

# **Routine Program Change**

## **Seeking to Incorporate the City of Newport Comprehensive Plan and Development Code into the Oregon Coastal Management Program**

**March 4, 2015**

### **I. Introduction**

The Oregon Department of Land Conservation and Development (DLCD) seeks approval from the National Oceanic and Atmospheric Administration (NOAA) Office for Coastal Management (OCM) to incorporate the current versions of the **City of Newport Comprehensive Plan (NCP) and Title XIII, Land Division, and Title XIV, Zoning, of the Newport Municipal Code (NMC)** into the Oregon Coastal Management Program (OCMP). DLCD requests OCM's concurrence that the incorporation is a Routine Program Change to the OCMP. This analysis identifies and describes the enforceable policies of these documents and explains why they constitute Routine Program Changes as described in 15 C.F.R. Part 923.

The City of Newport Comprehensive Plan and related codes were acknowledged by the Land Conservation and Development Commission (LCDC) as being in compliance with the Statewide Planning Goals on June 1, 1984. OCRM approved these documents as RPCs of the OCMP on December 16, 1985. The City adopted a revised plan in October, 1991, and has adopted many updates since, which are listed at the beginning of the plan. The plan DLCD is submitting with this RPC analysis captures all of the changes since 1984. Amendments to the Municipal Code are embedded and noted within the sections where the amendment occurred.

Changes to the city's plan and code provisions have been approved by the State of Oregon (through DLCD) as meeting the statewide planning goals. DLCD is now submitting to OCM the current versions of the plan and code, which includes all changes subsequent to OCRM's 1984 approval. The city's comprehensive plan and code apply to those parts of the Yaquina Bay estuary within city jurisdiction.

Section II of this analysis describes the legal and policy framework of Oregon's Coastal Management Program by summarizing the key elements of Oregon's land use planning system and statewide planning goals, including the relationships between state requirements and local land use plans and regulations, and between the statewide program and the OCMP. Section III lists and briefly describes the enforceable policies of the City of Newport comprehensive plan and municipal code that DLCD seeks to incorporate into the OCMP. Section IV analyzes the five CZMA program approvability areas potentially impacted, and determines that this request qualifies as a routine program change. Finally, Section V contains a table of all City of Newport enforceable policies that Oregon seeks to incorporate into the OCMP.

## II. Framework for Oregon’s Approved Coastal Management Program

### A. Oregon’s land use planning program: state-local relationship

As noted in OCRM’s review and approval of the Oregon Coastal Management Program in 1977, the Statewide Planning Program (ORS Chapter 197, Comprehensive Land Use Planning Coordination), is the principal mechanism by which the state ensures that local governments, with state oversight, balance conservation and development of coastal and other resources via statewide goals for land use planning. Local governments, such as Newport, are required to adopt comprehensive land use plans that meet the statewide requirements and to make the day-to-day land use decisions in conformance with those state-approved goal-based plans. Since the mid-1980s, the LCDC has found the plans and ordinances of all cities and counties in Oregon to be in compliance with the goals thus providing the state with more than 25 years of a functional statewide land use program based on local implementation of state goals. The state, through LCDC and DLCD, also reviews changes to local plans and ordinances for compliance with state requirements.

### B. Statewide Planning Goals

The nineteen statewide planning goals (<http://www.oregon.gov/LCD/goals.shtml>), which are adopted as administrative rules (Oregon Administrative Rules Chapter 660, Division 015), express the state’s policies on land use and (along with additional administrative rules) provide standards for local land use planning and decision-making. Some goals set standards for how certain types of land are to be planned and zoned; for example Goal 18 sets specific standards for development on various types of dunes. NOAA/OCM has approved these statewide planning goals and related administrative rules as core components of the OCMP.

The central purpose and requirements of the statewide planning goals are:

**Goal 1 CITIZEN INVOLVEMENT:** requires local governments to provide "the opportunity for citizens to be involved in all phases of the planning process;" requires each city and county to have a citizen involvement program and a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

**Goal 2 LAND USE PLANNING:** outlines procedures for planning; specifies elements of comprehensive planning and requires local jurisdictions to adopt enforceable "implementation ordinances" to carry out the plan's policies; requires local land use decisions to conform with adopted comprehensive plan and ordinances.

**Goal 3 AGRICULTURAL LANDS:** defines "agricultural lands;" requires counties to inventory soil types and designate such lands as agricultural lands based on soil type and actual use and to "preserve and maintain" those lands through zoning.

**Goal 4 FOREST LANDS:** defines "forest lands;" requires counties to inventory forest capability, identify forest land, and adopt policies and ordinances to "conserve forest lands for forest uses."

**Goal 5 OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL**

**RESOURCES:** requires local plans to address more than a dozen natural and cultural resources (e.g. wildlife habitats, wetlands, historic sites); establishes a process for each resource is to be inventoried and evaluated by local governments; creates options for local governments to protect identified significant resources.

