

CITY OF WHEELER

COMPREHENSIVE PLAN

**ADOPTED
DECEMBER 1979
WITH AMENDMENTS THROUGH
JANUARY 2010**

WHEELER COMPREHENSIVE PLAN

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THE WHEELER COMPREHENSIVE PLAN

INTRODUCTION

It is estimated that Wheeler's population may reach 475 by the year 2020. Consideration should be given to a range of community needs to accommodate 100 new residents above the existing population of about 375. This comprehensive plan is designed as a general document offering an overall program for the future of the City.

The area of the comprehensive plan includes: a) the Wheeler, Oregon City limits and; b) land within the Wheeler Urban Growth Boundary, but outside of the Wheeler City limits, where Tillamook County and the City have agreed to cooperate in management of land use decisions. The comprehensive plan area is about 575 acres in size.

The plan is intended to guide safe and orderly growth, in that all actions such as zoning, subdivisions, water extensions, and annexations must be in conformance with the plan. A periodic review and update of the local plan is provided for, so that the plan can adapt to new community needs and to ensure that the plan remains a useful working document for the City.

The comprehensive plan consists of two parts:

The Wheeler Comprehensive Plan Background Report has been assembled that provides information (including natural hazards, economics, population, housing, community facilities and services, transportation, and land use) used in developing the City plan.

The Comprehensive Plan Policies, Strategies, and a map designating future land use and an urban growth area.

Policies are definitive statements that describe a course of action or direction that the City will take in planning for future activities within the City of Wheeler. The City is legally obligated to make decisions and undertake actions consistent with the policies included in this Plan.

Strategies are statements outlining a specific activity, action, project or standard which could be used to implement a City goal or policy. Strategies refer to courses of action that the City desires other entities to take regarding specific issues. These statements are suggestions of ways to implement goals and policies. The ability to implement them will depend on a variety of factors including the availability of staff resources and funding and coordination requirements with regulatory agencies. The City is not legally obligated to undertake strategies.

THE PLANNING PROCESS

POLICIES:

1. All Wheeler area residents shall have an opportunity to be involved in the City's planning decisions.
 - a. Members of the Planning Commission shall represent a cross-section of the community, and shall be chosen in a fair, well publicized manner.
 - b. Meetings shall be well publicized and all planning decisions shall allow opportunities for citizen input.
 - c. The City Council and Planning Commission shall respond to citizen concerns and comments through direct response at meetings, by letter, or through the meeting minutes.
 - d. Financial support for citizen participation shall be made available through the Planning Commission budget.
2. In cooperation with other districts and agencies, (chiefly Tillamook County), the Wheeler Planning Commission and City Council agree to assume cooperative responsibility for approval of planning and land use actions within the urbanizing area, including: proposed zone changes, land divisions, annexations, comprehensive plan amendments, and public facility developments. (Urbanizing area is defined as area within the urban service area, but outside the Wheeler City limits.) Approval for such planning actions shall be given only in cases where the proposal is found to be consistent with the adopted community plan.
3. Changes in the comprehensive plan and implementing ordinances shall be adopted only after well advertised public hearings have been held by the Planning Commission and City Council.
 - a. The Planning Commission and City Council shall review the comprehensive plan every five to seven years to insure that it continues to reflect the community's needs and desires, and on the basis of such investigation shall recommend for public hearing appropriate plan changes, if any.
 - b. Private individuals requesting an amendment shall provide a specific amendment proposal with supporting information to show that the amendment is consistent with other relevant portions of the comprehensive plan, state law, orderly development and general public interest. Normally this proof requires showing what conditions have changed since plan adoption that require a plan change.

- c. At least 30 days notice of the public hearing on any proposed language change shall be provided to citizens in the area and affected districts and agencies.
- 4. The Wheeler Planning Commission is the citizen involvement body for the community. Ad hoc Committees may be used to facilitate Citizen Involvement.

NATURAL FEATURES

POLICIES:

- 1. Site-specific geologic investigations may be required when appropriate to assure safe development. Site-specific investigations shall be conducted:
 - a. For all proposals for divisions of land.
 - b. When required by the building official.
 - c. In other instances, where necessary, and when required by the City to assure public safety and welfare.
 - d. In cases of roads and streets, fill and excavation will require a site investigation.
- 2. Where a site report is required, the investigation shall be conducted by qualified geotechnical experts at the developer's expense. Results of the site investigations shall be made available to the city prior to scheduling of public hearings (or prior to project commencement in cases where a public hearing is not required).
- 3. Where site-specific investigations are required to verify safety of a proposed project, the report should make it possible for engineers, planners, and City officials to calculate (and design for) geologic risks. A very complete site-specific report would include the following types of information:
 - a. Identification of topographic elements: soil and bedrock topology; depth of soil to bedrock; permeability and other engineering characteristics of soil and bedrock; contour mapping or slope analysis; comparison of contour with geologic bedrock bedding planes; and other structural details important to engineering and geologic interpretations.
 - b. Identification of elements of the area water cycle including: identification and assessment of the surface water drainage pattern characteristics of area

groundwater including groundwater depth and rate of accumulation; projected storm drainage runoff and design and probable changes of the water cycle.

- c. Identification and location of any historic, existing or potential geologic hazard or major landslide activity affecting future landowners, adjacent properties or public facilities;
 - d. Results of field and laboratory investigations, including use of drill hole data, aerial photography, soils testing or field check as necessary to verify project safety;
 - e. Discussion of possible project design techniques for control of erosion, slope stability and storm runoff.
 - f. The report should also contain a bibliography of references used, dates of field checks or other geologic literature pertinent to the site investigation.
4. As a guideline, density of development in areas with slopes, in excess of 15% should not exceed a maximum of 4 units per acre, and density of development in areas with slopes in excess of 25% should not exceed a maximum of 2 units per acre. The above densities could be increased or decreased depending on the findings of site investigations and upon the use of special design techniques to avoid geologic hazards.
5. Site design which utilizes the natural topography and vegetation is encouraged:
- a. Flexible development approaches such as cluster developments shall be accommodated consistent with site investigation reports and other purposes of the comprehensive plan;
 - b. Efforts shall be made to maintain streams in their natural state;
 - c. Access roads and driveways should follow natural slopes and contours and need not be constructed in block patterns;
 - d. In cases of undeveloped platted lands, legal action to vacate existing lot lines and/or public rights-of-way to permit replatting consistent with natural features may be desirable.
6. All development within the 100 year flood plain shall be consistent with the adopted City's and County's flood plain overlay ordinances.
7. Within the 100 year flood plain, future proposals for land divisions shall require that the developer provide evidence that new development will not increase flood hazards on adjacent property.

HOUSING

POLICIES:

1. The City encourages public and private efforts to conserve and rehabilitate existing housing.
2. The City encourages the development of planned unit and multi-family developments to better utilize lands with physical constraints and to improve housing diversity.
3. The City, through its zoning ordinance, shall provide for placement of manufactured homes.
4. The City will zone adequate land to meet identifies future housing needs for a broad range of housing types, including single-family attached and detached homes, manufactured homes, duplexes and multi-family dwellings.
5. The City supports the efficient development of housing and land to minimize environmental impacts and provide public services in a cost effective manner.
6. The City will encourage the use of sustainable development and building materials including use of energy efficient materials and design principles consistent with adopted law.
7. The City will allow, encourage and support the development of housing units in conjunction with commercial development (e.g., housing located above commercial uses) to provide diversity and security in commercial areas and a range of housing options.
8. The City will insure compliance with federal and state fair housing laws which affirm access to housing opportunities for all people in Wheeler.
9. The City will allow for accessory dwelling units in residential zones.
10. The City will evaluate reliable scientific information involving climate change.

STRATEGIES:

1. Explore and provide information about opportunities to consolidate Buildable land where it will promote more efficient development.
2. Regularly update the City's inventory of Buildable land, approximately every five years and use it to both identify housing development opportunities and assess the

ability to meet future housing needs. If growth is occurring at a faster rate than previously predicted, work with the County to update the County's coordinated population forecast and the City's housing needs analysis.

3. Work with the development community to ensure creation of new housing that meets identified future needs through the policies and strategies identified in this Plan.
4. Monitor public facility capacity to ensure that proposed new residential developments can be adequately served by water, sewer, transportation, drainage and other public facilities.
5. Consider passing an ordinance requiring replacement of affordable housing in conjunction with closure of manufactured home parks.
6. Consider City support for statewide efforts to allow for affordable housing funding mechanisms.
7. Consider City support for mechanisms and organizations that help reduce the cost of or leverage other monies to develop affordable housing such as community land trusts, housing trust funds or similar entities.

