive-housing.aspx>
- Bend Outdoor Shelters Program: <https://www.bendoregon.gov/city-projects/community-priorities/homelessness/outdoor-shelter>
- HUD Exchange Continuum of Care (CoC) Program Eligibility:  
<https://www.hudexchange.info/programs/coc/coc-program-eligibility-requirements/>
  - [HUD TH Definition](#)



## Attachment B

### TITLE 10 CHAPTER 7

#### SPECIAL DEVELOPMENT STANDARDS

Note – all proposed sections for updates are highlighted in yellow. The **draft** amendments are shown in an underline/~~strikethrough~~ format.

#### 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
- 10-7-5: Development Standards for Tsunami Hazard Overlay Areas
- 10-7-6: Site Investigation Reports (SIR)
- 10-7-7: Review and Use of Site Investigation Reports

**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 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.
- 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 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.
- 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)

**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. River Cutbanks: No building shall be permitted within fifty feet (50') from the top of a river cutbank, as defined in FCC 10-2. Top of Bank is defined in subsection 4.F.1.c.i of this chapter.

- C. Active Dune Advancing Edge: No building shall be permitted within one hundred feet (100') of the leading edge of an active dune, except by Planning Commission approval where it can be shown by accepted engineering practices or treatment, or a City approved mitigation plan that no significant sand hazards are likely to occur. Applicant shall demonstrate that the proposed or existing mitigation plan will minimize potential sand hazards to both the proposed development and to nearby properties. Applicant shall also demonstrate that the mitigation plan will have no significant adverse effects on the site, adjacent property, the City's sole source aquifer and wildlife. (Ord. 24, Series 2008)
- D. Ocean Flooding, Tidal Flooding, Tsunami: (See subsection A above, Special Flood Hazard Area).
- E. Slopes Greater than Twelve Percent: For development on steep slopes on or on properties adjacent to steep slopes, a foundation and grading design prepared by a registered engineer and approved by the City and addressing drainage and revegetation.
- F. Active Dune Sands: Open sand will require primary vegetative stabilization as with grasses and secondary stabilization with any of a variety of shrubs and trees excluding noxious plants in conjunction with any development, except where vegetative stabilization is prohibited on the property of State or Federal agencies, and it can be shown by accepted engineering practices or treatment, or a City approved mitigation plan that no significant sand hazards are likely to occur. Applicant shall demonstrate that the proposed or existing mitigation plan will minimize potential sand hazards to both the proposed development and to nearby properties. Applicant shall also demonstrate that the mitigation plan will have no significant adverse effects on the site, adjacent property, the City's sole source aquifer and wildlife. Stabilization may be required prior to development in cases where there are large unstabilized areas.
- G. Brallier and Heceta Soils: In general these soils are not suitable for development. Should development occur, structures would be built on pilings or fill as designed by a registered engineer.
- 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. (Amended Ord. 10, Series 2009)

#### **10-7-4 : DEVELOPMENT STANDARDS FOR WETLANDS AND RIPARAIN 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 streambanks 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 2. 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 September 5, 2013 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 Chapter 2.
  - 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 land owner 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 defined in Oregon Statewide Planning Goal 5.

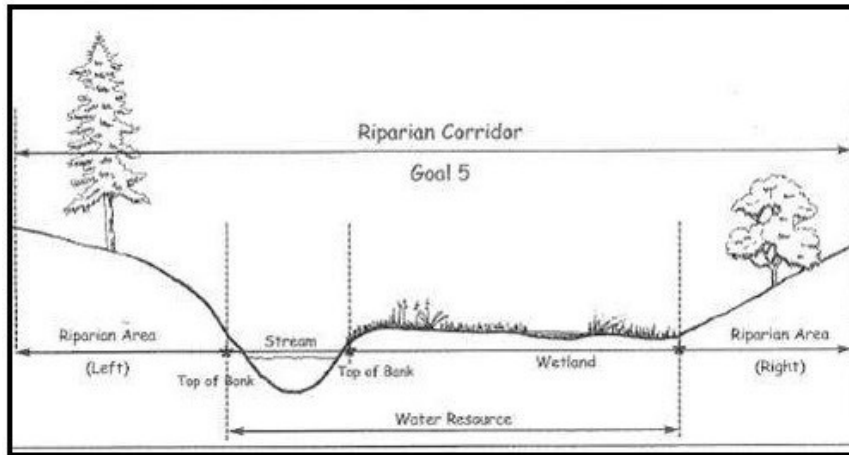


Figure 1: Downstream cross section illustrating terms used in Statewide Planning Goal 5. Source: *Urban Riparian Inventory and Assessment Guide*, Oregon Department of State Lands, 1998.

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:
    - i. Hire a Qualified Professional to do the delineation and have the delineation approved by the Oregon Department of State Lands (DSL); or
    - ii. 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
    - iii. 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:
    - i. 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.

- ii. If the top of 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:
  - a. A clear, natural line impressed on the bank
  - b. Changes in the characteristics of soils
  - c. The presence of water-borne litter and debris
  - d. 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 (vegetation clearing permits are also subject to the submission requirements in FCC Title 4 Chapter 6) 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~~ the most numerous existing native plants species 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 2 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 are; 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 10-2, 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 the 2013 City of Florence 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 as otherwise provided in these Wetland and Riparian Standards and in FCC 4-6-3 and 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 limited kept to the development footprint minimum necessary.

3. Trees ~~is~~ identified in the Resource Capabilities Assessment that are 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 additional hazard will be created, as determined by the Resource Capabilities Assessment, the Planning Department will ~~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 eliminate or reduce 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 wind-less 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 October 5, 2013 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 Type II Review process in 10-1-1-6-2.