**Goal 6 AIR, WATER AND LAND RESOURCES QUALITY:** requires local comprehensive plans and ordinances to be consistent with state and federal regulations on solid waste, groundwater pollution, municipal sewerage discharge, air emissions, etc.

**Goal 7 AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS:** seeks to protect development from natural hazards (e.g. floods, landslides, and erosion); requires jurisdictions to use hazard inventories supplied by state agencies and apply "appropriate safeguards" (i.e. floodplain zoning) to those areas.

**Goal 8 RECREATION NEEDS:** requires jurisdictions to plan for recreational opportunities based on an inventory of recreational resources, evaluation of areas and facilities for recreation, and projected demand for recreation.

**Goal 9 ECONOMY OF THE STATE:** calls for diversification and improvement of the economy; requires local jurisdictions to inventory existing and potential commercial and industrial lands, determine future needs for such lands, and plan and zone lands sufficient to meet those needs.

**Goal 10 HOUSING:** specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing.

**Goal 11 PUBLIC FACILITIES AND SERVICES:** calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection; links provision of new services to urbanization policies in Goal 14.

**Goal 12 TRANSPORTATION:** aims to provide "a safe, convenient and economic transportation system;" requires consideration of multiple transportation modes; links funding for transportation facilities to transportation plans.

**Goal 13 ENERGY:** seeks to use land use plans to control development to "maximize the conservation of all forms of energy, based upon sound economic principles."

**Goal 14 URBANIZATION:** requires cities to work with counties to estimate future population growth and related needs for land in unincorporated areas and to jointly designate sufficient land to meet those needs; requires each city jointly with its county, to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land."

**Goal 15 WILLAMETTE GREENWAY:** pertains only to those jurisdictions that touch on or include the Willamette River Greenway; not applicable in the Coastal Zone.

**Goal 16 ESTUARINE RESOURCES:** establishes state-level estuary classification system and designates each of 22 estuaries into one of four categories: Natural, Conservation, Shallow-draft Development, and Deep-draft Development; establishes planning and management requirements for each category; specifies land uses and activities permissible in those areas; emphasizes habitat protection; links closely to Goal 18.

**Goal 17 COASTAL SHORELANDS:** defines a shoreland planning area along the ocean shore, estuaries, and other water bodies and requires local governments to map the shoreland boundary; specifies how certain types of land and resources within the shoreland area are to be managed; emphasizes unique coastal land uses (e.g. port facilities) and requires protection of sites for "water-dependent" or "water related" uses.

**Goal 18 BEACHES AND DUNES:** specifies planning standards for protecting or developing various types of dunes; prohibits most development on beaches and active foredunes; prohibits ocean shorefront protective structures for most development built after 1977; establishes standards for dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

**Goal 19 OCEAN RESOURCES:** seeks to “conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf;” creates basis for planning and management of state ocean waters through the state Territorial Sea Plan; establishes requirements for state agencies rather than cities and counties.

### **C. The Oregon Coastal Management Program**

NOAA’s 1977 approval of the Oregon Coastal Management Program pre-dated development and state approval of coastal local government plans and ordinances (most of which occurred between 1978 and 1985), but was predicated on the understanding that “the central authority by which Oregon will implement the program is SB 100” (subsequently codified as ORS Chapter 197). NOAA approval also included the statewide planning goals, including the coastal goals, and the statutory authorities of several state agencies (e.g. Department of Environmental Quality). In the years following this 1977 approval all coastal local governments created and adopted comprehensive plans and ordinances, which LCDC reviewed and approved, and which OCRM approved for incorporation into the OCMP via routine program changes.

Local land use plans and ordinances were expected to be reviewed and amended in response to individual situations or pursuant to ORS Chapter 197 which requires local plans to be periodically reviewed and amended to reflect changes in laws, requirements for meeting the statewide planning goals, community needs, development, and other factors. Many local plan changes are minor in nature and do not involve substantive policy changes. Although the underlying policies have not substantively changed, DLCD would like to incorporate the most recent versions of the plan and code in to the OCMP. The analysis below discusses the current plan policies that DLCD seeks to incorporate as enforceable policies.

### **III. NCP/NMC Sections Incorporated as Enforceable Policies**

While DLCD seeks to incorporate the entire City of Newport Comprehensive Plan and Titles 13 and 14 of the City of Newport Municipal Code into the OCMP, DLCD has identified specific sections of each to be used as “enforceable policies” for federal consistency purposes. As required by 16 USC 1453(6a) and OCM guidance, the enforceable policies are legally binding and contain standards of sufficient specificity to guide private and public uses. These policies contained in discrete sections of the plan and ordinance are briefly discussed in subsections A and B, below, and listed in table form in Section V.