ECONOMIC DEVELOPMENT

GOAL A: Promote Cooperative Economic Development Partnerships

POLICIES:

1. The City supports the efforts of Tillamook County to improve the economy of the area.
2. The City will monitor the region's key economic development activities and organizations.
3. The City will monitor regional economic development plans/programs.
4. The City will seek the input of local businesses and carefully consider the economic impacts of proposed programs, regulations and decisions related to implementing the community's comprehensive plan.

STRATEGIES:

1. Develop active working relationships with key economic development players and attend partner meetings as often as possible.

2. Identify programs that could benefit local businesses.
3. Publicize the efforts of partners to the local business community.

**GOAL B: Retain, Strengthen and Expand the Existing Business Base
POLICIES:**

1. The City will promote open communication between business and local government. Periodically, City, County and business leaders should meet to discuss challenges and opportunities affecting the community.

STRATEGIES:

1. Promote local markets and develop visitor attractions to the Wheeler waterfront and business district.
2. Support County efforts to organize a formal business assistance/advisory program where a local Business Assistance Team is in regular contact with commercial businesses and helps identify and respond to critical issues in a timely manner. Utilize the many business development resources that exist in Tillamook County.
3. Support County efforts to conduct a guest speaker series on topics of interest to north Tillamook County businesses. (Examples: Marketing to Visitors, Finance, Successful Merchandising, Cooperative Arts Marketing, etc)
4. Support County efforts to help incubate and support new entrepreneurs, create a business mentorship program for start-up companies to be matched with established business owners (from throughout the County) for guidance and coaching.

**GOAL C: Encourage Successful Home-Based Businesses
POLICIES:**

1. The City will encourage home cottage industries and home occupations that are low impact and do not disrupt residential neighborhood character and regulate them through the zoning code.

STRATEGIES:

1. Work to provide needed business resources.
2. Encourage the support services needed by home-based businesses.

GOAL D: Strengthen and Enhance a Strong Commercial Core Business District
POLICIES:

1. Development of commercial and industrial uses shall be permitted to locate in designated urban areas appropriately zoned.
2. Commercial and industrial development shall be subject to design review by the Planning Commission.
3. The economic land resource of Wheeler – the town waterfront and business district – shall be developed in a manner which encourages beneficial long-term use.

STRATEGIES:

1. Form a public-private partnership to actively support a strong commercial core.
2. Develop activities related to physical improvements, business development and promotion strategies.
3. Identify and pursue grants and other funding for enhancements and improvements to the waterfront.
4. Identify top priority projects to accomplish in 6-12 months increments.
5. Encourage events in the business district to bring local shoppers and visitors to the core.
6. Promote open communication between business and local government.

GOAL E: Diversify and Improve the Economy of the Local Area.
POLICIES:

1. Encourage private development.
2. Encourage a diversity of businesses which strengthen the overall economic base.
3. Provide a supportive environment for new business.

STRATEGIES:

1. Make announcements/presentations at key stakeholder groups around the County such as Rotary, Chamber, civic groups, regional development organizations to share north Tillamook County's business development goals and targets and to encourage participation, networking and 'lead generation'.

AIR AND WATER QUALITY

POLICIES:

1. The City will cooperate in implementing state air and water quality standards. Of particular concern is the control of pollution from urban development and forest management practices.
2. The City will control storm runoff, sedimentation and erosion resulting from urban development through its subdivision ordinance and comprehensive plan policies for urban growth and public facilities.
3. The State Department of Forestry should strictly enforce the Forest Practices Act (including practices pertaining to cutting, road building, and the use of herbicides) in the Wheeler area, particularly within the community's watershed areas.
4. The City will cooperate with the Department of Environmental Quality to prevent noise pollution problems in the area.
5. The City's actions shall be consistent with State and Federal hazardous waste regulations.

RECREATION AND OPEN SPACE

POLICIES:

1. New subdivisions and planned unit developments must make provision for a suitable amount of open space and/or recreation facilities.
2. In conjunction with development of hillside areas, natural vegetation shall be conserved as much as feasible, based on aesthetics, watershed values, habitat values, and most important, slope stability.
3. Involvement of local individuals and groups in the donation of land, labor, funds, or equipment for the improvement of recreation facilities is encouraged.
4. Riparian vegetation within identified riparian zones shall be protected and retained. A fifteen foot riparian zone (measured from the ordinary high water line) is established on each bank of Zimmerman, Jarvis, and Vosberg Creeks. A twenty-five foot riparian zone (measured from the mean higher high water line or line of non-aquatic vegetation, whichever is most landward) is established adjacent to Nehalem Bay.

5. Developed public recreation facilities within the City limits are needed, including a waterfront facility and a community park, and should be developed during the next ten years.
6. Identification of appropriate shoreland areas for natural retention (preservation), including the basis for identification and priority for retention, is outlined in the following matrix and on the future land use map.
7. The City will coordinate its park and recreation planning with that of the State Parks Division and/or the State Marine Board.
8. The City will develop an Inventory of Historic Places with the assistance of the State Historic Preservation Office, the National Register of Historic Places, and the recommendations of the State Advisory Committee on Historic Preservation.

Matrix for a Program to Retain Natural,
Scenic and Other Resources

Site Description	Priority	Rationale	Protection
1. Marsh area at north end of City, east of Highway 101	High	Significant habitat	Zoned EN
2. Lowland flood areas	Medium	Some building limitations; habitat and scenic significance;	Zoned EN
3. Conifer forest between Highway 101 and the river from Paradise Cove for 400' east	Low	Significant habitat support	None

Priority:

High - Requires a major plan amendment for development.

Medium - Requires minor plan amendment and site plan analysis by developer.

Low - Requires no plan amendment and allows for normal processing. If a public hearing is otherwise required, review should be made of scenic and other resource significance.

TRANSPORTATION

POLICIES:

1. Street developments shall be designed to create a minimal need for cutting and filling. All sidehill streets and driveways shall be built entirely in cut-no-fill; surplus excavated materials must be removed to a location where it will not constitute a hazard.
2. The City may permit less than standard right-of-way and surface ways for streets in steeply sloped areas, consistent with safety for traffic and fire protection.
3. Proliferation of new access points to Highway 101 shall be discouraged by the City, Tillamook County, and the State Department of Transportation. Wherever possible, new residential developments shall not have direct access to Highway 101. New commercial uses should be clustered with access being provided by a consolidated access point.
4. The City shall be notified prior to the installation of any underground utility in a City right-of-way. The City will require reasonable efforts to improve or restore the road after construction.
5. The City supports efforts to provide transportation.
6. The State Department of Transportation, when undertaking major highway improvements, shall address the following considerations:
 - a. The enhancement of pedestrian and vehicular access across Highway 101; and
 - b. The maintenance or improvement of parking facilities along Highway 101; and
 - c. The minimization of short-term disruptions which would adversely affect the business and residential areas of downtown Wheeler; and
 - d. Assist the City in enhancement of the long range viability of the downtown area; and
 - e. The minimization of noise and air pollution impacts on adjacent residential areas; and
 - f. The provision of appropriate landscaping; and
 - g. The protection of views across Nehalem Bay; and

- h. The enhancement of access to the waterfront.
 - i. Where appropriate, the Wheeler Planning Commission shall be used by the Oregon Department of Transportation as its citizen involvement committee.
- 7. The Department of Transportation shall coordinate any highway improvements with the Port of Tillamook Bay Railroad to insure that their combined improvement plans are consistent with the criteria in policy 6. Future improvement plans should not preclude passenger rail service to Wheeler.
- 8. The City will support the findings of the Highway 101 Corridor Study and Scenic Byway Study and will participate in State and Federal projects and studies toward the end of providing better highway transportation through Wheeler.
- 9. The City of Wheeler recognizes the need to amend its Comprehensive Plan and Implementing Ordinances to provide more certainty for highway and street construction projects. The City will consider making the appropriate amendments after the Oregon Department of Transportation develops model plan policies and ordinances.
- 10. The City supports efforts to provide public transportation.

RECOMMENDATION:

- 1. The State Department of Transportation should continue to improve the coastal bike route along Highway 101 by widening the Highway's shoulders or, where feasible, constructing separate bike lanes.
- 2. The City of Wheeler should develop a street Master Plan and a Multi-Modal Transportation Plan including access to the community without using Highway 101.

ENERGY

POLICIES:

1. The City promotes domestic energy conservation efforts, including:
 - a. Energy conservation in building construction;
 - b. Efforts of organizations to weatherize and insulate homes of low income persons are supported;
 - c. Bicycle and pedestrian access within the City is encouraged;
 - d. The City encourages alternative energy sources;
 - e. The City encourages energy conservation through efforts to prevent sprawl.