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.



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- 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:
  - i. The site plan and application shall document the location of the impact, the existing conditions of the resource prior to the impact, and 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.
  - ii. 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.
  - iii. Herbicides and pesticides not approved for use in buffer zones or riparian areas (i.e., not a federally approved herbicide technology for use in or near open water) is prohibited in the approved setback area.
  - iv. 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).
  - v. Trees shall be planted at a density not less than the density in place prior to development.
  - vi. 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, Oregon Department of Fish and Wildlife (ODFW), Department of State Lands (DSL), Salmon Trout Enhancement Program (STEP) to implement practices and programs to restore and protect the riparian area.

M. Significant wetland and riparian corridor enhancement incentives:

1. For variance procedures:

- a. 4. 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.
- b. ~~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 2, the applicant may be granted exceptions from certain development standards to improve the continuity of the Significant Riparian Corridor, as determined by the Planning Director.~~ Such exceptions 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.

- c. 3- These development standard exception 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.

- N. 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.

#### **10-7-5 : DEVELOPMENT STANDARDS FOR TSUNAMI HAZARD OVERLAY AREAS**

- A. Purpose. The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in areas subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within areas subject to tsunami hazards in a manner that will:

1. Reduce loss of life;
2. Reduce damage to private and public property;
3. Reduce social, emotional, and economic disruptions; and
4. Increase the ability of the community to respond and recover.

Significant public and private investment has been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, over time, the community's exposure to tsunami risk will be reduced.

- B. Definitions. Terms used in this subsection are defined within FCC 10-2-13.
- C. Applicability of Tsunami Hazard Overlay Zone. All lands identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section.
- D. Uses. In the Tsunami Hazard Overlay Zone, except for the prohibited uses set forth in FCC 10—5-E, all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section.
- E. Prohibited Uses. Unless authorized in accordance with FCC 10-7-5-G, the following uses are prohibited in the specified portions of the Tsunami Hazard Overlay Zone:
1. In areas identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:
    - a. Hospitals and other medical facilities having surgery and emergency treatment areas.
    - b. Fire and police stations.
    - c. Structures and equipment in government communication centers and other facilities required for emergency response.

- d. Buildings with a capacity greater than 250 individuals for every public, private, or parochial school through secondary level or child care centers.
    - e. Buildings for colleges or adult educations schools with a capacity of greater than 500 persons.
    - f. Jail and detention facilities.
  - 2. In areas identified as subject to inundation from the Medium (M) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:
    - a. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures.
    - b. Emergency vehicle shelters and garages.
    - c. Structures and equipment in emergency preparedness centers.
    - d. Standby power generating equipment for essential facilities.
    - e. Covered structures whose primary occupancy is public assembly with a capacity of greater than 300 persons.
    - f. Medical facilities with 50 or more resident, incapacitated patients.
    - g. Residential uses, including manufactured home parks, of a density exceeding 10 units per acre.
    - h. Hotels or motels with more than 50 units.
  - 3. Notwithstanding the provisions of FCC 10-8, the requirements of this subsection shall not have the effect of rendering any lawfully established use or structure nonconforming.
- F. Use Exceptions. A use listed in FCC 10-7-5-E may be permitted upon authorization of a Use Exception in accordance with the following requirements:
- 1. Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.
  - 2. Fire or police stations may be permitted upon findings that there is a need for a strategic location.
  - 3. Other uses prohibited by FCC 10-7-5-E may be permitted upon the following findings:
    - a. There are no reasonable, lower-risk alternative sites available for the proposed use;
    - b. Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized; and
    - c. The buildings will be designed and constructed in a manner to minimize the risk of structural failure during the design earthquake and tsunami event.
  - 4. Applications, review, decisions and appeals for Use Exceptions authorized by this subsection shall be in accordance with the requirements for a Type III procedure as set forth in FCC 10-1-1-6-3.

- G. Evacuation Route Improvement Requirements. Except single family and duplex dwellings on existing lots and parcels, all new development, substantial improvements and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and conform to the adopted Evacuation Route Plan and FCC 10-36. Such measures shall include :

1. On-site improvements:
  - a. Improvements necessary to ensure adequate pedestrian access from the development site to evacuation routes designated in the Evacuation Route Plan in all weather and lighting conditions.
  - b. Frontage improvements to designated evacuation routes that are located on or contiguous to the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.
  - c. Where identified in the Evacuation Route Plan as the only practicable means of evacuation, tsunami evacuation structure(s) of sufficient capacity to accommodate the evacuation needs of the proposed development.
2. Off-site improvements: Improvements to portions of designated evacuation routes that are needed to serve, but are not contiguous to, the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.
3. Evacuation route signage consistent with the standards set forth in the Evacuation Route Plan. Such signage shall be adequate to provide necessary evacuation information consistent with the proposed use of the site.
4. Evacuation route improvements and measures required by this subsection shall include, at a minimum, the following:
  - a. Improved streets and/or all-weather surface paths of sufficient width and grade to ensure pedestrian access to designated evacuation routes in all lighting conditions;
  - b. Improved streets and paths shall provide and maintain horizontal clearances sufficient to prevent the obstruction of such paths from downed trees and structure failures likely to occur during a Cascadia earthquake; and
  - c. Such other improvements and measures identified in the Evacuation Route Plan.
5. When it is determined that improvements required by this subsection cannot be practicably accomplished at the time of development approval, payment in lieu of identified improvements shall be in accordance with FCC 8-5-1.

H. Tsunami Evacuation Structures. .

1. All tsunami evacuation structures shall be of sufficient height to place evacuees above the level of inundation for the XXL local source tsunami event.
2. Tsunami evacuation structures are not subject to the building height limitations of this chapter.

