Ordinance No. 80-2

City of Nehalem Zoning Ordinance

Revised: 6/14/2010

Table of Contents

Article I. Introductory Provisions 1
Section 1.010 Title 1
Section 1.020 Purpose 1
Section 1.030 Rules of Application 1
Section 1.040 Classification of Zones 1
Section 1.050 Mapping of Zones 2
Section 1.060 Zoning of Annexed Areas 2
Section 1.070 Definitions 2
Article II. Marine Residential – MR Zone 10
Section 2.010 Intent 10
Section 2.020 Permitted Principal Uses & Activities 10
Section 2.030 Conditional Uses & Activities 10
Section 2.040 Development Standards 10
Section 2.050 Special Use Standards 11
Article III. Low-Density Residential – RL Zone 12
Section 3.010 Intent 12
Section 3.020 Permitted Principal Uses 12
Section 3.030 Conditional Uses 12
Section 3.040 Development Standards 12
Article IV. Medium-density Residential – RM Zone 14
Section 4.010 Intent 14
Section 4.020 Permitted Principal Uses 14
Section 4.030 Conditional Uses 14
Section 4.040 Development Standards 14
Article V. Medium-Density Residential – R1 Zone 16
Section 5.010 Intent 16
Section 5.020 Uses Permitted Outright 16
Section 5.030 Conditional Uses 16
Section 5.040 Development Standards 16
Article VI. Medium-Density Residential – R2 Zone 17
Section 6.010 Intent 17
Section 6.020 Permitted Principal Uses 17
Section 6.030 Conditional Uses 17
Section 6.040 Development Standards 17
Article VII. Medium-density Residential – R3 Zone 19
Section 7.010 Intent 19
Section 7.020 Permitted Principal Uses 19
Section 7.030 Conditional Uses 19
Section 7.040 Development Standards 19
Article VIII. Residential Trailer – RT Zone 21
Section 8.010 Intent 21
Section 8.020 Permitted Principle Uses 21
Section 8.030 Conditional Uses 21
Section 8.040 Development Standards 21

Article IX. Commercial – C Zone 23
Section 9.010 Intent 23
Section 9.020 Permitted Principal Uses & Activities 23
Section 9.030 Conditional Uses 23
Section 9.040 Development Standards 23
Article X. Public Lands – P Zone 25
Section 10.010 Intent 25
Section 10.020 Permitted Principal Uses & Activities 25
Section 10.030 Conditional Uses 25
Section 10.040 Development Standards 25
Article XI. Flood Hazard Overlay – FHO Zone 26
Section 11.010 Statement of Purpose 26
Section 11.020 Definitions 26
Section 11.030 General Provisions 28
Section 11.040 Administration 28
Section 11.050 Provisions for Flood Hazard Reduction 29
Article XII. Planned Development 32
Section 12.010 Intent 32
Section 12.020 General Standards for Approval 32
Section 12.030 Potential Uses 32
Section 12.040 Density 32
Section 12.050 Basic Use Standards 32
Section 12.060 Open Space 33
Section 12.070 Transportation 33
Section 12.080 Signs 33
Section 12.090 Compatibility with Adjacent Development 34
Section 12.100 Maintenance of Common Areas 34
Section 12.110 Utility Easements 34
Section 12.120 Other Standards 34
Section 12.130 Application Requirements 35
Section 12.140 Review Procedures 36
Section 12.150 Adherence to Approved Plan 36
Article XIII. Low-Density Residential, Agricultural, Forestry and Recreation – A1 Zone 37
Section 13.010 Intent 37
Section 13.020 Permitted Principal Uses 37
Section 13.030 Conditional Uses 37
Section 13.040 Development Standards 38
Article XIV. Supplementary Provisions 39
Section 14.010 Intent 39
Section 14.020 Geologic Investigation 39
Section 14.030 Manufactured Homes on Individual Lots 40
Section 14.040 Special Standards for Manufactured Homes on Individual Lots within the City of Nehalem and Specific “RT” Zones 42
Section 14.050 Manufactured Home Parks 42
Section 14.060 Temporary Manufactured Home Permits 43
Section 14.070 Recreational Vehicle Park 43
Section 14.080 Home Occupations 44