ESTUARINE RESOURCES

Tillamook County, in cooperation with the cities of Nehalem and Wheeler, the Port of Nehalem and State and Federal agencies, has prepared a management plan for the Nehalem Bay Estuary. The Plan consists of five elements: a factual base; a management unit designation map; a dredge material disposal plan; a mitigation and restoration plan; and policies for uses and activities. Portions of the Nehalem Bay Estuary Plan have been incorporated into the Wheeler Comprehensive Plan. The following portions of the Tillamook County Comprehensive Plan which relates to estuary management units within the City of Wheeler's urban growth boundary are hereby adopted by reference: management unit description, dredge material disposal plan and mitigation and restoration plan. The estuary and shoreland definitions in the Tillamook County Zoning Ordinance are also adopted by reference. The management unit designations within Wheeler have been incorporated into the Future Land Use Map. The following policies apply to uses and activities proposed for estuarine areas:

SPECIFIC USE AND ACTIVITY POLICIES

A. AQUACULTURE FACILITIES

1. In Estuary Natural (EN) zones, aquaculture and water-dependent portions of aquaculture facilities shall be limited to temporary or easily removable benthic or pelagic structures (stakes, racks, trays, long lines or rafts), that will not require dredging or fill other than incidental dredging for harvest of benthic species or removal of inwater structures.
2. The use of aquaculture projects (fish hatcheries and fish release/recapture operations) to replenish natural stocks is encouraged.
3. The City recognizes the statutory authority of the Oregon Department of Fish and Wildlife and the Oregon Department of Agriculture to regulate aquaculture and oyster culture. These departments shall forward their findings to the City prior to issuance or denial of aquaculture permits.
4. Existing aquaculture facilities are areas designated as possessing significant aquaculture potential shall be identified and protected from conflicting uses or uses that would create water quality problems.
5. In the Estuary Natural Zone (EN), aquaculture shall be allowed only where it is determined to be consistent with the resource capabilities and purpose of the management unit. This determination shall be made by the Oregon Department of Agriculture and the Oregon Department of Fish and Wildlife in instances where Wheeler finds that it does not have the resources or abilities to make such a determination.

6. Aquaculture facilities in Estuary Development (ED) zones will not preclude the provision of Maintenance of navigation or other needs for commercial and industrial water-dependent use, and will not prevent the use of shorelands equally suited for water-dependent development.

B. DIKING

1. Maintenance and repair of existing dikes, tidegates, drainage systems, farm roads and bridges and other existing farm structures shall be permitted within all estuary zones and shoreland areas. Dike maintenance and repair shall be permitted for:
 - a. existing serviceable dikes (including those that allow some seasonal inundation); and
 - b. dikes that have been damaged by flooding, erosion or tidegate failure where the area behind the dike has not reverted to estuarine habitat; and
 - c. dikes that have been damaged by flooding, erosion or tidegate failure, where the area behind the dike has reverted to estuarine influence only if this area is in the Farm, F-1, zone and it has been in agricultural use for 3 of the last 5 years and reversion to estuarine habitat has not occurred more than 5 years prior.

Wheeler will rely on the U.S. Army Corps of Engineers and the Division of State Lands to determine whether an area has reverted to estuarine habitat.

For the purpose of this policy, agricultural use means using an area for pasture several months of the year or harvesting this area once a year.

2. Construction of temporary (60 days or less) dikes for the purposes of flood protection in emergency situations or in the interest of safety or welfare of the public shall be permitted within all estuary zones.
3. Dredging within estuarine waters, intertidal areas, or tidal wetlands to obtain fill for dike repair or maintenance shall not be permitted. However, dredged material from an approved dredging project may be used for dike repair or maintenance. Dredged material stockpile sites shall be used as a source of fill material for dike repair and maintenance whenever practicable.

4. New diking of intertidal areas and tidal marshes shall be limited to Estuary Development (ED) zones and shall be permitted only:
 - a. For a water dependent use that requires an estuarine location or is specifically allowed by the management unit or zone; and
 - b. If adverse impact are avoided or minimized to be consistent with the purposes of the area; and
 - c. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights.

C. BOAT RAMPS, DOCKS, AND MOORAGES

1. Maintenance and repair of existing docks and moorages shall be permitted within all estuary zones.
2. Safe navigational access to boat ramps, docks and moorages should be provided and maintained.
3. New boat ramps, docks and moorages shall be allowed only where sufficient back-up land exists without the need to fill tidelands or marshlands.
4. To encourage the most efficient use of waterfront and water surface area, alternatives to individual, single purpose docks and moorages (such as cooperative use facilities mooring buoys or dry land storage) are encouraged. New subdivisions and planned developments in areas adjacent to estuaries, rivers, streams and coastal lakes shall provide for cooperative use facilities whenever possible.
5. Conflicts with navigation and other water surface uses, such as commercial fishing or recreational boating, shall be avoided or minimized.
6. To preserve significant fish and wildlife habitats and provide for continued biological productivity, docks and moorages shall not be permitted within Estuary Natural (EN) zones. Boat ramps for public use where no dredging or fill for navigational access is needed shall be allowed, where consistent with the resource capabilities of the area and the purposes of the management zone.

D. DREDGED MATERIAL DISPOSAL

1. The Nehalem Bay Dredged Material Disposal Plan shall evaluate dredging needs over a five year period and shall establish priorities on areas for dredged material disposal based on the following economic, engineering and environmental considerations:
 - a. engineering feasibility;
 - b. probable method of dredging;
 - c. distance from dredging project;
 - d. elevation;
 - e. cost of site acquisition, preparation, and containment of dredged materials.
 - f. size of site;
 - g. cost of, ability, or necessity to revegetate or develop on top of the dredged material;
 - h. impacts on biological productivity, aquatic communities and habitats water quality, wetlands and floodplains;
 - i. ownership (public or private);
 - j. habitat, scenic, recreational, archaeological or historic values of the site; and
 - k. conformity of the final use, after dredged material disposal to the Comprehensive Plan.
2. Whenever practicable ocean disposal in an approved ocean disposal site shall be the preferred method of disposal of dredged materials. The designation of additional ocean disposal sites shall occur only after a formal site review and impact analysis by all federal and state agencies with regulatory authority, and is subject to final approval by the U.S. Army Corps of Engineers and the Environmental Protection Agency. Copies of site review and impact analysis shall be made available to local governments.
3. When engineering or economic considerations preclude the use of approved ocean disposal sites for dredged materials disposal, sites

identified in the Nehalem Bay DMD Plan as "Presently Acceptable" shall be used for dredged material disposal.

4. Sites identified in the Nehalem Bay DMD Plan as "Presently Unacceptable" for dredged material disposal shall be used for disposal of dredged material only after an amendment to the Wheeler Comprehensive Plan, Zoning Ordinance and Zoning Map. If an exception to the State wide Land Use Planning Goals is required, the exception shall be included as part of the amendment.

Coordination with affected State and Federal resource agencies shall occur during this amendment process. State and Federal permits must be obtained prior to disposal of dredged material.

5. As needs arise, additional disposal sites shall be approved for dredged material disposal. Designation of additional dredged material disposal sites shall be coordinated with State and Federal resource agencies with regulatory authority over dredged material disposal. The Wheeler Comprehensive Plan and Zoning Ordinance shall be amended as required. If an exception to the Statewide Land Use Planning Goals is required, the exception shall be included in part of the amendment.

6. Sites identified as priority sites in the Nehalem Bay DMD Plans shall be preserved for future dredged material disposal use.

7. Tillamook County, in conjunction with local ports, affected local jurisdictions, and state and federal resource agencies, shall review the dredged material disposal plans for Tillamook and Nehalem Bay at no more than five year intervals to re-examine dredging needs, site availability, new permit requirements and degree of plan implementation.

8. Use of dredged material from navigational or other dredging actions, as fill for approved fill projects shall be encouraged. Prior determination shall be made to ensure that the structural characteristics of the material are suitable for the intended use.

9. Whenever practicable, stockpile sites of dredged material suitable for use as fill shall be established and the dredged material sold. Particular emphasis shall be given to establishing stockpile sites in areas where acceptable disposal sites are presently or likely to be limited.

10. Flow-lane disposal of dredged material shall be limited to ED zones and shall be monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of the effected natural and conservation management units.

11. Dredged material disposal is subject to the requirements of the Clean Water Act of 1977 (P.L.95-217), the State Fill or Removal Law and other State and Federal laws which regulate the disposal of dredged materials.