I. Flexible Development Option.

1. The purpose of the Flexible Development Option is to provide incentives for, and to encourage and promote, site planning and development within the Tsunami Hazard Overlay Zone that results in lower risk exposure to tsunami hazard that would otherwise be achieved through the conventional application of the requirements of this chapter. The Flexible Development Option is intended to:
  - a. Allow for and encourage development designs that incorporate enhanced evacuation measures, appropriate building siting and design, and other features that reduce the risks to life and property from tsunami hazard; and
  - b. Permit greater flexibility in the siting of buildings and other physical improvements and in the creation of new lots and parcels in order to allow the full realization of permitted development while reducing risks to life and property from tsunami hazard.
2. The Flexible Development Option may be applied to the development of any lot, parcel, or tract of land that is wholly or partially within the Tsunami Hazard Overlay Zone.
3. The Flexible Development Option may include any uses permitted outright or conditionally in any zone, except for those uses prohibited pursuant to FCC 10-7-5-D.
4. Overall residential density shall be as set forth in the underlying zone or zones. Density shall be computed based on total gross land area of the subject property, excluding street right-of-way.
5. Yards, setbacks, lot area, lot width and depth, lot coverage, building height and similar dimensional requirements may be reduced, adjusted or otherwise modified as necessary to achieve the design objectives of the development and fulfill the purposes of this section.
6. Applications, review, decisions, and appeals for the Flexible Development option shall be in accordance with the requirements for a Type III procedure as set forth in FCC 10-1-1-6-3.
7. Approval of an application for a Flexible Development Option shall be based on findings that the following criteria are satisfied:
  - a. The applicable requirements of sub-paragraphs 2 and 4 of this subsection are met; and
  - b. The development will provide tsunami hazard mitigation and/or other risk reduction measures at a level greater than would otherwise be provided under conventional land development procedures. Such measures may include, but are not limited to:
    - i. Providing evacuation measures, improvements, way finding techniques and signage at a level greater than required by subsection F of this section;
    - ii. Providing tsunami evacuation structure(s) which are accessible to and provide capacity for evacuees from off-site;
    - iii. Incorporating building designs or techniques which exceed minimum structural speciality code requirements in a manner that increases the capacity of structures to withstand the forces of a local source tsunami; and

- iv. Concentrating or clustering development in lower risk portions or areas of the subject property, and limiting or avoiding development in higher risk areas.

#### 10-7-6 : SITE INVESTIGATION REPORTS (SIR):

A. Areas identified in Section 2 and 3 above, are subject to the site investigation requirements as presented in "Beach and Dune Techniques: Site Investigation Reports by Wilbur TERNYK" from the Oregon Coastal Zone Management Association's *Beaches and Dunes Handbook for the Oregon Coast* (OCZMA Handbook), Appendix 18 of the Florence Comprehensive Plan as modified by the City of Florence. No development permit (such as building permit or land use permit) subject to the provisions of this Title may be issued except with affirmative findings that:

1. Upon specific examination of the site utilizing a Phase I Site Investigation Report (the checklist from the OCZMA Handbook, as modified by the City of Florence), it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; or
2. As demonstrated by the Phase II Site Investigation Report that harmful effects could be mitigated or eliminated through, for example, foundation of structural engineering, setbacks or dedication of protected natural areas. **Mitigation measures must be consistent with SIR findings.** (Amended by Ord. No. 10, Series 2009)

Site investigation requirements may be waived where specific standards, adequate to eliminate the danger to health, safety and property, have been adopted by the City. This exception would apply to flood-prone areas, which are subject to requirements of the National Flood Insurance Program and other problem areas which may be adequately protected through provisions of the Building Code.N

B. Permit Fee: A fee to offset the cost of time required to investigate and prepare Findings may be set by Council Resolution.

C. General Requirements for Phase II Site Investigation Reports shall include at least the following information. Additional information, commensurate with the level of hazard and site conditions shall be submitted.

1. Identification of potential hazards to life, proposed development, adjacent property, and the natural environment which may be caused by the proposed development.
2. Mitigation methods for protecting the subject property and surrounding areas from each potential hazard.
3. **Acceptable Development density consistent with allowed density in FCC 10-10.**
4. Identification of soils and bedrock types.
5. Identification of soil depth.
6. Water drainage patterns.
7. Identification of visible landslide activity in the immediate area.
8. History of mud and debris flow.
9. In areas prone to landslide, mudflow and where slopes exceed 25%, reports shall identify the orientation of bedding planes in relation to the dip of the surface slope.