DLCD is submitting enforceable policies contained in the following documents,

- City of Newport Comprehensive Plan
- City of Newport Municipal Code Title XIII
- City of Newport Municipal Code Title XIV

#### **A. CITY OF NEWPORT COMPREHENSIVE PLAN**

The city’s comprehensive plan establishes the basis for land use regulation throughout the city. Many of the policy statements in the city plan are directed at the city itself and frame future actions that the city will take via the plan, code, functional plans, and other implementation steps. As such, they are not “enforceable” in the meaning of 16 USC 1453(6a). However, DLCD has indicated some of these as “enforceable” because they are necessary policy context for plan provisions that more clearly meet the criteria of 16 USC 1453 (6a) and OCRM guidance.

NOTES: The Newport Comprehensive Plan is a lengthy document that includes relatively few enforceable policies for purposes of this submittal. The city provided a copy of the plan in PDF format that enabled highlighting and so DLCD was able to highlight in yellow those enforceable policies for which it seeks approval.

#### **Natural Features**

Goal 1: to protect life and property, reduce public costs, and minimize damage to natural resources in the coastal zone.

Policy 1: requires an evaluation of environmental hazards prior to the approval of a development request; requires a registered engineer to perform the site evaluations.

Policy 5: requires a development within the Ocean Shorelands boundary to comply with criteria specified in the Zoning Ordinance.

Policy 6: requires that nonstructural solutions be used to address erosion or flooding, if structural solutions are necessary, they shall minimize adverse impacts.

Policy 7: engineering safeguards are required before building permits will be issued.

Goal 2: to protect and enhance environmentally sensitive areas.

Policy 2: prohibits residential, commercial, and industrial buildings from active foredunes and other dune features subject to ocean flooding; provides exceptions linked to the criteria in Policy 8, below.

Policy 3: prohibits breaching of foredunes, with emergency exception.

Policy 6: specifies criteria for the approval of all shore and beachfront protective structures.

Policy 7: requires the protection of significant shoreland and wetland biological habitats and coastal headlands; requires uses in these areas to be consistent with natural values.

Policy 8: specifies criteria and required findings for approval of development in certain beach and dune areas.

Policy 9: limits excavations and fill, requires revegetation or landscaping to prevent erosion runoff and sedimentation into ocean waters.

### **Yaquina Bay and Estuary Section**

**Estuarine Management Unit Classifications:** The plan classifies geographic areas of the estuary within the city's urban growth boundary into Estuarine Management Units. This section of the plan details each unit, providing a description, classification (conservation, development, or natural), resource capability, management objective, and special policies. These management units are coordinated closely with provisions of the Lincoln County Estuary Management Plan, and include:

Management Unit 1: Conservation: the area between the navigation channel and north jetty of Yaquina Bay, west of the Highway 101 Bridge.

Management Unit 2: Conservation: the area between the navigation channel and the south jetty of Yaquina Bay, west of the west-most groin.

Management Unit 3: Conservation: the area between the navigation channel and the south shore of Yaquina Bay from the west-most groin to the South Beach Marina.

Management Unit 4: Development: the area of the US Army Corps of Engineers authorized channel in Yaquina Bay and that portion of the turning basin inside the city UGB.

Management Unit 5: Development: the area along the north shore of the estuary from the Highway 101 Bridge eastward to McLean Point.

Management Unit 6: Conservation: the area between the navigation channel and the port breakwater from the Highway 101 Bridge eastward to the turning basin.

Management Unit 7: Development: the area between the navigation channel and the south shore of the estuary from the Highway 101 bridge eastward to the small boat pier at the Hatfield Marine Science Center.

Management Unit 8: Conservation: the area between the navigation channel and the tideflats of the King's Slough/Idaho Point area.

Management Unit 9A: Natural: the area of state-owned tideflats between the Hatfield Marine Science Center and Idaho Point.

Management Unit 10A: Natural: the area of Sally's Bend between Coquille Point and McLean Point.

Review Procedures: requires compliance with provisions of the city Zoning Code for any uses or activities in the designated management units.

Yaquina Bay and Estuary Goals and Policies:

Policy 3 Use Priorities: lists four general priorities from highest to lowest for the management and use of Yaquina Bay.

Policy 4 Riparian Vegetation: requires the protection of existing riparian vegetation.

Policy 5 Dredged Material Disposal Sites: requires that dredged material disposal sites included in the Yaquina Bay and River Dredged Material Disposal Plan be protected from development that would preclude future use as a disposal site.

Policy 7 Bayfront Uses: expresses preference for water-dependent or water-related uses for properties adjacent to the bay.

Policy 8 Water-Dependent Zoning Districts: requires the application of W-1/Water Dependent zoning district for areas especially suited for water-dependent development.

Policy 9 Solutions to Erosion and Flooding: expresses the preference for non-structural over structural solutions to problems of flooding or erosion; requires findings for certain kinds of protective structures.