E. DREDGING IN ESTUARINE WATER, INTERTIDAL AREAS AND TIDAL WETLANDS

1. Dredging in estuarine waters, intertidal areas and tidal wetlands shall be allowed only if required for:
 - a. navigation, port facilities, marinas or other water-dependent uses that require an estuarine location; or
 - b. an approved active restoration, estuarine enhancement, or mitigation project deemed necessary to fulfill a public need and for the future environmental well being of the estuary (subject to Restoration and Mitigation policies and standards); or
 - c. on-site maintenance of existing drainage tiles, drainage ditches or tidegates; or
 - d. mining and mineral extraction (subject to Mining and Mineral Extraction policies and standards); or
 - e. installation or maintenance of bridge crossing support structures, electrical transmission line support structures or water, sewer, gas or communication lines.
 - f. incidental dredging for harvest of benthic species or removal of inwater structures such as stakes or racks.
 - g. temporary alterations.
2. Dredging in estuarine waters, intertidal areas or tidal wetlands shall be allowed only if:
 - a. if required for navigation or other water dependent uses that require an estuarine location or are specifically allowed by the management unit or zone; and
 - b. a need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and

- c. no feasible alternative upland location exists; and
 - d. adverse impacts are avoided or minimized to be consistent with the purposes of the area. Dredging shall be the minimum amount possible to accomplish the proposed use.
- 3. Dredging in intertidal areas or tidal wetlands shall be subject to the requirements of the Mitigation policies and the State Fill and Removal Law (ORS 541.605-541.695).
- 4. Proposals for new dredging projects in the Nehalem Bay shall be reviewed against the long-range dredged material disposal (DMD) plan for the estuary to ensure that sufficient DMD sites are available to meet initial and maintenance dredged material disposal needs.
- 5. Dredging within estuarine water, intertidal areas or tidal wetlands is subject to the requirements of the State Fill and Removal Law (ORS 541.065-541.665), the Rivers and Harbors Act of 1899 and other applicable State and Federal laws.
- 6. Dredging in the Estuary Natural (EN) zones shall be permitted only for:
 - a. an approved restoration or estuarine enhancement project (subject to Restoration and Estuarine Enhancement standards); or
 - b. on-site maintenance of existing drainage tiles, drainage ditches, tidegates, bridge crossing support structures or electrical transmission line support structures;
 - c. installation or maintenance of water intake facilities, sewer outfalls and, gas or communications lines;
 - d. installation or maintenance of an electrical transmission line or line support structure.
 - e. bridge crossing support structures;
 - f. temporary alterations;
 - g. public boat ramps (excluding dredging for navigational access);
 - h. incidental dredging for harvest of benthic species or removal of inwater structures such as stakes or racks.

7. Dredging in Estuary Natural (EN) zones shall be permitted only if consistent with the resource capabilities of the area and purposes of the management unit. This determination shall be made by the Division of State Lands and the U.S. Army Corps of Engineers during review of dredging permit applications.

F. ENERGY FACILITIES AND UTILITIES

1. Maintenance and repair of existing energy facilities and utilities shall be permitted in all Estuary and in all Shoreland Zones.
2. In selecting sites for development of new energy facilities and utilities, priorities are from highest to lowest:
 - a. non-shoreland sites;
 - b. shoreland sites;
 - c. Estuary Development (ED) zones;
 - d. Estuary Natural (EN) zones;

The City, however, realizes that this priority list is subject to modification by economic considerations, or by the need for services in a particular area. The site selection process shall weigh economic considerations and social benefits against environmental losses within estuaries.

3. New energy facilities and utilities (with the exception of waste water treatment plants) shall be permitted within estuarine waters, intertidal areas or tidal wetlands only if:
 - a. a need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 - b. no feasible alternative upland locations exist; and
 - c. adverse impacts are avoided or minimized.
 - d. Waste treatment plants shall not be located within estuarine waters, intertidal areas, and tidal wetlands.

4. In Estuary Natural zones, new energy facilities and utilities shall be permitted only if consistent with the resource capabilities of the area and the purpose of the management unit, and shall be limited to:
 - a. electrical transmission, phone lines and line support structures; or
 - b. water, sewer and gas or phone lines.
5. New energy facilities and utilities in Estuary Development (ED) zones shall be permitted where consistent with the maintenance of navigation and other needed public, commercial and industrial water dependent uses.

G. FILL IN ESTUARINE WATER, INTERTIDAL AREAS AND TIDAL WETLANDS

1. Fill for the purpose of on-site maintenance and repair of existing man-made structures or facilities or the construction of temporary low-water bridges shall be permitted within all estuary zones.
2. New fill within estuarine waters, intertidal areas or tidal wetlands shall be permitted only if:
 - a. required for navigation or water dependent uses or other uses for which an estuarine location is required; and
 - b. a need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
 - c. no feasible alternative upland locations exist for the portion of the use requiring fill; and
 - d. no practicable alternative design or construction methods exist which could eliminate the use of fill (construction of facilities or structures on pilings is preferred over construction on fill).
 - e. potential adverse impacts have been identified and avoided or minimized to be consistent with the purposes of the area.
3. The placement of fill shall be consistent with the protection of property, estuarine habitat and diversity, aesthetics, water quality and recreational resources. Loss of estuarine surface area and volume shall be avoided or minimized and/or mitigated.

4. Fill within intertidal areas or tidal wetlands shall be subject to the requirements outlined in the mitigation policies and the State Fill and Removal Law (ORS 541.605-541.665).
5. New fill in the Estuary Natural (EN) zone shall be allowed only for:
 - a. an approved active restoration or estuarine enhancement project (subject to Restoration and Enhancement standards); or
 - b. on-site maintenance of dikes or bridge crossing support structures; or
 - c. temporary alterations; or
 - d. installation of public boat ramps or bridge crossing support structures.
6. New fill in Estuary Development (ED) zones shall be permitted only for:
 - a. items 5 a-d above; or
 - b. flood control structures or structural shoreline stabilization (subject to Shoreline Stabilization standards) if:
 - (1) required to protect a water-dependent use or an existing use, facility or structure; and
 - (2) land use management practices and non-structural solutions are inadequate to protect the use.
 - c. temporary alterations;
 - d. minor navigational improvements; or
 - e. water-dependent portions of aquaculture facilities; or
 - f. water-dependent recreational facilities; or
 - g. navigational structures and navigational improvement; or
 - h. water-dependent uses that require an estuarine location; or
 - i. dredged material disposal, in conjunction with an approved fill project; or

j. communication facility support structure;

k. boat ramps.

7. In certain ED zones for which an exception has been taken in the Tillamook County Comprehensive Plan to the overall Goal 16 requirements for dredge and fill, fill shall also be allowed for non-water dependent use and for which:

a. no feasible alternative upland locations exist for the portion of the use requiring fill; and

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

c. no practicable alternative design or construction methods exist which would eliminate the use of fill; and

d. potential adverse impacts have been identified and avoided or minimized and/or mitigated.

H. FISHERIES

1. Intertidal flats, tidal marshes, subtidal and intertidal seagrass and algae beds and other estuarine areas of major significance for rearing and other life stages of marine fish and invertebrates have been identified in estuary inventory reports, and shall be protected from conflicting uses through designation as Estuary Natural (EN).

2. In order to maintain and improve fish runs and fisheries in the area, wise management of fishery resources, fish enhancement programs, and maintenance of reproductive stocks are strongly supported.

3. Areas shall be designated at Estuary Development (ED) to provide for adequate dock and moorage space for present and anticipated future commercial and sport fishing vessels and for fish processing, cold storage and other water-dependent support facilities.

4. Traditional sport and commercial fishing areas, shellfish harvesting areas, and subtidal shell fish seed beds should be protected when dredging, filling, pile driving, constructing pile dikes or rock jetties, or other disruptive in-water activities area permitted.

5. The City shall encourage the maintenance, improvement or enhancement of anadromous fish habitat or shellfish habitat by assigning appropriate estuary zones (see Policy 1, above) by encouraging the establishment of protective stream corridors and by controlling excessive sedimentation from shorelands.

I. FORESTRY AND THE FOREST PRODUCTS INDUSTRY

1. New or expanded log handling, sorting and storage areas shall be limited to Estuary Development (ED) zones, and shall be allowed only if:
 - a. the handling, sorting and storage area is an integral part of the process of water-dependent transportation of logs (i.e. is water-dependent); and
 - b. a need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not interfere with public trust rights; and
 - c. no feasible alternative upland locations exist; and if
 - d. adverse impacts are minimized.
2. The City, in conjunction with the County, shall cooperate with the Department of Environmental Quality to develop standards for in-water log storage and handling facilities prior to their establishment in Tillamook County.