10. Recommendations for removal, retention, and placement of trees and vegetation.
  11. Recommendations for placement of all structures, on site drives, and roads.
  12. Recommendations for protecting the surrounding area from any adverse effects of the development. (Amended by Ord. No. 10, Series 2009)
- D. Specific Standards for Phase II Site Investigation Reports will be determined on the basis of the information provided in the Phase I Site Investigation Report. At a minimum, specific standards shall address the following (may include more than one category listed below):
1. The SIR Phase II - Geologic Report shall follow the "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologist Examiners or shall meet the requirements for Site Investigation Reports as required by the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). The SIR Phase II – Geologic Report shall address the following:
    - a. An explanation of the site and scope of the study area (e.g. subdivision, by lot specific, or for public improvements)
    - b. An explanation of the degree the condition affects the property use in question;
    - c. An explanation of the measures to be employed to minimize detrimental impacts associated with the condition;
    - d. An explanation of the condition-associated consequences the development and the loss-minimizing measures will have on the surrounding properties.
  2. SIR Phase II dealing with Beach or Dune areas shall include the items as listed in the OCZMA Handbook, Implementation Techniques, Section III that begins on page 7.
    - a. Due to the sandy soils and the fragile nature of the vegetative covering, care shall be taken during any proposed construction in beaches and dune areas to minimize the amount of grading, excavation, removal of trees and other native vegetation in order to insure the stability of the soils.
    - b. All open sand area (pre-existing or newly created) shall be planted or stabilized as soon as practicable after construction is completed.
    - c. Using accepted re-vegetation techniques, sand areas shall be returned to their previous level of stability or to at least a conditionally stable level, following completion of construction. For large parcels or tracts, stabilization of the entire area may not be necessary as determined after consideration of a Site Investigation Report.
    - d. During extended construction periods, temporary sand stabilization measures shall be employed to minimize sand movement and erosion caused by the removal of groundcover and soil.
  3. Slopes in the 12% to 25% range: Determine the presence of soil creep, fills, or signs of past instability. If hazards are present, engineering recommendations shall be provided. If conditions require recommendations for foundation construction outside of the Building Code (IBC), those recommendations shall be provided by an appropriately qualified professional engineer. If thorough examination of the site determines that no hazards are present, documentation by an appropriately qualified professional.

4. Slopes greater than 25%:
  - a. Subsurface exploration of areas above, below, and alongside known or suspected slides
  - b. Accurate identification and measurement of the limits of the slide mass
  - c. Identification of the stability of the slide mass and the mechanics of slide movement.
  - d. Identification of the orientation of bedding planes in relation to the dip of the surface slope
  - e. A site specific grading and erosion control plan for site stabilization and construction
  - f. The methodology for determining the site stabilization plan
  - g. Recommendation of suitable setbacks, keeping in mind the anticipated life of the structure or development.
5. Foredunes:
  - a. Identification of a surveyed mean high tide line
  - b. Determination of the ocean shore vegetation line
  - c. Average annual rate that the shoreline is projected to migrate landward due to climate change (sea level rise, feet/year and increased storm intensity) and methodology used.
  - d. Historic stability of beaches in the general area
  - e. Life expectance of the structure
  - f. Elevation of the structure
  - g. Projected dune stabilization to protect site from wave action and methodology
  - h. History and projection of ocean flooding and methodology
6. Properties along the Siuslaw River Estuary:
  - a. Angle of repose for bluff material
  - b. Mean high tide, and highest measured tide
  - c. Extent of recent and historical cutbank, length of area and height of cut
  - d. Area of wave overtopping and furnishing photographs or other evidence
  - e. Current and historic stability of riverbank and rates of erosion in general area
  - f. Projected rate of erosion and methodology
  - g. Environmental resources present
  - h. Impacts to be expected
  - i. Description and photographs of current vegetation

7. Riprap or other Shoreland protective structures:
- a. Signed certification by the engineer or geologist that the protective structure shall withstand the life of the development that it is protecting; or with the property maintenance plan, the structure shall withstand the life of the development.
  - b. Once the protective structure is completed the engineer or geologist shall provide a final summary that the protective structure was built according to the submitted plan.
8. Soils: The Site Investigation Report shall address the following development constraints for the soil types.
- a. Brallier - These are wetlands which should not be developed due to their resource value and severe development constraints.
  - b. Dune Land - Development limitations on sand dunes can be slight to severe, depending on slope and whether adequate stabilization is done. These areas are superior to some of the other soil types in that there is no drainage problem. These areas are also known to include active sand dunes. Dune stabilization techniques should be addressed.
  - c. Heceta - These are interdunal swales and deflation plains. The high water table and poor drainage make these soils generally unsuitable for development.
  - d. Waldport - These are sand dunes which are covered with stabilization vegetation. Conditions are moderate to severe, depending on slope. The particular need here is to preserve existing vegetation and to stabilize soil which is disturbed.
- Drainage is not a problem. Areas with slopes greater than 12% should not be built on unless a site investigation determines the site to be buildable.
- a. Yaquina - These are somewhat poorly drained soils formed on an interdune position on old stabilized dunes. These areas are wet during the winter, but are better drained than Heceta. A site specific investigation would be required to determine location of swales and drainage channels.
  - b. Netarts - These are old stabilized dunes. Soils are well-drained. The topography is undulating to hilly. Where slopes are less than 12% there are few development restrictions.
  - c. Bohannon; Preacher/Bohannon/Slickrock - These areas have no restrictions except slope and suitability for forestland. They occur east of Munsel Lake Road in areas which are largely unbuildable due to slope. (Amended by Ord. No. 10, Series 2009)

#### **10-7-7 : REVIEW AND USE OF SITE INVESTIGATION REPORTS**

- A. The Phase I Site Investigation Report shall be reviewed administratively through a Type II Review. If it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; no Phase II report is required and the Site Investigation process is terminated. If hazards are found to exist, a Phase II report and a Conditional Use Permit shall be required.

If a Phase II Site Investigation Report is required, the Phase II conclusions shall be submitted for Planning Commission review.