Policy 10 Impact Assessment: requires an impact assessment for actions in the estuary which, by size, location, or duration relative to important natural resources, would alter the estuarine ecosystem; specifies certain actions that require an impact assessment.

Policy 11 Dredge and Fill: specifies the criteria for approval of dredge or fill activity.

Policy 12 Alteration of the Estuary: specifies three threshold conditions for approval of activities other than dredge or fill that would alter the estuary.

Policy 13 Resource Capability Determinations – Natural Management Units: specifies the criteria for approval of a resource capability determination required for approval of a use or activity in a Natural Management Unit.

Policy 14 Resource Capability Determinations – Conservation Management Units: specifies the criteria for approval of a resource capability determination required for approval of a use or activity in a Conservation Management Unit.

Policy 15 Temporary Alterations in Natural and Conservation Management Units: defines uses and activities and duration of temporary alteration, specifies criteria for approval, and requires resource capability determination.

Implementation Measure 1: requires all development within Yaquina Bay estuary to be consistent with management units specified in City of Newport Comprehensive Plan and zoning ordinance.

## **B. CITY OF NEWPORT MUNICIPAL CODE TITLE XIII – LAND DIVISION**

### **Chapter 13.05 Subdivision and Partition**

13.05.005 – Definitions: Although not specifically enforceable policies, the definitions are necessary to interpret and apply provisions of the Code to specific decisions.

13.05.015 – Streets: provides criteria for streets in new subdivision developments.

13.05.020 – Blocks: specifies size and elements of a block proposed as part of new development.

13.05.025 – Easements: specifies the requirements for easements for utility lines, utility infrastructure, water courses.

13.05.030 – Lots and Parcels: specifies size, dimensions, and other requirements for blocks proposed in new development.

13.05.035 – Public Improvements: specifies circumstances and procedures for providing public improvements in new developments.

13.05.040 – Public Improvement Requirements: specifies improvements that are required for all land divisions.

13.05.045 – Adequacy of Public Facilities and Utilities: specifies the requirements for ensuring adequate public facilities in new development.

13.05.050 Underground Utilities and Service Facilities: establishes requirements for underground utilities and service facilities.

## **C. CITY OF NEWPORT MUNICIPAL CODE TITLE XIV – ZONING**

### **Chapter 14.1 – Purpose**

14.1.020 – Definitions: defines a list of terms that are not, in themselves, enforceable policies but are necessary to the interpretation and application of other enforceable policies throughout Title XIV.

### **Chapter 14.2 – Establishment of Zones**

14.02.010 – Establishment of Zones: specifies 24 use districts or zones used in the Code, including 15 use zones and 9 estuarine management units.

14.02.020 – Establishment of a Zoning Map: declares the authority and location of an official zoning map (available from the City of Newport’s website at <http://www.newportoregon.gov/dept/pln/ZoningMapsComprehensivePlanMaps.asp>).

14.02.030 – Zone Boundaries: provides the criteria for applying and interpreting zone boundaries.

### **Chapter 14.3 – Zoning Districts**

14.03.010 – Purpose: expresses intent of zoning districts to carry out the city comprehensive plan.

14.03.020 – Establishment of Zoning Districts: lists zoning districts subject to the Code.

14.03.030 – City of Newport Zoning Map: references the zoning districts and boundaries on the official City of Newport Zoning Map.

14.03.040 – Intent of Zoning Districts: specifies the intent of twelve zoning districts:

R-1/Low Density Single-Family Residential

R-2/Medium Density Single-Family Residential

R-3/Medium Density Multi-Family Residential

R-4/High Density Multi-Family Residential

C-1/Retail and Service Commercial

C-2/Tourist Commercial

C-3/Heavy Commercial

I-1/Light Industrial

I-2/Medium Industrial

I-3/Heavy Industrial

W-1/Water-Dependent

W-2/Water-Related

14.03.050 – Residential Uses: lists uses that are allowed or disallowed in Residential land use classifications.

14.03.060 – Commercial and Industrial Districts: classifies uses that are allowed in Commercial and Industrial zoning districts into use categories based on common functional, product, and physical characteristics.

14.03.070 – Commercial and Industrial Uses: lists uses that are allowed or disallowed in Commercial and Industrial land use classifications.

14.03.080 – Water-Dependent and Water-Related Uses: specifies uses that are allowed with Water-Dependent and Water-Related land use classifications.

14.03.090 – Uses in State Park Master Plans: addresses water uses in state park lands.

14.03.100 – Public Uses: lists uses that are allowed or disallowed in Public land use classifications.

14.03.110 – Uses in State Park Master Plans: sets requirements for certain properties owned or managed by the Oregon Parks and Recreation Department.

#### **Chapter 14.4 – Management Unit Districts:**

14.04.020 – Definitions: defines two terms used in enforceable policies pertaining to the estuary.

14.04.030 – Uses Permitted: specifies the requirements for approval of uses permitted with standards (P), uses permitted conditionally (C), and uses not allowed (N) in development, conservation, and natural estuary management units.