J. IMPLEMENTATION

1. The City shall, review for consistency with the Comprehensive Plan and Zoning Ordinance, State and Federal permit applications for uses and activities within estuaries.
2. Where applicable, procedures for review shall be developed as part of the Wheeler Zoning Ordinance. The review of actions which would potentially alter the estuarine ecosystem shall include an impact assessment unless this is already part of the Comprehensive Plan.
3. The City shall notify all State and Federal agencies with mandates and authorities for planning, permit issuance and resource decision making, that they have the ability to comment to the City before a City assessment of State or Federal permit applications is made. The following agencies shall be notified: Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and

Development, Oregon Department of Economic Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers, Oregon Department of Environmental Quality.

4. The City will work with Tillamook County on the preparation of impact assessments, resource capability determinations, review of State and Federal permit applications, and necessary revisions of estuary policies and standards.
5. The City will cooperate with other jurisdictions on the Nehalem Bay in revising the Estuary Plan when necessary.
6. Dredge or fill shall be allowed only if:
 - a. Required for navigation or other water-dependent uses that require an estuarine location or is specifically allowed by management unit or zone; and
 - b. A need (i.e. a substantial public benefit) is demonstrated and a use or alteration does not unreasonably interfere with public rights; and
 - c. No feasible alternative upland locations exist; and
 - d. Adverse impacts to aquatic life and habitat, recreation and aesthetic uses, water quality and other physical characteristics of the estuary are minimized.

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

7. Significant degradations or reductions of estuarine natural values include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, flow-lane disposal of dredged material, water-intake or withdrawal and effluent discharge and other activities which will cause significant off-site impacts as determined by an impact assessment.
8. Dredging, fill, piling/dolphin installation, navigational structures, shoreline stabilization and dredged material disposal associated with an estuarine use or uses shall be reviewed as a whole subject to the respective policies for these activities and uses.

K. INDUSTRIAL AND COMMERCIAL USES IN ESTUARINE WATERS, INTERTIDAL AREAS AND TIDAL WETLANDS

1. Maintenance and repair of existing industrial and commercial uses shall be permitted in all estuary zones. Expansion and new construction of industrial and commercial uses other than water-dependent recreation facilities shall be limited to ED designated areas.
2. The following shall be considered in the designation of ED zones for the purpose of new development or expansion of industrial or commercial uses:
 - a. value of the area to local communities as an economic resource;
 - b. proximity to land transportation facilities;
 - c. availability of water and sewer service and power supplies;
 - d. proximity to urban or urbanizable areas;
 - e. availability of developable shorelands;
 - f. degree of existing estuarine or shoreland alteration;
 - g. type, extent, and scarcity of biologic resources in the area;
 - h. proximity to navigation channels.
3. Development and improvement of existing commercial and industrial sites is encouraged prior to development of new commercial and industrial sites.
4. Water-dependent industrial facilities include, but not limited to:
 - a. piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish or timber or timber products;
 - b. water intake and discharge facilities of timber processing plants;
 - c. portions of facilities for the extraction of minerals, aggregate, petroleum, natural gas, earth products or geothermal resources (as defined by subsection (4) of ORS 522.010) which require access to water during the extraction process;

- d. portions of facilities for the refining or processing of minerals, aggregate, earth products or geothermal resources (as defined by subsection (4) of ORS 522.010) which require access to a water body for intake or release of water during the refining or processing procedure;
- e. portions of facilities for manufacturing, assembly, fabrication, maintenance or repair of marine craft or marine equipment which require access to a water body as part of the manufacture, assembly or fabricating process, due to the size of the craft or equipment which is being constructed;
- f. portions of aquaculture facilities, including hatchery sites or fish release/recapture sites which require access to or use of water;
- g. in-water handling, sorting and storage of logs in association with water-borne transportation of logs.

5. Water-dependent commercial facilities include, but are not limited to, commercial marinas and moorages (including seaplane moorages) and ancillary facilities such as marine craft or equipment repair facilities or fueling stations.

6. Other uses not listed in 4 and 5 above may be determined to be water-dependent if the use can only be carried out on, in or adjacent to water, add the location or access is needed for:

- a. water-borne transportation;
- b. recreation; or
- c. a source of water (such as energy production, cooling of industrial equipment or wastewater, or other industrial processes).

7. Industrial uses shall be identified as water-related industrial uses on a case-by-case basis, with consideration given to the public loss of quality in goods or services which would result if the use were not offered adjacent to water. Water-related industrial uses could include:

- a. fish or shellfish processing plants;
- b. warehousing and/or other storage areas for marine equipment or water-borne commerce.

8. Commercial uses shall be identified as water-related commercial uses on a case-by-case basis, with consideration given to the public loss of quality in goods or services which would result if the use were not offered adjacent to water. Water-related commercial uses could include:
 - a. fish or shellfish wholesale outlets;
 - b. marine craft or marine equipment sales establishments;
 - c. sport fish cleaning, smoking or canning establishments;
 - d. charter fishing offices;
 - e. retail trade establishments providing primarily products necessary for the commercial and recreational fishing industry, such as ice, bait, tackle, nautical charts, gasoline, or other products incidental to, or used in conjunction with a water-dependent use;
 - f. restaurants which provide a waterfront view.
9. Other uses not listed in 7 and 8 above may be determined to be water-related if the use:
 - a. provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of, water-dependent uses); and
 - b. if not located near the water, would experience a public loss of quality in the goods and services offered. Evaluation of public loss of quality shall involve a subjective consideration of economic, social and environmental consequences of the use.
10. Multipurpose and cooperative use of piers, wharves, parking areas or handling and storage facilities shall be provided for, whenever practicable.
11. Water-related and non-dependent, non-related industrial and commercial uses in Estuary Development zones shall be limited to those uses which:
 - a. do not require the use of fill; and
 - b. do not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.

L. LAND TRANSPORTATION FACILITIES

1. Maintenance and repair of existing roads, railroads, airports, bridge crossing support structures and bridge approach ramps, and establishments of low water bridges shall be allowed in all estuary zones. Replacement of bridge crossing support structures and bridge approach ramps may be considered a form of maintenance if the resulting bridge support structure or ramp is the minimum size necessary to accommodate the same number of traffic lanes as exist on that portion of the highway.
2. In selecting sites for development of new land transportation facilities, priorities are, from highest to lowest:
 - a. upland sites;
 - b. shoreland sites;
 - c. Estuary Development (ED) zones.

The City, however, realizes that this priority list is subject to modification by economic considerations, or by the need for services in a particular area.

3. New land transportation facilities within estuarine waters, intertidal marshes or tidal wetlands shall be permitted only if:
 - a. no feasible alternative upland route exists; and
 - b. a need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 - c. adverse impacts are avoided or minimized.
4. New land transportation facilities in Estuary Development (ED) zones shall be permitted only if consistent with the purposes of the management area and the maintenance of navigation and other needed public commercial and industrial water-dependent uses.
5. When bridge crossing support structures are needed, the amount of estuarine surface area occupied shall be the minimum amount possible. Bridges, piers, and trestle shall be designed so as not to impair tidal flow in respect to volume, velocity or direction.

6. Proposals for new land transportation facilities shall be reviewed locally to determine land and water use compatibility and resource capabilities.
7. Construction and maintenance of land transportation facilities should be timed and conducted so that mass soil wasting or excessive surface erosion does not occur. Wheeler recommends increased coordination between the State and County Highway Departments and state natural resource agencies in order to meet this objective.
8. In order to preserve significant fish and wildlife habitats and maintain biological productivity, new land transportation facilities in Estuary Natural (EN) zones shall be limited to low-water bridges, bridge crossings and bridge crossing support structures. Bridge crossing support structures are allowed only if consistent with the resource capabilities of the area and the purposes of the management unit.
9. Dredged material stockpile sites shall be used as a source for fill material for land transportation facilities whenever practicable.
10. Roadway construction shall be scheduled to avoid critical periods of breeding, feeding and migration of coastal species.

M. MINING AND MINERAL EXTRACTION

1. Petroleum extraction and drilling operations shall not be allowed in estuarine waters, intertidal areas or tidal wetlands. Petroleum may, however, be extracted from beneath aquatic areas using equipment located on adjacent shorelands. Petroleum exploration not involving exploratory drilling shall be permitted within all estuary zones and shoreland zones and other shoreland areas.
2. To ensure the preservation of significant fish and wildlife habitats and the maintenance of biological productivity within estuaries, mining and mineral extraction shall not be permitted within Estuary Natural (EN) Zones. However, future decreases in the supply of mineral and aggregate resources may require the extraction of resources from areas which are currently designated as Estuary Natural (EN). In such cases, an exception to the Estuarine Resources Goal shall be taken and included as an amendment to the City's Comprehensive Plan. Coordination with affected State and Federal resource agencies shall occur during this amendment process.