B. Required Certifications and Inspections:

For any Phase II SIR submitted, the registered professional of record shall be required to:

1. Review final plans for development and submit a signed and stamped certification report that all recommendations have been incorporated into development plans.
  2. Review subgrade excavations and fills for structures and stormwater drainage and submit a signed and stamped certification report that construction is proceeding in accordance with approved plans.
  3. Perform interim inspections as necessary and a final inspection of the site and submit a signed and stamped certification report that the project as constructed complies with approved plans.
- C. Conditions of approval may be imposed and/or a bond may be required to be posted prior to issuance of permit to ensure that harmful effects such as erosion, sand encroachment, destruction of desirable vegetation including inadvertent destruction by moisture loss or root damage, spread of noxious weeds, damage to archaeological resources, are mitigated or eliminated.
- D. Approval: The property owner shall record a Covenant of Release which outlines the hazard, restrictions and/or conditions that apply to the property and shall state, "The applicant recognizes and accepts that this approval is strictly limited to a determination that the project as described and conditioned herein meets the land use provisions and development standards of the City Code and Comprehensive Plan current as of this date. This approval makes no judgment or guarantee as to the functional or structural adequacy, suitability for purpose, safety, maintainability, or useful service life of the project."
- E. Appeal: In the case of an appeal, the City shall hire a certified engineering geologist or other appropriate certified professional to review the Phase II Site Investigation Report. All costs incurred by the city to review the development shall be the responsibility of the applicant. (Ord. No. 10, Series 2009)

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Amended by Ordinance No. 15, Series 1988

Section 10-7-3-D corrected from the reference to C-2 to 10-7-3-B. (12/11/07) Section 10-7-3-E and H amended by Ord.

No. 24, Series 2008

Amended by Ord. No. 10, Series 2009

Section 10-7-1 amended by Ord. No. 3, Series 2013, Exhibit B (effective 7-31-13)

Section 10-7-4 added with Ordinance No. 2, Series 2013 (effective 10-5-13) and all subsequent sections renumbered

Sections 10-7-3, 10-7-4, and 10-7-6 amended by Ord. No. 11, Series 2016 (effective 11-16-16)

Sections 10-7-5 amended and Sections 10-7-1, through 10-7-7 modified by Ord. No. 13, Series 2018 (effective 11-21-18)



# Draft Code Update Attachment C

Note – all proposed sections for updates are highlighted in **yellow**. The **draft** amendments are shown in an underline/strikethrough format.

## TITLE 10 CHAPTER 19

### ESTUARY, SHORELANDS, AND BEACHES AND DUNES

#### SECTION:

- 10-19-1 :** **Estuary District Administration**
- 10-19-2 : Natural Estuary District (NE)
- 10-19-3 : Conservation Estuary District (CE)
- 10-19-4: Development Estuary District (DE)
- 10-19-5 :** **Coastal Shorelands Overlay Districts Administration**
- 10-19-6 : Shoreland Residential Overlay District (/SR)
- 10-19-7: Mixed Development Overlay District (/MD)
- 10-19-8: Dredge Material/Mitigation Site Overlay District (/DMS)
- 10-19-9: Prime Wildlife Overlay District (/PW)
- 10-19-10: Natural Resource Conservation Overlay District (/NRC)
- 10-19-11:** **Beaches and Dunes Overlay District Administration**
- 10-19-12: Beaches and Dunes Overlay District (/BD)

[...]

## 10-19-1 : SHORELAND RESIDENTIAL OVERLAY DISTRICT /SR

- A. Purpose: The Shoreland Residential Overlay District (/SR) is applied to residential development management units in the Comprehensive Plan along the Siuslaw River Estuary and Munsel Lake (a Coastal Lake). It is the purpose of the /SR Overlay District to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal water. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

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

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

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



- d. the use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
  - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
  - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
  - 3) The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.”
  
- 3. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
  - a. The stabilization is necessary to protect uses allowed in the base zoning district.
  - b. They are necessary because land use management practices and non-structural solutions cannot be used.
  - c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
    - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
    - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
    - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
  
- 4. Fill in coastal lakes adjacent to the /SR District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.
  - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
  - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
  - 3) The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

- E. Site Development Requirements: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.
1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section F only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).
  2. Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the the total area for construction of the proposed structure or structures, accessory buildings, necessary access, and fire safety requirements.
  3. In all cases, vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary conduct excavation and removal of native vegetation that exceeds the development footprint plus a 5-foot setback. Any vegetation removal must be replaced on-site with native plant species. The planting replacement area must be at least 1.5 times area of the removed area of vegetation, unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.
  4. A minimum fifty foot (50') buffer zone of native vegetation shall be maintained along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water).
  5. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowed:
    - a) Foot paths
    - b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.
    - c) Replanting of the area or other areas which have been previously cleared.
  6. All mature trees must be retained in the 50' buffer zone, unless they are an obvious hazard or determined by an arborist to be diseased or damaged beyond repair. If a mature tree is removed, it shall be replaced with a tree from the City's suggested tree list.
- F. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional setback requirements specified herein.
1. In addition to the yard setbacks required in the Base zoning district, a 50 foot buffer zone is required along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water). Use of this 50 foot buffer zone shall be as specified in 10-19-6-E.

**10-19-2 : MIXED DEVELOPMENT OVERLAY DISTRICT (/MD):**

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

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

1. Provision, adjacent to deep water environments, of shorelands sites for use by water-dependent and water-related commercial and industrial uses.
  2. Protection of previously-existing water-dependent and water-related commercial and industrial sites in shorelands areas.
  3. Provision of opportunities for non-water-dependent and non-water-related uses where designated in the Comprehensive Plan.
  4. Protection of coastal waters and avoidance of geographic and hydrologic hazards.
- B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright, provided they are consistent with the requirements of the adjacent Estuary District.
1. Dryland storage.
  2. Shore-secured floating moorage facilities, mooring buoys, and launch ramps.
- C. Special Uses Approved by Type II Review: In addition to Special Uses specifically allowed in the adjacent Estuary District, the following uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:
1. All permitted buildings and uses permitted outright in the base zoning district, provided the requirements of the base zoning district are met.
  2. Water-dependent and water-related commercial, industrial and public uses, subject to the following criteria and conditions:
    - a. The site has the potential for water-dependent and water-related uses.
    - b. Maintain or encourage riparian vegetation for erosion control and temperature and general aesthetics where feasible.
- D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:
1. All buildings and uses permitted Conditionally or by Special Use Permit in the base zoning district, provided the requirements of the base zoning district are met.