14.04.040 – Application of Standards: specifies requirements for applying Estuarine Use Standards of 14.04.080 – 14.04.230 through requirements of 14.04.060; requires findings of fact and preparation of an impact assessment for certain activities.

14.04.050 – Application Information: requires certain information that may be required of an applicant to determine compliance with applicable standards.

14.04.080 – Estuarine Use Standards: establishes that uses in the estuary (14.04.100 – 14.04.240) will be subject to certain standards in this code as well as applicable state and federal regulations.

14.04.090 – Resource Capability Determination: provides the standards for applying a Resource Capability Determination to uses proposed for Natural Management Units and to Conservation Management Units.

14.04.100 – Structures: defines various structures that may be proposed in the estuary and specifies standards (A. – I.) for review and approval of such structures.

14.04.110 – Dredging: defines and provides standards for the approval of dredging; requires mitigation for dredging in intertidal or tidal marsh area.

14.04.120 – Shoreline Stabilization: defines and specifies standards for approval of shoreline stabilization structure, including cobble/pebble dynamic revetment.

14.04.130 – Fill: defines and provides the standards for permitting fill in estuary areas; requires mitigation for fill in intertidal or tidal marsh area.

14.04.140 – Marina and Port Facilities: defines and provides the standards for approval of marina or port facilities.

14.04.150 – Aquaculture: defines and provides the standards for approval of aquaculture structures and facilities.

14.04.160 – Mineral and Aggregate Extraction: defines and provides the standards for approval of mineral or aggregate removal activity in an estuarine area.

14.04.170 – Dikes: defines and provides the standards for approval of new or repair of existing dikes and tide-gates.

14.04.180 – Outfalls: defines and provides the standards for approval of sewage, storm drain or other discharges into the estuary.

14.04.190 – Submerged Crossings: defines and provides the standards for approval of submerged crossing of power lines, sewer or water pipes, or other lines.

14.04.200 – Restoration: defines and provides the standards for approval of restoration, estuarine restoration, active restoration, and passive restoration in estuaries.

14.04.210 – Excavation: defines and provides the standards for approval of excavation in estuarine shorelands.

14.04.220 – Dredged Material Disposal: defines and provides the standards for approval of disposal of dredged materials in estuarine aquatic and shoreland areas; refers to the Yaquina Bay Estuary Plan for location of approved dredged material disposal sites.

14.04.230 – Water Handling of Logs: defines and provides the standards for approval of areas for the water handling of logs.

14.04.240 – Temporary Alteration: defines and provides the standards for approval of temporary alterations in the estuary.

## **Chapter 14.05 – Management Unit Special Policies**

14.05.010 – 14.05.110 – Management Unit Nos. 1 - 10A (inclusive): specifies purposes, standards, and criteria for approval of uses in Management Units 1 – 10A (units described in Chapter 7 of the City of Newport Comprehensive Plan and listed in 14.02.01 of Title XIV); contains a Permitted Use Matrix for each of the 10 Management Units.

14.05.110 – Permitted Use Matrices: provides matrices indicating allowed uses for each of the 10 management units.

**Chapter 14.20 – Flood Hazard Areas (pp 143 – 164):**

14.20.020 – Definitions: defines words and phrases that are necessary for interpreting and applying enforceable policies in this chapter.

14.20.030 – General Provisions: establishes the basis for identifying flood hazard areas.

14.20.040 – Administration: requires the city Building/Development Permit to conform to the requirements of the chapter and specifies the requirements for information and decision-making with respect to flood hazard areas.

14.20.050 – Provisions for Flood Hazard Reduction: specifies the construction requirements for reducing flood hazard risk in the Flood Hazard Overlay Zone, in Floodways, in Coastal High Hazard Areas, and other hazardous areas.

14.20.060 – Appeals and Variance Procedures: establishes the procedures and criteria for appeals and approving variance from regulatory standards.

**Chapter 14.21 – Geologic Hazards Overlay (pp 165 – 172):**

14.21.020 – Applicability of Geologic Hazards Regulations: defines areas of known geologic hazard that are subject to the requirements of this chapter, provides for independent geologic reports as the basis for development approval in an area otherwise identified as a hazard area.

14.21.030 – Geologic Permit Required: requires Geologic Permit for development within geologic hazard areas defined in 14.21.020

14.21.040 – Exemptions: specifies the exemptions from provisions of Chapter 14.21.

14.21.050 – Application Submittal Requirements: specifies the information required, including Geologic Reports, for the land use application form.

14.21.060 – Geologic Report Guidelines: specifies the standards and establishes time limit for a Geologic Report required in 14.21.050.

14.21.070 – Construction Limitations Within Geologic Hazard Areas: requires new construction to adhere to the recommendations of the Geologic Report and other standards.