3. Mining and mineral extraction in Estuary Development (ED) zones shall be permitted only if consistent with the maintenance of navigation and other needed public commercial and industrial water-dependent uses.
4. Location of valuable mineral, sand, aggregate, clay, natural gas and petroleum deposits within estuarine waters, intertidal areas, tidal wetlands and Shorelands shall be identified, and these sites protected from preemptive use until the resources are extracted.

N. MITIGATION

1. Dredging or fill within intertidal areas or tidal wetlands shall be mitigated by the creation, restoration or enhancement of similar estuarine areas.
2. Mitigation projects shall comply with the requirements of the State Fill and Removal Laws (ORS 541.605-541.665).
3. Mitigation sites which generally correspond to the types and quantity of intertidal area proposed for dredging or filling shall be identified in the mitigation plan element of the Tillamook County Comprehensive Plan. Priority sites shall be preserved for future mitigation use. The City shall cooperate with the County, local ports and affected local jurisdictions to preserve priority sites for future mitigation use.

O. NATURAL HABITAT & RESOURCE AREAS

1. Estuarine habitat shall be designated and managed as follows:
 - a. Except where goal exceptions have been taken in the City's Comprehensive Plan, Estuary Natural (EN) Zones shall contain, at a minimum, all major tracts of salt marsh, tideflats, seagrass and algae beds. The purpose is to:
 - (1) Assure the protection of significant fish and wildlife habitats; and
 - (2) Retain diversity of native ecosystems and continued biological productivity within each estuary.

The management objective is to preserve those natural resources in recognition of dynamic, natural, geological, and evolutionary processes. Permissible uses within these areas shall be consistent

with this management objective and shall recognize the low tolerance level of intensive human use.

b. Estuary Development (ED) zones shall contain:

- (1) areas which contain public facilities which are utilized for shipping, handling or storage of water-borne commerce, or for moorage of fueling of marine craft;
- (2) subtidal channel areas adjacent or in proximity to the shoreline which are currently used or needed for shallow draft navigation (including authorized maintained channels and turning basins);
- (3) areas of minimum biologic significance needed for uses requiring alteration of the estuary not included in EN, ECA, ECI, and EC2 zones;
- (4) where an acknowledged Goal 16 exception has been taken, areas of biologic significance which are potentially suitable for commercial, recreational, or industrial development, due to their proximity to subtidal channels, developed or developable shorelands or developed estuarine areas, and to the availability of services.

The management objective is to:

- (1) provide for long-term maintenance, enhancement, expansion or creation of structures and facilities for navigational and other water-dependent commercial, industrial or recreational uses; and
- (2) provide for the expansion or creation of other commercial, industrial or recreational facilities subject to the general use priorities outlined in Subsection K.
- (3) Developments that require surface water appropriation and diversion shall be located where stream flows are not reduced below the minimum recommended levels. Water Quality policies shall apply.
- (4) Non-hazard snags adjacent to streams, sloughs, and in forested areas should be left in order to increase habitat diversity.

- (5) Wheeler encourages a reduced tax assessment for privately owned lands which have been identified as important estuarine or shoreland natural habitat and resource areas.

P. NAVIGATIONAL STRUCTURES AND NAVIGATIONAL AIDS

1. Navigational aids (beacons, buoys, channel markers) and maintenance and repair of existing navigational structures (breakwaters, jetties, groins, and pile dikes) shall be permitted within all estuary zones. Expansion or new construction of navigational structures is only permitted in Estuary Development (ED) zones.
2. Navigational structures shall be permitted only if:
 - a. required for navigation or in conjunction with a water-dependent recreational, commercial or industrial use for which there is a need (i.e., substantial public benefit) demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 - b. the need cannot be met by non-structural solutions; and
 - c. adverse impacts on water currents and erosion and accretion patterns are avoided or minimized to be consistent with the purposes of the area.

Q. PILING/DOLPHIN INSTALLATION

1. Replacement of existing pilings and dolphins shall be permitted within all estuary zones.
2. In Estuary Natural (EN) zone, new pilings shall be limited to:
 - a. individual unconnected pilings in conjunction with an approved aquaculture facility or a navigation aid.
 - b. temporary alterations.
 - c. active restoration and estuarine enhancement.Aquaculture facilities and navigation structures and aids policies and standards shall apply.

3. Piling and dolphin installation in Estuary Development (ED) zones shall be permitted if:
 - a. required in conjunction with navigation or water-dependent use for which no feasible alternative upland location exists; or
 - b. required in conjunction with a water-related use or a non-dependent, non-related use, only if consistent with the maintenance of navigation and other needed public and industrial water-dependent uses.
4. Replacement of existing pilings and dolphins and installation of new pilings and dolphins shall be subject to the requirements of the Rivers and Harbors Act of 1899, and other applicable State and Federal Laws.

R. PUBLIC ACCESS TO THE ESTUARY AND ITS SHORELANDS

1. The City recognizes the value of maintaining and improving public access to its publicly owned estuaries for all people.
2. Further acquisition, sale or development of shorelands owned by the County, Federal, State and local governments shall be carried out in a manner to retain existing public access and maximize future public access to these publicly owned shorelands, consistent with resource capabilities and site sensitivity to human use. To this end:
 - a. Existing public ownership, rights-of-way, and similar public easements which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.
 - b. Governments should avoid closing their lands to public use unless protection of fragile resources outweighs the benefits to be derived from public use.
 - c. All units of government providing or supporting public access to the public coastal areas should give particular attention to use capabilities in order to protect areas from over-use and to prevent potential damage to resources.
 - d. Public access to shorelands owned by Federal, State and local government should be improved where feasible and consistent with authorized use.

- e. The City should consider the purchase of conservation of scenic easements whenever opportunities are available to increase public access.
- f. The City supports the voluntary use of the open space special tax assessment law when it will result in property owners maintaining natural areas or providing visual or physical access to public areas.
- g. Special consideration should be given to making some designated areas of the City's publicly owned shorelands available to the elderly, handicapped, and physically disabled.

3. The private use of privately owned intertidal areas, tidal wetlands and shorelands is legitimate and must be protected against encroachment. Public access through and the use of, private property shall require the consent of the owner, and is trespass unless appropriate easements and accesses have been acquired in accordance with the law.

- 4. Where major shoreline developments are allowed, they should not, in combination with other developments in the area, exclude the public from shoreline access to areas traditionally used for fishing, hunting or other shoreline activities.
- 5. Special consideration of the need to retain open space and improve public access to publicly owned shorelands is necessary in urban and urbanizing areas. Industrial and commercial facilities such as canneries, ports and marinas should, where feasible, provide physical or visual access to coastal waters and shorelands.
- 6. The City shall carry out a program of providing public access to Nehalem Bay by retaining existing public ownership, rights-of-way, and similar public easements which provide access to coastal waters or replacing such access if they are sold, exchanged or transferred (rights-of-way may be vacated so long as equal or improved access is provided as part of a development project).

S. RECREATION AND RECREATIONAL FACILITIES

- 1. Maintenance and repair of existing docks, moorages, marinas, and other recreational facilities shall be permitted within all estuary zones and shoreland zones.
- 2. Low-intensity water-dependent recreation shall be permitted within all estuary zones and shoreland zones.

3. To preserve significant fish and wildlife habitat and provide for continued biological productivity, recreation in the Estuary Natural (EN) zone shall be limited to boat ramps for public use where no dredging or fill for navigational access is needed.
4. Recreational off-road vehicle use shall not be permitted in estuarine waters, intertidal areas or tidal wetlands.
5. Consistent with demand, natural resource values, private property rights, and the need for other more intensive development, local, State and Federal agencies are encouraged to provide for recreational facilities and public access points to ocean, estuaries, rivers and shorelands. Adequate law enforcement shall be provided by the local, State, or Federal agency responsible for these recreational areas.
6. Dredge, fill shoreline stabilization or piling/dolphin installation in conjunction with recreational facilities shall be subject to the respective policies and standards for these activities.

T. RESTORATION

1. Passive restoration is the use of natural processes, sequences and timing which occur after the removal or reduction of adverse stresses without other specific positive remedial action. Passive restoration shall be permitted in all estuary zones. In Estuary Development (ED) zones, only those passive restorative projects shall be permitted which do not:
 - a. interfere with the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent development;
 - b. preempt the use of adjacent shorelands especially suited for water-dependent development.
2. Restoration and enhancement activities may serve as part of a mitigation project, subject to the requirements of the State Fill and Removal Law (ORS 541.605-541.665) and other applicable State and Federal laws.

3. Estuarine Restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system where alteration work begins. The following types of restoration work are recognized but not limited to:

- (1) Diked lands restoration

Priority shall be given to restoration of agriculturally marginal or unused, lowlying dike areas to adjacent estuarine wetland or tideland. This may be accomplished by either active means such as contouring to provide the potential for diverse habitats (mudflat and marsh) or removal of dikes, or by passive means such as breaching a dike to allow tidal flushing. An exception to the Agricultural Lands Goal shall be taken and included as an amendment to the Tillamook County Comprehensive Plan before productive agricultural land is lost due to breaching or removal of functional dikes for purposes of restoration.