Section 14.090 Access ... 45
Section 14.100 Clear-Vision Areas ... 45
Section 14.110 Residential Development in the Commercial Zone (Mixed-use) ... 45
Section 14.120 Shore Land and Development Standards ... 46
Section 14.130 Automobile-Oriented Uses & Facilities ... 48
Section 14.140 Riparian Vegetation, Small Streams ... 49
Section 14.150 Buffers Required Adjacent to Exclusive Farm Use (EFU) Zones ... 49
Section 14.160 Accessory Uses/Structures ... 50
Section 14.170 Short-Term Rentals ... 50

Article XV. Exceptions to Zoning Rules ... 52

Section 15.010 Intent ... 52
Section 15.020 Zone Boundaries ... 52
Section 15.030 Authorization of Similar Uses ... 52
Section 15.040 Projections from Buildings ... 52
Section 15.050 General Exception to Lot Size Requirements ... 52
Section 15.060 General Exceptions to Yard Requirements ... 52
Section 15.070 General Exception to Building Height Limitations ... 52

Article XVI. Matters Subject to the Review and Approval by the Planning Commission ... 53

Section 16.010 General ... 53
Section 16.020 Limitation on Reapplications ... 53
Section 16.030 Legislative Zone Changes or Comprehensive Plan Amendment ... 53
Section 16.040 Standards for Approval of Zone Changes or Comprehensive Plan Amendments ... 53

Article XVII. Variances ... 54

Section 17.010 Intent ... 54
Section 17.020 Conditions for Granting a Variance ... 54
Section 17.030 Application ... 54
Section 17.040 Time Limit ... 54

Article XVIII. Conditional Uses & Activities ... 55

Section 18.010 Intent ... 55
Section 18.020 Authorization ... 55
Section 18.030 Preexisting Conditional Uses ... 55
Section 18.040 Application ... 55
Section 18.050 Performance Sureties ... 56
Section 18.060 Compliance with Conditions of Approval ... 56
Section 18.070 Time Limit for Conditional Uses ... 56
Section 18.080 Limitations on Refilling of Application ... 56
Section 18.090 Basic Conditional Use Standards ... 57
Section 18.100 Specific Conditional Use Standards ... 57

Article XIX. Administrative Provisions ... 59

Section 19.010 General ... 59
Section 19.020 Application ... 59
Section 19.030 Fees ... 59
Section 19.040 Preliminary Matters ... 59
Section 19.050 City Manager/Recorder's Report & Quasi-judicial Land Use Hearings ... 60