- E. Determination of Land Suitable for Water-Dependent Uses: Land suitable for water –dependent uses has been designated in the Florence Comprehensive Plan and classified on the Zoning Map as the sites zoned Waterfront Marine and Marine. The zoning provisions in these districts protect these sites for water-dependent uses.
- F. Site and Development Requirements for Special and Conditional Uses: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7, Special Development Standards for any applicable requirements.
1. A 50 foot buffer of riparian vegetation measured from the mean high tide shall be maintained to promote bank stabilization, maintain water quality and temperature, reduce erosion and for general aesthetics, except ~~where unfeasible~~ in connection to water access points associated with a water- dependent or water-related use, such as a dock.
  2. The applicant must submit an analysis of all physical and biological impacts upon the shorelands area and upon coastal waters and water resources. The report shall consider at a minimum the critical relationships which exist between coastal shorelands and coastal water resources and the potential for geological and hydrological hazards.
  3. The benefits of the proposed activity to the long term economic development or improved public recreational use shall outweigh the negative impacts on water quality, temperature and resources, bank stabilization, erosion control and general aesthetics.
  4. For existing lots which are too small to accommodate the buffer zone, development will be allowed within the buffer zone only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is ~~does not occur outside the development footprint kept to an absolute minimum,~~ stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

[...]

#### 10-19-3 : PRIME WILDLIFE OVERLAY DISTRICT /PW

A. Purpose and Application:

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

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

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

- B. Permitted Uses. The following structures and uses and no others are permitted outright, as hereinafter specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of vegetation adjacent to the lakes shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "significant wildlife habitat." These areas will be specially evaluated prior to approval of vegetation removal plans to ensure the habitat has been adequately considered.
1. Harvesting of wild crops.
  2. Low-intensity recreation.
  3. Shore-secured floating moorages, mooring buoys, and other moorage facilities not physically anchored in adjacent lakes.
- C. Special Uses Approved by Type II Review: The following specified uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be given 14 days to review and comment on the impact of development on critical habitats and shall be requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.
1. Single family homes, mobile homes and such accessory buildings as allowed in the base zoning district.
  2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in City Code Section 10-19-9-F, G, & H, subject to the following criteria and conditions:
    - a. The said parcel existed prior to July 24, 1980.
    - b. The structures shall not occupy more than 30% of the lot area.
    - c. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.
    - d. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance is minimized, is limited to the development footprint. Any vegetation removal must be replaced on-site with native plant species. The planting replacement area must be at least 1.5 times area of the removed area of vegetation.
    - e. All otherwise applicable requirements of this section are met.
  3. All buildings and uses permitted outright in the respective base zoning district, except as expressly prohibited by 10-19-9-E, and subject to meeting all of the following criteria:
    - a. Maintain the natural quality of surface and subsurface waters, consistent with requirements and methods in the Drinking Water Protection Plan and the Aquifer Protection Plan. Pesticides and herbicides are prohibited in these areas.

- b. Maintain bank stability, consistent with methods and requirements in the Stormwater Management Plan.
- c. Avoid sedimentation of coastal waters including the lakes, consistent with methods and requirements in the Stormwater Design Manual. Stormwater facilities must be provided with storm swales that are planted with native vegetation.

- d. Maintain a buffer zone at least comparable to that required in Code Section 10-19-9 F through H, below or greater if necessary to provide flood control and preserve important wildlife habitat.
  - e. Avoid disturbance of the remainder of the vegetation cover beyond the development footprint a point where the disturbance would be a detriment to the wildlife community which utilizes this area.
  - f. Any other applicable criteria provided within the base District.
  - g. All requirements set forth in Code Section 10-19-9-F, G, & H.
- D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be given 14-days to review and comment on the impact of development on critical habitats and should requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.
- 1. Riprap and other erosion control structures, provided the following additional criteria are met.
    - a. The stabilization is necessary to protect uses allowed in the base zoning district.
    - b. They are necessary because land use management practices and non-structural solutions cannot be used.
    - c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
      - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
      - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
      - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.
  - 2. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-9-E below, and subject to the following criteria and the criteria in sections F, G, and H:
    - a. Maintain the natural quality of surface and subsurface waters, consistent with requirements and methods in the Drinking Water Protection Plan and the Aquifer Protection Plan. Pesticides and herbicides are prohibited in these areas.
    - b. Maintain bank stability, consistent with methods and requirements in the Stormwater Management Plan.
    - c. Avoid sedimentation of coastal waters including lakes consistent with methods and requirements in the Stormwater Design Manual. Stormwater facilities must be provided with storm swales that are planted with native vegetation.
    - d. Maintain a buffer zone at least comparable to that required in 10-19-9-F, G, & H below or greater if necessary to provide flood control and preserve important wildlife habitat.
    - e. Avoid disturbance of the remainder of the vegetation cover beyond the development footprint a point where the disturbance would be a detriment to the wildlife community which utilizes this area.
    - f. Any other applicable criteria provided within the base zoning district.
    - g. All requirements set forth in 10-19-9-F, G, & H.