The Tillamook County Agricultural Criteria shall be used to evaluate the value or productivity of agricultural land. Significant wildlife habitat should not be lost through breaching or removal of dikes. Incentives should be provided to landowners to encourage the re-restoration of unused diked tidal marsh areas with minimal agricultural value to aquatic production.

- (2) Removal of fills to restore estuarine surface area.

- (3) Establishment of tidal marsh vegetation.

4. Estuarine enhancement is an action which results in the long-term improvement of an existing estuarine functional characteristics and processes that is not the result of a creation or restoration action. Estuarine enhancement includes but is not limited to:

- (1) Removal of old pilings and structures. Priority shall be given to the removal of old pilings, buildings or navigational structures which are a hazard to navigation, pose a danger to life and property, are structurally unsound or serve no demonstrated public use.

- (2) Restoration of shoal areas. Priority shall be given to estuarine channel areas where excessive shoaling has resulted in loss or decrease in navigability.

- (3) Restoration of eroded areas. Priority shall be given to areas where erosion constitutes a hazard.
 - (4) Restoration of river channels and mouths for purposes of flood control. Priority shall be given to river channels and mouths where shoaling or concentration of debris has occurred. Proposed restoration projects for the purposes of flood control must demonstrate that flooding conditions will be reduced to those which existed at the time of the physical dimensions (e.g. depth and width) to which the channel is being restored.
 - (5) Salmon habitat/spawning restoration projects. Priority shall be given to projects involving the regravelling of streams where excessive siltation has occurred, and/or removal of bypass constructions, such as old tidegates, dams or waterfalls.
5. Habitat types, resources or amenities which are in shortest supply as compared with historical abundance shall be identified as part of the restoration plan element of the Tillamook County Comprehensive Plan, and shall be priority sites for restoration projects.
6. Active restoration and estuarine enhancement as defined above shall be permitted in all estuary zones, subject to the following requirements:
 - (a) In Estuary Natural (EN) zones, active restoration shall be limited to restoration of fish and wildlife habitat or water quality. Active restoration and estuarine enhancement shall be consistent with the resource capabilities of the area and the purposes of the management unit.
 - (b) In Estuary Development (ED) zones, active restoration shall not interfere with the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses or the use of adjacent shorelands especially suited for water-dependent development.
 - (c) In major marshes, significant wildlife habitat coastal headlands, and exceptional aesthetic resources within coastal shorelands, active restoration shall be consistent with the protection of natural values.

U. SCIENTIFIC RESEARCH, PLANNING AND PUBLIC EDUCATION IN ESTUARIES AND SHORELANDS

1. To ensure local coordination and to provide useful information for local estuary management decisions, all agencies, consultants, university personnel and private individuals conducting research or developing plans in the City should:
 - a. Contact the City during the project planning stage, to outline the research objectives and schedules and the means of reporting project results; and
 - b. convey research results to local government agencies.

V. SHALLOW DRAFT PORT FACILITIES AND MARINAS

1. Maintenance and repair of existing port facilities and marinas shall be permitted within all estuary zones. Expansion and new construction of port facilities and marinas is only allowed in Estuary Development (ED) zones.
2. The following shall be considered in the designation of areas for the purpose of port facility or marina development or expansion:
 - a. proximity to navigation channel;
 - b. degree of existing estuarine or shoreland alteration;
 - c. relative biological significance;
 - d. proximity to land transportation facilities;
 - e. availability of water and sewer service and power supplies;
 - f. value of the area to the community as an economic resource;
 - g. proximity to urban or urbanizable areas;
 - h. need for, and availability of, developable shorelands;
 - i. proximity to industrial areas or potential upland industrial sites;
 - j. initial and long term dredging and dredged material disposal requirements and availability of dredged material disposal sites.

3. In shallow draft development estuaries (Tillamook and Nehalem Estuary), the depth of those portions of the main channel which are maintained by dredging shall not exceed 22 feet in depth.
4. Safe navigation access to existing and future port facilities shall be maintained.
5. To encourage the most efficient use of waterfront and water surface area:
 - a. public or private community marina facilities are encouraged over the proliferation of individual, single-purpose piers and mooring facilities;
 - b. concentrated marinas are preferred over small, widely distributed marinas;
 - c. dry land, rather than in-water storage of boats is preferred, when feasible.

W. SHORELINE STABILIZATION

1. Maintenance and repair of existing shoreline stabilization measures shall be permitted within all estuary and shoreland zones, and other shoreland areas.
2. Within estuarine waters, intertidal areas, tidal wetlands and along shoreland zones, and other shoreland areas, general priorities for shoreline stabilization for erosion control are, from highest to lowest:
 - a. proper maintenance of existing riparian vegetation;
 - b. planting of riparian vegetation;
 - c. vegetated rip-rap;
 - d. non-vegetated rip-rap;
 - e. groins, bulkheads and other structural methods.
3. Proper maintenance of existing riparian vegetation and planting of additional vegetation for purposes of shoreline stabilization shall be permitted within all estuary zones, and along shoreland zones and other shoreland areas. The City supports the efforts of the Tillamook Soil and

Water Conservation District to maintain and improve streamside habitat along the County's rivers and streams.

4. Structural shoreline stabilization methods within estuary zones, and shorelands zones shall be permitted only if:
 - a. flooding or erosion is threatening a structure or an established use or there is a demonstrated need (i.e. a substantial public benefit) and the use or alteration does not unreasonably interfere with public trust rights; and
 - b. land use management practices or non-structural solutions are inappropriate because of high erosion rates, or the use of the site; and
 - c. adverse impacts on water currents, erosion and accretion patterns and aquatic life and habitat are avoided or minimized.
5. In Estuary Natural (EN) zones, structural shoreline stabilization shall be limited to riprap, which shall be allowed only to protect:
 - a. existing structures or facilities, which are in conformance with the requirements of this ordinance, or non-conforming structures or facilities; and
 - b. unique natural resources or sites with unique historical or archaeological values; and
 - c. established uses on private property.

A resource capability determination shall be required for riprap in EN zones for purposes other than the protection of unique natural resources, historical and archaeological values, public facilities and uses existing as of October 7, 1977.
6. In Estuary Development (ED) zones, structural shoreline stabilization (riprap, groins or bulkheads) shall be permitted only if consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses

X. WATER QUALITY

1. The following state and federal authorities shall be utilized for maintaining water quality and minimizing man-induced sedimentation in estuaries:
 - a. the Oregon Forest Practices Act and Administrative Rules for forest lands as defined in ORS 527.610-527.730, 572.990;
 - b. the non-point source discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Clean Water Act of 1977 (P.L. 92-500).
 - c. the Fill and Removal Permit Program administered by the Division of State Lands under ORS 541.605-541.665; and
 - d. the program of the Soil and Water Conservation District and local districts of the Soil Conservation Service for Agricultural lands;
 - e. Sections 404 and 402 of the Clean Water Act of 1977 (P.L. 92-500).
2. Gasoline and oil sales on the waterfront should be limited to the servicing of water-dependent facilities and marine craft.
3. Uncontrolled release of pollutants into ocean, river, or estuarine waters is prohibited by state and federal law. Controlled release of treated industrial, domestic and agricultural wastes into ocean, river, or estuarine waters shall be permitted only if no practicable alternatives exist. In this case, waste disposal into the ocean or rivers is preferred over estuarine waste disposal.
4. All projects involving dredging, fill, piling/dolphin installation, or navigational structures shall be constructed so that flushing capacity is maintained or improved and so that changes in circulation patterns will not result in water quality problems.
5. Wheeler recognizes the statutory authority of the Oregon Department of Agriculture to regulate the application of pesticides and herbicides, the Oregon Department of Environmental Quality to regulate the impacts of chemical substances on estuarine water quality, and the Oregon Department of Environmental Quality to regulate water withdrawal and effluent discharge into estuarine waters. Preparation of impact assessments for these activities shall be the responsibility of these agencies.