Article XX. Nonconforming Uses ... 64

Section 20.010 Continuation of Nonconforming Use ... 64

Section 20.020 Enlargement or Expansion of a Nonconforming Use 64
Section 20.030 Discontinuance of Nonconforming Use 64
Section 20.040 Destruction of Nonconforming Use or Structure 64
Section 20.050 Completion of Structure 64
Article XXI. Enforcement 65
Section 21.010 Investigation of the Violation 65
Section 21.020 Preliminary Matters 65
Section 21.030 Enforcement Remedies 66
Article XXII. Estuary Zones 67
Section 22.010 Use Priorities and Uses Permitted Outright 67
Section 22.020 Definitions 68
Section 22.030 Estuary Conservation 1 Zone (EC1) 75
Section 22.040 Estuary Conservation 2 Zone (EC2) 77
Section 22.050 Estuary Development Zone (ED) 80
Section 22.060 Review of Regulated Activities 83
Section 22.070 Estuary Development Standards 85
Article XXIII. Utilities Facilities Overlay Zone (UFO) 105
Section 23.010 Purpose 105
Section 23.020 Uses Permitted Outright 105
Section 23.030 Standards 105
Article XXIV. Light-Industrial – LM Zone 107
Section 24.010 Intent 107
Section 24.020 Permitted Principal Uses 107
Section 24.030 Conditional Uses & Activities 107
Section 24.040 Development Standards 107
Article XXV. Off-Street Vehicle Parking 109
Section 25.010 Purpose & Applicability 109
Section 25.020 Off-Street Vehicle Parking & Loading, Generally 109
Section 25.030 Vehicle Parking Standards 109
Section 25.040 Parking Location & Shared Parking 111
Section 25.050 Maximum Number of Parking Spaces 112
Section 25.060 Parking Stall Standard Dimensions & Compact Car Parking 112
Section 25.070 Disabled Person Parking Spaces 113
Article XXVI. Signs 114
Section 26.010 Purpose 114
Section 26.020 Definitions 114
Section 26.030 General Provisions 114
Section 26.040 Construction & Maintenance; Enforcement 115
Section 26.050 Signs Allowed; Maximum Size 116
Section 26.060 Off-Premise (Billboard) Signs 117
Section 26.070 Specific Prohibitions 118
Section 26.080 Nonconforming Signs 118
Section 26.090 Appeals 119

Article I. Introductory Provisions

Section 1.010 Title

1. This *Ordinance* shall be known and may be cited as the "*Nehalem Zoning Ordinance*."

(Adopted: 80-2)

Section 1.020 Purpose

1. This *Ordinance* is to establish zoning districts and regulations within the City, consistent with the *Nehalem Comprehensive Plan*, and for the following purposes:
    a. To promote appropriate uses of land and orderly development of the City;
    b. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
    c. To protect land uses from geologic hazards, pollution, flood and other dangers;
    d. To provide adequate light, air quality and provisions for fire protection; and
    e. In general, to promote the public health, safety, convenience and welfare.

(Adopted: 80-2)

Section 1.030 Rules of Application

1. No building or other structure shall be erected, reconstructed, altered, enlarged or moved; nor shall any building, structure or land be used for any purpose except as specifically (or by necessary implication) authorized by this *Ordinance*.
    a. No lot shall be reduced in area so as to be smaller than the allowable minimum lot sizes authorized by this *Ordinance*, and if already less, the area shall not be further reduced.
2. Issuance of building permits, property divisions and other uses of land authorized by this *Ordinance* shall require written certification by the City Manager/Recorder that the proposal is consistent with the provisions of the *City Zoning Ordinance*, City *Comprehensive Plan*, and other local *Ordinances*.

(Adopted: 80-2)
(Amended: 91-01)

Section 1.040 Classification of Zones

1. For the purpose of this *Ordinance*, the following zones are hereby established:

Zone	Primary Symbol	Article
Marine Residential	MR	II
Low-Density Residential	RL	III
Medium-Density Residential	RM	IV
Medium-Density Residential	R1	V
Medium-Density Residential	R2	VI
Medium-Density Residential	R3	VII
Residential Trailer	RT	VIII
Commercial	C	IX
Public Lands	P	X
Flood Hazard Overlay	FHO	XI
Planned Development	PD	XII
Low-Density Residential	A1	XIII
Estuary Zones		XXII
Utility Facility Overlay	UFO	XXIII
Light Industrial	LM	XXIV

(Adopted: 80-2)
(Amended: 81-7, 91-01)

Section 1.050 Mapping of Zones

1. The boundaries of zoning districts within the City Limits are shown upon the maps entitled "*City of Nehalem Zoning Maps*."
    a. The boundaries of zoning districts within the Urban Growth Boundary, but outside the City Limits, are shown on the "*Tillamook County Zoning Maps*."
2. The City shall maintain an up-to-date copy of the City Zoning Map, revised when necessary, so that it accurately portrays changes of the district boundaries.
    a. Adjacent to any *Zoning Map* revisions, the City Manager/Recorder shall endorse the change with the *Ordinance Number* authorizing the *Zoning Map Amendment*.
3. Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; centerlines of streets; or such lines extended.