14.21.080 – Prohibited Development on Beaches and Foredunes: prohibits the construction of residential, commercial, and industrial building on beaches, active foredunes, conditionally stable dunes, areas subject to ocean wave overtopping or undercutting, and interdune areas subject to ocean flooding.

14.21.090 – Erosion Control Measures: specifies erosion control measures that are required for development approval pursuant to the requirements of this chapter.

14.21.100 – Storm Water Retention Facilities Required: specifies the conditions for which stormwater retention facilities are required subject to specification supplied by the City Engineer.

14.21.110 – Approval Authority: specifies that the approvals pursuant to this chapter are Type 1 decisions.

14.21.120 – Appeals of Geologic Permits: provides the process and standards for appeal of a decision to issue or deny a Geologic Permit.

14.21.130 – Certification of Compliance: requires certification that all performance, mitigation, and monitoring requirements have been met prior to final approval.

14.21.140 – Removal of Sedimentation: requires removal of sediment from adjoining surfaces and drainage systems.

14.21.150 – Applicability of Nonconforming Use Provisions: specifies applicability of nonconforming use provisions to properties subject to geologic permit.

#### **Chapter 14.22 – Airport Restricted Area (pp 173 – 184):**

14.22.010 – Definitions: defines terms used in regulating uses and activities within Airport Restricted Area.

14.22.020 – Airport Zones: creates six zones for areas within Instrument Approach Zone, principally for the purpose of establishing height limitations.

14.22.030 – Airport Zone Height Limitations: specifies height limitations for zones established in 14.22.020.

14.22.040 – Use Restriction: prohibits any use that will result in certain aviation hazards.

14.22.070 – 14.22.130 – Land Uses in Airport Zones: further restricts the underlying zones into obstruction, approach, clear, noise impact, and airport development zones, all of which have additional requirements.

#### **Chapter 14.24 – Beach and Sand Dune Areas (pp 186 – 187):**

14.24.020 – Applicability: applies provisions of this section to beach or dune areas shown on the Ocean Shorelands Map in the comprehensive plan.

14.24.030 – Procedure for Review: requires a site-specific report prepared by an expert for land use action in beach or dune area.

14.24.040 – Site Report Requirements: specifies required contents for the site report.

14.24.050 – Review Criteria: specifies criteria for approval of development other than residential, commercial, or industrial in beach or dune area.

#### **Chapter 14.26 – Maintenance of Public Access (p 196):**

14.26.010 – Maintenance of Public Access: requires that existing ownership, rights-of-way, and similar public easements that provide access to the waters of the ocean or estuary be retained or replaced.

#### **Chapter 14.33 – Adjustments and Variances (pp 235 – 238):**

14.33.020 – General Provisions: establishes applicability of provisions and provides authority to attach conditions to approval.

14.33.030 – Approval Authority: establishes criteria for approval in differing decision-making procedures.

14.33.040 – Application Submittal Requirements: specifies requirements for content of application for adjustment or variance.

14.33.050 – Criteria for Approval of an Adjustment: provides authority and specifies criteria for approval as Type I or Type III decision process.

14.33.060 – Criteria for Approval of a Variance: provides authority and specifies criteria for approval as Type III decision process.

**Chapter 14.34 – Conditional Uses (pp 239 – 241):**

14.34.020 – General Provisions: specifies requirements of applicability to approvals of conditional uses.

14.34.030 – Approval Authority: authorizes approvals of conditional uses as Type II decision under certain conditions.

14.34.040 – Application Submittal Requirements: specifies requirements for content of application for Conditional Use.

14.34.050 – Criteria for Approval of a Conditional Use: specifies certain findings required for approval of Conditional Use.

**Chapter 14.38 – Ocean Shorelands Overlay Zone (pp 258 – 259):**

14.38.010 – Purpose: establishes purposes of this chapter and links requirements to Ocean Shorelands Map and other provisions of comprehensive plan.

14.38.020 – Definitions: defines three terms used in this section.

14.38.030 – Permitted Uses: specifies uses permitted in this zone.

14.38.040 – Procedures: establishes procedures as Type II decision process for approving land use action or building permit in the zone.

14.38.050 – Standards for Review: specifies standards and criteria for approval of land use action or building permit in the zone.

**Chapter 14.39 – Dredged Material Disposal Sites (pp 260 – 261):**

14.39.010 – Purpose: establishes purpose of enforceable policies of this chapter.

14.39.020 – Information Required: specifies information required in application for development on identified dredged material disposal site.

14.39.030 – Special Notice Requirement: requires special notice to Port of Newport and certain public agencies.

14.39.040 – Standards: requires findings and decision-making to be based on Yaquina Bay and River Dredged Material Disposal Plan, including consideration of availability of alternate sites.

**Chapter 14.40 – PDR, Planned Destination Resort (pp 262 – 280):**

14.40.010 – Applicability: specifies that lands designated as “destination resort” in city comprehensive plan are subject to requirements of Planned Destination Resort overlay zone specified in this section.