URBAN GROWTH BOUNDARY

POLICIES:

1. The City of Wheeler shall notify Tillamook County about any land use application or decision within the Wheeler Urban Growth Boundary, but outside the Wheeler City limits. The City of Wheeler shall have the responsibility for making land-use decisions in this area. However, appeal of a City Council decision shall be filed with Tillamook County. For the purpose of controlling development, the City and the County agree to cooperate in reaching decisions on major planning actions: requests for rezones, subdivision applications, planned unit developments, and Comprehensive Plan amendments.
2. The Nehalem Bay Wasterwater Agency shall be notified of major planning actions.
3. New developments requiring City water service, City fire protection, public sewer or other urban area services, shall be provided by the City of Wheeler only after annexation to the City.
4. Changes in the urban growth boundary shall be accomplished by amendment of both the City and County Comprehensive Plans. Changes in the boundary shall be based upon consideration of the following factors:
 - a. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
 - b. Need for housing, employment opportunities, and livability;
 - c. Orderly and economic provision for public facilities and services;
 - d. Maximum efficiency of land uses within and on the fringe of the existing urban area;
 - e. Environmental, energy, economic, and social consequences;
 - f. Retention of agricultural land as defined, with Class 1 being the highest priority for retention and Class VI the lowest priority; and
 - g. Compatibility of the proposal urban uses with nearby agricultural activities;

Changes to the urban service area boundary shall also conform to the procedures and requirements of Goal #2, Part II, Exceptions.

5. The substantive requirements of the Wheeler zoning and subdivision ordinance shall apply within the urban growth boundary.

STRATEGIES:

It is recommended that the City participate in and encourage the activities of the Lower Nehalem Watershed Council.

PUBLIC FACILITIES

POLICIES:

1. Land uses and densities developed in the urban service area shall be coordinated with and shall not exceed capacity for existing or planned public facilities.
2. Key public facilities and services (water, sewer, the storm water drainage system, and approval of transportation) shall be provided in an orderly and efficient manner.
3. New developments requiring City water service, City fire protection, public sewer, storm water drainage system, or other urban area services shall be provided by the City of Wheeler only after annexation to the City.
4. Adequate storm water drainage facilities, as approved by the City, shall be part of all subdivision, planned unit developments or other developments which may impact storm drainage patterns.
 - a. Proposals involving discharge into developed areas shall be consistent with the capacity of existing storm water facilities in the developed area:
 - b. Proposals involving discharge into natural drainages should make special precautions including larger stream setbacks, larger lot sizes, reduced lot coverage, holding ponds or other methods as approved by the City;
 - c. All developers shall work with the City to insure that natural drainages or drainage facilities installations are adequate to handle drainage for proposed and potential future development.
5. Adequate water, sewage treatment, and storm water drainage capacity shall be available prior to the approval of uses having major impacts on those services.

6. The extension of sewer, water, and storm water drainage services shall be at the affected property owner's expense.
7. Large developments or heavy water users shall make equitable contributions to the improvement of the water system and shall pay all costs associated with the extension of water lines.
8. Water lines in proposed developments shall be adequately sized to meet future needs at the projected density or usage, including fire flow requirements.
9. The City will cooperate with Tillamook County to develop and locate new solid waste management facilities.
10. The City shall cooperate with the School District to insure that growth of the City does not outstrip the District's ability to provide facilities. Subdivisions or other major developments that could generate large enrollment increases shall be permitted only after consideration of their impact on schools.
11. Because of the major impacts such activity has on the life of the community, major highway and railroad developments, such as realignment, relocation, purchase of additional right-of-way, construction of intersections or abandonment of rail lines, should be controlled through the City's Conditional Use procedure. Minor improvement such as repaving, and addition of bike lanes in existing rights-of-way shall be outright use.

STRATEGIES:

1. The capital improvements program for upgrading the water system should be implemented.
2. The City will cooperate with Tillamook County to find ways to manage solid waste disposal including recycling.
3. The City should consider establishing a joint venture street paving and drainage program whereby the City and adjacent property owners would share in the costs of improvements.
4. The City should consider the establishment of a parks and recreation sinking fund in order to accumulate matching funds for State or Federal programs.
5. The City needs to undertake a study of System Development Charges.

SHORELANDS

The Coastal Shoreland Goal states that, based upon inventories, Comprehensive Plans for coastal areas adjacent to the ocean, estuaries, or coastal lakes shall identify coastal shorelands. This area is to include at least:

1. Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or coastal lake.
2. Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.
3. Natural or man-made riparian resources;
4. Areas of significant shoreland or wetland biological habitat whose habitat quality is primarily derived from or related to the association with coastal water areas.
5. Areas necessary for water-dependent and water-related uses including dredged material disposal and mitigation sites.
6. Areas of exceptional aesthetic or scenic quality; and
7. Coastal headlands.

The Background Report outlines how the Coastal Shoreland Boundary for Wheeler was established. The Coastal Shoreland area is mapped on page 16. The waterward extent of the Shoreland area is the line of non-aquatic vegetation or, where such a line cannot be accurately determined, mean higher high water.

POLICIES:

The Coastal Shoreland Goal establishes general priorities for the overall use of coastal shoreland areas. The Tillamook County Estuary Plan finds that there are no shoreland areas in Wheeler that are especially suited for water dependent development. The general priorities shall be to:

1. Promote uses which maintain the integrity of estuaries and coastal waters;
2. Maintain and enhance historic, unique and scenic waterfront development allowing for non-water-dependent uses as appropriate in keeping with the community;
3. Provide for water-related uses;

4. Provide for non dependent, non related uses which retain flexibility of future use and do not prematurely or inalterably commit shorelands for more intensive uses;
5. Provide for development, including non dependent, non related uses, in urban areas compatible with existing or committed uses.
6. The requirements of the City's Flood Hazard Overlay Ordinance shall be used to regulate development in flood hazard areas.
7. All new non-residential waterfront development shall, where appropriate, provide public access to the water.
8. Public access to publicly owned shorelands shall be maintained and improved wherever possible, consistent with the authorized use.
9. Riparian vegetation shall be maintained and, where appropriate, restored and enhanced, consistent with water-dependent uses.
10. Land-use management practices and non-structural solutions to problems of erosion are preferred to structural solutions. Where shown to be necessary, erosion control structures such as riprap shall be designed to minimize adverse impacts on water currents, erosion and accretion pattern, and on adjacent property.
11. Non water-related or non water-dependent uses may be allowed under policies and standards set forth under the City of Wheeler Comprehensive Plan and pertinent development standard provisions of the Wheeler Zoning Ordinance.
12. The City intends to develop a Waterfront Revitalization Plan that extends along the entire waterfront between the Nehalem River and Highway 101 and those commercially zoned properties fronting the east side of Highway 101. The project adopted by the Planning Commission is to be a primary goal for the City's endeavors to stimulate the local economy. The project seeks to promote a mix of industrial, commercial, mixed-use residential uses and recreational activities along the Wheeler Waterfront. The Nehalem Bay Fishery has been a traditional component of the local job market which terminated with the close of commercial fishing in the Bay in 1956 Sport fishing still provides some of the community's residents with income. The Nehalem Estuary's waters have served as a sport fishery and wildlife habitat. Local businesses provide trade, lodging and services to the recreational water users and tourism visitors. The Nehalem Estuary contributes to this economy by serving as a nursery, feeding and resting area for numerous resident and migratory fish and wildlife. To gauge the land use needs around and on the Nehalem Estuary, the Revitalization Plan development will include, but is not limited to, examination of, among other things, a Waterfront Vision, land use development standards, detailed biological and land-use master plan inventories of the City and County Estuarine areas and adjacent shorelands.

LAND USE CATEGORY DEFINITIONS

1. General Commercial (GC). The intent is to provide for a wide range of general retail and service business needs.
2. Residential 1 (R-1). The intent is to provide for residential development consisting of conventional structures and manufactured homes.
3. Residential 2 (R-2). The intent is to provide residential development consisting of conventional structures and manufactured homes. RV Parks and campgrounds on tracts of 10 acres or more may be permitted as Conditional Uses.
4. Water-Related Commercial (WRC). The intent is to provide for marine oriented commercial uses.
5. Water-Related Industrial (IND). The intent is to provide for marine oriented industrial and commercial uses which are compatible with the community's setting and natural values. In addition, certain non-water oriented uses may be permitted.
6. Public Lands (P). The intent is to protect certain publicly owned lands.
7. Estuarine Natural (EN). The purpose is to provide for preservation and protection of significant fish and wildlife habitats and other areas which make an essential contribution to estuarine productivity or fulfill scientific, research or educational needs.
8. Estuarine Development (ED). The purpose is to provide for long-term maintenance, enhancement, expansion or creation of structures or facilities for navigational or other water-dependent commercial, industrial, or recreational uses. Other commercial, industrial, or recreational facilities may be allowed subject to certain criteria.
9. Mitigation Site Protection (MP). The purpose of the Mitigation Site Protection zones is to protect identified mitigation sites from incompatible and preemptive uses that may prevent their ultimate restoration or addition to the estuarine ecosystem.

NO PERTINENT DOCUMENTS AS OF JUNE 2008