(Adopted: 80-2)

Section 1.060 Zoning of Annexed Areas

1. Areas annexed to the City shall automatically be classified consistent with the *Comprehensive Plan*, *Zoning Ordinance* and other local *Ordinance*s.

(Adopted: 80-2)

Section 1.070 Definitions

1. As used in the *Ordinance* the following words and phrases shall mean:
    (1) **Abutting.** Sharing all or part of a common property line. For the purpose of determining abutting property. Intervening public and private ways and watercourses do not break the continuity of abutting properties.
    (2) **Access**. Means the way or means by which pedestrians and vehicles enter and leave property.
    (3) **Accessory Use and Structure**. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
    (4) **Adult Foster Home.** As defined by OAR 411-5-400 (2); a State-certified dwelling operated in a family-type setting for senior citizens and/or disabled persons over the age of eighteen (18) who are in need of help in the provision of shelter, food, medical care and/or other service.
    (5) **Alley.** A street which affords only a secondary means of access to property.
    (6) **Appeal.** A request for review of a Planning Commission, Staff and/or City Council decision or interpretation of any provision of these *Ordinances.*
    (7) **Aquaculture**. The propagation, cultivation, maintenance and harvesting of aquatic species.
    (8) **Awning**. Means any stationary structure, permanent or demountable, used in conjunction with a manufactured home or trailer, other than window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.
    (9) **Bed and Breakfast Enterprise, Boarding, Lodging or Rooming House**. A residential structure where not more than fifteen (15) persons, not including members of the family occupying such a structure, provide compensation for lodging and meals.
    (10) **Buildable Area.** For the purpose of siting structures on a parcel, the area thereon exclusive of all applicable setbacks or areas within restrictive overlay zones contained in this *Ordinance.* For purposes of calculating the allowable number of dwellings on a lot or parcel, the area thereof, exclusive of the following: Road or utility easements, narrow strips of land provided for access from a street to a flag lot, areas within all estuary zones, and channels within the ordinary high water lines of streams that are at least fifteen feet (15') wide. This definition shall not apply to erosion control structures or structures otherwise allowed within applicable overlay zones.

(11) **Building**. A structure built or used for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

(12) **Cabana**. A stationary, light-weight structure which may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a manufactured home to provide additional living space meant to be moved with the home.

(13) **Camping Unit.** Any tent or recreation vehicle located in a campground as temporary living quarters for recreation, education or vacation purposes.

(14) **Campsite.** Any plot of ground within a campground intended for the exclusive occupancy by a camping unit or units.

(15) **Commission.** The City of Nehalem Planning Commission.

(16) **Conditional Use.** A use of land that generally conforms to the types and nature of the uses permitted by right in a zone, but because of potential adverse on-site and/or off-site impacts, requires the review and discretionary approval of the Planning Commission according to the provisions within this *Ordinance.*

(17) **Condominium**. Means, with respect to property located within this state: (A) The land, if any, whether leasehold or in fee simple and whether contiguous or noncontiguous; (B) Any buildings, improvements and structures on the property; and (C) Any easements, rights and appurtenances belonging to the property, which are submitted to the provisions of ORS 100.005 to 100.625.

(18) **Contiguous**. Sharing all or part of a common boundary.

(19) **Day Care Center**. Day Care Center or "Child Care Facility" means any facility that provides child care to children including a day nursery, nursery school group, group child care home, child care center, family child care home, or similar unit operating under any name, but not including: (A) Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day; (B) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion; (C) Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group; (D) Facility operated by a school district as defined in ORS 332.002, political subdivision of this State or a governmental agency; (E) Residential facility licensed under ORS 443.400 to 443.455; and (F) Babysitters.

(20) **Development**. The act, process or result of developing—Which means to bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a change in the use or appearance of land; to divide land into parcels; or to create or terminate rights to access.

(21) **Dock**. A pier or secured float or floats for boat tie-up or other water use.