14.40.020 – Purpose: establishes the purposes of this section and intention to apply these provisions to large-scale destination resorts.

14.40.030 – Uses Permitted Outright: provides for uses permitted outright in PDR.

14.40.040 – Accessory Uses in Planned Destination Resort: permits certain uses when ancillary to the destination resort.

14.40.050 – General Requirements: specifies general requirements for planned destination resort.

14.40.060 – Application Submission: specifies a three-step process for applying for approval of a planned destination resort.

14.40.070 – Procedure for Conceptual Master Plan: specifies requirements for a conceptual master plan as framework for all subsequent decisions about a planned destination resort.

14.40.100 – Procedure for Preliminary Development Plan (PDP) Application: requires a preliminary development plan for all phases of the destination resort and specifies required information.

**Chapter 14.42 – South Beach Open Space Overlay Zone (pp 283 – 284):**

14.42.030 – Criteria: provides criteria for determining whether to apply the South Beach Open Space Overlay Zone to a specific property.

14.42.040 – Uses Permitted: specifies uses permitted outright in South Beach Open Space Overlay Zone.

#### **IV. This Action is a Routine Program Change**

The incorporation of the enforceable policies listed above into the OCMP does not substantially alter any of the five program areas detailed in 15 CFR 923:

##### **1. Uses subject to management (Subpart B)**

This action does not substantially change the uses subject to management specified in the OCMP (navigation and transportation; residential/urban/industrial, including energy production; agriculture and forestry; recreation; fish and wildlife production and utilization; public facilities; mining and minerals; and restoration) or those originally included in the City of Newport Comprehensive Plan and Municipal Code approved by OCRM in 1985. The State of Oregon requires the plan and ordinance to implement Oregon's statewide planning goals, which require local jurisdictions to set standards for various uses, including those set forth in the OCMP. Because the uses permitted by the plan and ordinance must be consistent with the statewide planning goals and because the city has not added any new uses, incorporation of the updated plan and ordinance into the OCMP merely refines and does not substantially change the uses subject to management.

##### **2. Special management areas (Subpart C)**

This action does not change the criteria for designating areas of particular concern, or areas for preservation or restoration. Statewide planning goals 16 through 18 set the criteria and procedures for establishing and managing estuarine areas (Goal 16), coastal shorelands (Goal 17), and beaches and dunes (Goal 18). The City of Newport plan and ordinance merely set policies and standards for designating and managing these areas within city jurisdiction.

##### **3. Boundaries (Subpart D)**

This action applies only to lands under the jurisdiction of the City of Newport. It does not change Oregon's inland or seaward coastal zone boundary, nor does it change the status of excluded lands.

##### **4. Authorities and organization (Subpart E)**

This action does not change Oregon's authority or organization, nor does it alter Oregon's administration of the OCMP. Oregon's land use system and statewide planning goals establish criteria and standards for local planning; the city plan and development code simply implement those standards.

##### **5. Coordination, public involvement and national interest (Subpart F)**

This action does not change any coordination, public involvement, or national interest provisions of the OCMP.

## V. Enforceable Policies Table

<b><i>Changes to the Oregon Coastal Management Program</i></b>				
<i>The Oregon Coastal Management Program (OCMP) seeks to incorporate the following provisions of the City of Newport Comprehensive Plan and Titles XIII and XIV of the Municipal Code into its federally-approved coastal management program. The following table identifies specific provisions that DLCD seeks to incorporate as enforceable policies and that DLCD anticipates using for Federal Consistency review purposes.</i>				
<i>State/ Local Legal Citation</i>	<i>Name/Description of Local Law/Regulation/Policy/Program Authority</i>	<i>Enforcement Mechanism</i>	<i>Date adopted by state</i>	<i>Date effective in state</i>
<b>ADDED:</b>				
City of Newport Comprehensive Plan and Municipal Code, Titles XIII and XIV	* DLCD seeks to incorporate the City of Newport Comprehensive Plan and Municipal Code, Titles XIII and XIV, into the OCMP in their entirety. However, DLCD only seeks to incorporate the provisions listed below as enforceable policies.	ORS Chapter 197; Newport Comprehensive Plan and Newport Municipal Code [NCP, 2013; NMC Title XIII, Land Division; NMC Title XIV, Zoning] <sup>1</sup> (via City planning and permit process, hereinafter planning /permit process.	1983-2015	1983-2015
<b><i>CITY OF NEWPORT COMPREHENSIVE PLAN</i></b>				
<b><i>Natural Features Policies</i></b>				
<i>Goal 1, Policy 1</i>	<i>Requires evaluation of environmental hazards</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 1, Policy 5</i>	<i>Requires development in Ocean Shorelands to conform to Zoning Ordinance criteria</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>

<sup>1</sup> City of Newport Comprehensive Plan 1990-2010, 2013; Newport Municipal Code Titles XIII and XIV