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

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

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

1. Existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone and the construction of a residence and other development requirements will be allowed to build in this total setback providing clearance of vegetation is limited to the development footprint. ~~on the remainder of the lot is kept to an absolute minimum and other requirements are met and hazard to life and property is minimal and acceptable.~~
2. No more of a parcel's existing vegetation shall be cleared ~~than is necessary for~~ beyond the development footprint and 5-foot setback for the permitted use, accessory buildings, necessary access, and fire safety requirements.
3. ~~To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.~~
4. Outside the setback area, construction activities shall ~~occur in such a manner so as to avoid unnecessary~~ not excavate and/or remove excavation and/or removal of existing vegetation beyond that area required for public facilities. Where vegetation removal beyond that allowed in 10-18-9-F cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal lakes. The vegetation shall be of native species and replanted in an area 1.5 times the area of the removed vegetation in order to maintain the natural character of the area.
5. No topographic modification is permitted within 100-foot of the shore.
6. A 100 foot minimum buffer zone must be left in native vegetation, except where unsurfaced trails are provided.
7. All mature trees must be retained within buffer zone composed of native vegetation except where removal is subject to requirements of Code Section 4-6.
8. Structures shall be sited and/or screened with native vegetation ~~so as not to impair the aesthetic quality of the site.~~
9. The exterior building materials shall blend in color, hue and texture to the maximum among feasible with the surrounding vegetation and landscape. Specifically, materials cannot be reflective and must use muted tones, such as green or brown.

G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.

1. In addition to the yard setbacks required in the base zoning district, a 100 foot buffer zone shall be required. Use of this 100 feet shall be as specified in 10-19-9-F.



- H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /PW District. These criteria are in addition to minimum area requirements of any base zoning district.

1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality consistent with the Drinking Water Protection Plan and the Aquifer Protection Plan, and not increase hazard to life or property, consistent with Problem Area regulations (FCC 10-7).
2. The use will not result in loss of significant wildlife habitat or aesthetic values as identified in the Comprehensive Plan.
3. Minimum area requirements for the division of land shall be five acres.

**10-19-4 : Natural Resource Conservation Overlay District (/NRC)**

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

Intent. The requirements imposed by the /NRC District shall be in addition to those imposed by the base zoning district. Where the requirements of the /NRC District conflict with the requirements of the base zoning district the more restrictive requirements shall apply. The requirements of the adjacent Estuary District shall supersede the requirements of this Section of the Code.

- B. Permitted Uses: In addition to the uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright as specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat." These areas will be specially evaluated prior to approval of plans to ensure the habitat has been adequately considered. The following uses are allowed if consistent with the applicable requirements of the adjacent Estuary District.

1. Harvesting of wild crops.
2. Low intensity recreation.
3. In or adjacent to lakes: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. This use as it pertains to the estuary is regulated by the applicable Estuary District.
4. In or adjacent to lakes: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources, as provided in the Conditional Use requirements in section D. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, refer to the applicable Estuary District requirements.

5. In or adjacent to lakes: mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
- C. Special Uses Approved by Type II Review: In addition to the Special Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title upon satisfaction of the applicable criteria set forth in 10-19-10 F, G, & H, except as expressly exempted below and except as expressly prohibited by 10-19-10-E, and provided they are consistent with the requirements of the adjacent Estuary District.
1. Single family homes, mobile homes, and such accessory buildings as allowed in the base zoning district.
  2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in 10-19-10-F, G, & H, provided the following criteria are met:
    - a. The said parcel existed prior to July 24, 1980.
    - b. The structures shall not occupy more than 30% of the lot area.
    - a. All applicable height restrictions are observed.
    - b. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.
    - f. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is limited to the development footprint and a 5-foot setback minimized.
    - g. All otherwise applicable requirements of this section are met.
  3. All buildings and uses allowed as permitted uses in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following additional criteria:
    - a. The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Comprehensive Plan.
    - b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation, consistent with methods and requirements in the Stormwater Management Plan and Design Manual, Drinking Water Protection Plan, and the Aquifer Protection Plan. Pesticides and herbicides are prohibited in these areas. Stormwater facilities must be provided with storm swales that are planted with native vegetation.
  4. Dredged material disposal when the /NRC District is used in conjunction with the /DMS Overlay District, subject to the requirements of the /DMS Overlay District.
- D. Conditional Uses: In addition to the Conditional Uses specifically allowed in the adjacent Estuary District, the Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, upon satisfaction of the applicable criteria, provided all applicable requirements set forth in 10-19-10-F, G, & H are met and they are found to be are consistent with the requirements of the adjacent Estuary District.
1. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following criteria:
    - a. All applicable criteria provided within the base district are met.
    - b. The use will not adversely affect the aesthetic and biological characteristics of the site as identified in the Comprehensive Plan.

- c. Surface, subsurface and aquifer waters are protected from pollution and sedimentation, consistent with the methods and requirements in the Stormwater Management Plan and Design Manual, Drinking Water Protection Plan, and the Aquifer Protection Plan. Pesticides and herbicides are prohibited in these areas. Stormwater facilities must be provided with stormswales that are planted with native vegetation.

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

- 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

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

1. Fill in freshwater marsh areas.

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

1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section G only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation is limited to the development footprint on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur), consistent with the Stormwater Management Plan and Design Manual.
2. No more of a parcel's existing vegetation shall be cleared beyond the development footprint and 5-foot setback for than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.
3. ~~To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.~~
4. Construction activities ~~occur in such a manner so as to avoid unnecessary excavation and/or removal of~~ shall not excavate and/or remove existing vegetation beyond that area required for the facilities indicated in 10-19-10-F, where vegetation removal beyond that allowed above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of native species and replanted in an area 1.5 times the area of the removed vegetation in order to maintain the natural character of the area.
5. The requirements for parking and vision clearance shall be as provided by the respective base zoning district.
6. No topographic modification is permitted within the 50 foot buffer zone specified by 10-19-10-G.
7. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowable:
  - a) Foot paths
  - b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.
  - c) Replanting of the area or other areas which have been previously cleared.
8. All mature trees must be retained within the setback area specified by 10-19-G, except where removal is subject to requirements of the Oregon Forest Practices Act.
9. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.
10. The exterior building materials shall blend in color, hue and texture to the maximum amount

feasible with the surrounding vegetation and landscape.