(22) **Dredge Material Disposal**. The depositing of dredge material in aquatic or shore land areas.

(23) **Dwelling.** A detached structure that meets the requirements of the Uniform Building Code for residential structures and which is intended and/or used for residential purposes. Dwelling includes qualifiers such as the following, indicating the number of dwelling units per structure: Single Family – 1; Two Family – 2; Multi-Family – 3 or more.

(24) **Dwelling Unit**. One or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing three or more of the following: Refrigeration; Cooking Facilities (including cooking stove, hot plate, range hood, microwave oven, or similar facility); Dishwashing machine; Sink intended for meal preparation (not including a wet bar); Garbage disposal; and/or Toilet.

(25) **Easement**. The grant of a right of use for a specific purpose over, through or on a parcel of land.

(26) **Facing**. Directly opposite, across from.

(27) **Family.** One or more persons related by blood, marriage, adoption or guardianship or similar circumstance; and not more than five (5) additional persons not so related, occupying a dwelling unit and living as a single household unit. This includes the occupants of an Adult Foster Home and a Foster Family Home.

(28) **Fence, Sight-obscuring**. A fence or evergreen planting arranged in such a way as to obstruct vision.

(29) **Fill**. The placement by man of sediment or other material excluding solid waste, in an aquatic area to create new shore land or on shore lands to raise the elevation of land.

(30) **Grade**. The average elevation of the existing ground at the centers of all walls of a building.

(31) **Height of Building**. The vertical distance of a building measured from grade to the highest point of the roof.

(32) **Home Occupation**. A lawful occupation carried out by a resident of the property on which the activity is located, within the residence or other buildings normally associated with uses permitted in the Zone in which the property is located, subject to the provisions contained within this *Ordinance*.

(33) **Hotel, Motel or Group Cottages**. A building or group of buildings containing six (6) or more units which are designed to be used; or which are used, rented or hired out for transient lodging purposes.

(34) **Landscaping**. Features include planting, groundcover, shrubs & trees, paving materials and site retainment.

(35) **Light Industry**. A business having noise, dust, odor, light, traffic and hazard impacts that are similar to those experienced in general business areas. Outdoor storage is screened with sight-obscuring fences.

(36) **Line, Property**. A line, or a description thereof, that is recorded in the Office of the County Clerk, and which serves to distinguish a lot or parcel from surrounding properties.

(37) **Line, Street**. A property line between a lot, tract, or parcel of land and an adjacent street or private way.

(38) **Line of Non-Aquatic Vegetation**. The water-ward limit of shore land areas, or where such a line cannot be determined, mean higher high water.

(39) **Lot**. A parcel or tract of land.

(40) **Lot Area**. The total horizontal area within the lot line of a lot exclusive of streets and easements of access to other property.

(41) **Lot, Corner**. A lot abutting on two or more streets other than an alley, at their intersection.

(42) **Lot Coverage**. The portion of a lot or parcel of land which is covered with buildings, parking and maneuvering area, patios, decks, covered or paved storage areas or other impervious surface.

(43) **Lot, Depth**. The average horizontal distance between the front lot line and the rear lot line.

(44) **Lot, Flag**. A single buildable lot partially separated from a public or private road by other lots or land, but maintaining a minimum of twenty-five foot (25') frontage on the public or private road from which it gains access.

(45) **Lot, Interior**. A non-corner lot.

(46) **Lot, Line**. The property line of a lot.

(47) **Lot, Line-Front**. The line separating a lot from a street or private way, other than an alley. On a corner lot, the front is the shortest property line along a street or private way other than an alley. In the case of a through lot or a corner lot with equal lines abutting streets, the front lot line is the side from which primary vehicular access is attained.

(48) **Lot, Line-Rear**. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

(49) **Lot, Line-Side**. Any lot line not a front or rear lot line.

(50) **Lot, Line-Street Side.** Any lot line along a street or private way (not an alley), other than the front lot line.