<i>Goal 1, Policy 6</i>	<i>Requires that nonstructural solutions be used to address erosion or flooding, if structural solutions are necessary, they shall minimize adverse impacts.</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 1, Policy 7</i>	<i>Engineering safeguards are required before building permits will be issued.</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 2</i>	<i>Prohibits development on certain beach and dune areas.</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 3</i>	<i>Prohibits breaching of foredunes</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 6</i>	<i>Criteria for approval of shore protective structures</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 7</i>	<i>Requires certain shoreland habitats to be protected</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 8</i>	<i>Criteria for approval in certain beach and dune areas</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Goal 2, Policy 9</i>	<i>Requirements to prevent erosion and sedimentation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<b><i>Yaquina Bay and Estuary Section</i></b>				
<i>Management Unit Classifications</i>	<i>Category</i>			
<i>Management Unit 1</i>	<i>Conservation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 2</i>	<i>Conservation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 3</i>	<i>Conservation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 4</i>	<i>Development</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 5</i>	<i>Development</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 6</i>	<i>Conservation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>

<i>Management Unit 7</i>	<i>Development</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 8</i>	<i>Conservation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 9A</i>	<i>Natural</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Management Unit 10A</i>	<i>Natural</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Yaquina Bay and Estuary Goals and Policies</i>				
<i>Estuarine Policy 3</i>	<i>Use Priorities</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 4</i>	<i>Riparian Vegetation</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 5</i>	<i>Dredged Material Disposal Sites</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 7</i>	<i>Bayfront Uses</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 8</i>	<i>Water-Dependent Zoning Districts</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 9</i>	<i>Solutions to Erosion and Flooding</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 10</i>	<i>Impact Assessment</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 11</i>	<i>Dredge and Fill</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 12</i>	<i>Alteration of the Estuary</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 13</i>	<i>Resource Capability Determinations – Natural Mgmt Units</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 14</i>	<i>Resource Capability Determinations – Conservation Mgmt Units</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Estuarine Policy 15</i>	<i>Temporary Alterations in Natural and Conservation Management Units</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>

<i>Implementation Measure 1</i>	<i>Requires consistency with Comprehensive Plan and Zoning Ordinance</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<b>City of Newport MUNICIPAL CODE</b>				
<b>TITLE XIII LAND DIVISION</b>	<b>Enforceable Policies</b>			
<i>13.05.005</i>	<i>Definitions</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.015</i>	<i>Streets</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.020</i>	<i>Blocks</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.025</i>	<i>Easements</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.030</i>	<i>Lots and Parcels</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.035</i>	<i>Public Improvements</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.040</i>	<i>Public Improvement Requirements</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.045</i>	<i>Adequacy of Public Utilities and Facilities</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>13.05.050</i>	<i>Underground Utilities and Service Facilities: establishes requirements for underground utilities and service facilities</i>			
<b>TITLE XIV ZONING</b>	<b>Enforceable Policies</b>			
<i>Chapter 14.1 14.1.020</i>	<i>Definitions</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.2 14.2.010 - 14.2.030</i>	<i>Establishment of Zones</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.3 14.3.010 - 14.3.110</i>	<i>Zoning Districts</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>

<i>Chapter 14.4 14.4.020 – 14.4.240 (except 14.4.060 and 14.4.070)</i>	<i>Management Unit Districts</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.05 14.05.010 – 14.05.110</i>	<i>Management Unit Special Policies</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.20 14.20.020 – 14.20.060</i>	<i>Flood Hazard Areas</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.21 14.21.020 – 14.21.150</i>	<i>Geologic Hazard Overlay</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.22 14.22.010 - 14.22.040, 14.22.070 - 14.22.130</i>	<i>Airport Restricted Area</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.24 14.22.020 – 14.22.050</i>	<i>Beach and Sand Dune Areas</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.26 14.24.010</i>	<i>Maintenance of Public Access</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.33 14.33.020 – 14.33.060</i>	<i>Adjustments and Variances</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.34 14.34.020 – 14.34.050</i>	<i>Conditional Use</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.38 14.38.010 – 14.38.050</i>	<i>Ocean Shorelands Overlay Zone</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.39 14.39.010 – 14.39.040</i>	<i>Dredged Material Disposal Sites</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.40 14.40.010 – 14.40.170 (except 14.40.080, 14.40.090, 14.40.110 – 14.40.140)</i>	<i>PDR, Planned Destination Resort</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<i>Chapter 14.42 14.42.030 – 14.42.040</i>	<i>South Beach Open Space Overlay Zone</i>	<i>ORS Chapter 197; city planning/permit process</i>	<i>6/1/84</i>	<i>1984 - 2015</i>
<b>REMOVED:</b>				
City of Newport Comprehensive Plan,			1984	1984

Subdivision Code, and Zoning Code				
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