- G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.
1. In addition to the yard setbacks required in the base zoning district, a 50 foot buffer zone shall be required. The buffer zone is measured from the mean high tide for the ocean and estuary and from the average high water for coastal lakes. Use of this 50 foot buffer zone shall be as specified in 10-19-10-F.
  2. Building setbacks on ocean front parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure. At a minimum, structures must be set back from the mean higher high tide at least 100 feet measured horizontally.
- H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /NRC District. These criteria are in addition to minimum area requirements of any base zoning district.
1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, consistent with the Drinking Water Protection Plan and the Aquifer Protection Plan, and not increase hazard to life or property.

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

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

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

3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.
  4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the State Parks and Recreation Department
- F. The requirements of the Beaches and Dunes Overlay District shall be in addition to those imposed by the base zoning district. If the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements shall apply.

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

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



2. The type of use is consistent with the requirements in the Florence Comprehensive Plan and the purpose of this Overlay District;
3. The use will have minimal adverse effects on the site and adjacent areas, endangered or threatened species, stormwater runoff, and soil and bank stability, as determined through a Resource Capabilities Assessment;
4. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation meet the requirements of this Code and the Florence Comprehensive Plan;
5. The proposal includes proven methods for protecting the surrounding area from any adverse effects of the development, consistent with the Significant Wetlands and Riparian Corridors Plan, Stormwater Management Plan and Design Manual, and the Drinking Water Protection Plan and Aquifer Protection Plan; and
6. No hazards to life, public and private property, and the natural environment may be caused by the proposed use, as determined through a Special Impacts Report.
7. Archaeological resources and other resources identified in Comprehensive Plan Chapters 5, 16, and 17, and respective inventories and studies shall be protected.
8. Erosion shall be minimized, consistent with the Stormwater Design Manual, that is caused by the destruction of desirable vegetation, including inadvertent destruction by moisture loss or root damage; the exposure of stable and conditionally stable areas to erosion; and construction of shore structures which modify current or wave patterns leading to beach erosion.
9. Groundwater shall be protected from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies.
10. Sand removal shall be prohibited in the foredune area of the beach except that foredunes may be breached only to replenish sand supply in interdune areas, or, on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards), and only if the breaching and restoration after breaching is consistent with sound principles of conservation.
11. Due to the sandy soils and the fragile nature of the vegetative covering, care shall be taken during any proposed construction in beaches and dune areas to minimize the amount of grading, excavation, removal of trees and other vegetation in order to insure the stability of the soils. All open sand area (pre-existing or newly created) shall be planted or stabilized as during the planting season soon as practicable after construction is completed. Using accepted re-vegetation techniques, sand areas shall be returned to their previous level of stability, following completion of construction. For large parcels or tracts, stabilization of the entire area may not be necessary as determined after consideration of a Site Investigation Report.
12. ~~During extended~~ construction periods, temporary sand stabilization measures shall be employed to minimize sand movement and erosion caused by the removal of groundcover and soil, consistent with the PESC and Stormwater Design Manual.

13. Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. "Development" in this context refers to houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Statewide Planning Goal 18 exception to the requirement in Code Section B.1. has been approved. The proposed use must meet all of the following additional criteria:
    - a. Visual impacts are minimized by using native vegetation for screening.
    - b. Necessary access to the beach is maintained, consistent with emergency access requirements and existing platted access.
    - c. Negative impacts on adjacent property are minimized
    - d. Long-term or recurring costs to the public area avoided. No improvements in the public right-of-way are allowed without City Council approval.
  14. Construction and planting activities shall not take place during snowy plover flyover season.
- E. Coastal Shore Setback Requirements: Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure. At a minimum, structures must be set back from the mean high tide line at least 100 feet measured horizontally.
- F. Additional Site and Development Requirements: The following additional requirements apply to all development:
1. Development shall not result in the clearance of natural vegetation in excess of that which are is necessary for the structures, driveways, required access, a 5-foot perimeter around structures, and fire safety requirements.
  2. Vegetation-free areas which are suitable for development shall be used instead of sites which must be artificially cleared.
  3. Areas cleared of vegetation during construction shall be replanted within nine months of removal the termination of major construction activity.
  4. Sand stabilization shall be required during all phases of construction
  5. Topographic modification is permitted in areas of ... Development shall result in the least topographic modification of the site as is possible.
  6. Significant structural loads or structural fills to be placed on dune areas where, based on the Development Hazards Checklist, compressible subsurface areas are suspected, shall be allowed only after a thorough foundation check and positive findings are reported. A registered structural, civil, or geoenvironmental engineer must conduct the foundation check and submit inspection reports. Report findings comprise of the subsurface areas requires retreat?
  7. The requirements for yards, setback, area, vision clearance and parking spaces shall be as provided in the base zoning district unless specifically provided otherwise by the provision of the /BD District.

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

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

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

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

Entire Chapter replaced per Ord. 10, Series 2009

Sections 10-19-6, 10-19-7, and 10-19-10 amended by Ord. 18, Series 2011 effective

September 19, 2011  
Sections 10-19-6 amended by Ord. 3, Series 2013, see Exhibit B (effective 7-31-13)  
Sections 10-19-1 through 10-19-12 amended by Ord. 11, Series 2016 (effective 11-16-16)