(51) **Lot, Size**. The total area of a lot or parcel measured in a horizontal plane within the property lines, exclusive of public and private roads.

(52) **Lot, Through**. An interior lot abutting two streets.

(53) **Lot Width**. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(54) **Low-intensity Water-dependent Recreation**. Recreation which does not require developed facilities and can be accommodated without change to the area or resources.

(55) **Manufactured Home Subdivision**. A subdivision designated by the City to permit the outright placement of manufactured homes, and where the primary use of lots is for placement of manufactured homes and where development standards have been met.

(56) **Marina**. Marinas are facilities which provide moorage, launching, storage, supplies, and a variety of services for recreational, commercial fishing and charter fishing vessels. They are differentiated from docks and moorages by their larger scale, the provision of significant landslide services and/or the use of a solid breakwater (rock, bulkhead, etc.).

(57) **Mean Higher High Water**. A determined average elevation of a set of tide planes defined in Oregon 26, U.S. Department of Commerce Environmental Science Services Administration Coast and Geodetic Survey Tidal Bench Mark for the Lower Nehalem River.

(58) **Mixed-Use Development.** Development that contains both residential and commercial or public/institutional uses all within the same structure. Mixed-use development may be "vertical" (residential above the ground floor) or "horizontal" (residential on the ground floor).

(59) **Manufactured Dwelling**.

i. A **residential trailer**, a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.

ii. A **mobile house**, a structure constructed for movement on the public highways, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962 and June 16, 1976; and meets the construction requirements of Oregon Mobile Home Law in effect at the time of construction.

iii. A **manufactured home**, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy; is being used for residential purposes and was constructed in accordance with Federal Manufactured Housing Construction and Safety Standards regulations in effect at the time of construction.

(60) **Manufactured Dwelling Park**. Any place where two or more manufactured homes are located within five hundred (500) feet of one another on a lot, tract or parcel of land under the same ownership; the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing trade or patronage of such person.

(61) **Manufactured Home Accessory Building or Structure**. Any awning, portable, demountable or permanent cabana, amada, carport, porch, skirting or

steps established for use of the occupant of the manufactured home and which are designed or intended to be attached to and which depend, in whole or in part, upon the manufactured home for structural support.

(62) **Minimum Safety Standards**. Those standards prescribed by the Uniform Building Code, Uniform Fire Code, State of Oregon, locally adopted Ordinances or any other regulation or rule adopted and/or recognized by the City of Nehalem that pertains to the safety of persons and/or property.

(63) **Nonconforming Structure or Use**. A lawfully existing structure or use at the time this *Ordinance* or any Amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

(64) **Owner**. The owner of the title to real property, or the contract purchaser of real property of record, as shown on the last available complete tax assessment roll. Owner shall also mean any agent with written authority of the owner.

(65) **Parcel**. A single unit of land that is created by a partitioning of land.

(66) **Parking Space**. An enclosed or unenclosed surfaced area of not less than eighteen (18) feet by nine (9) feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street or alley which affords ingress or egress for automobiles.

(67) **Person.** Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

(68) **Planning Commission.** A Commission appointed by the governing body of the City to assist in the development and administration of the City's *Land Use Ordinances* and regulations.

(69) **Primary Use.** The principal purpose for which property is used or occupied.

(70) **Private Way.** A thoroughfare reserved for use by an identifiable set of persons.

(71) **Public Park or Recreation.** Recreation developments which provide for picnicking, swimming, fishing, riding or other similar activities (excludes hunting), but which exclude overnight camper or recreational vehicle use and outdoor commercial amusements such as miniature golf courses and go-cart tracks.

(72) **Recreational Vehicle**. A portable temporary dwelling unit, with a gross floor area not exceeding four hundred (400) square feet in the set up mode, which is intended for vacation, emergency or recreational use, but not for permanent residential use, unless located in a recreational vehicle dwelling park or other area specifically described within this *Ordinance*. Recreational Vehicle includes the following:

i. **Camper.** A structure containing a floor that is designed to be temporarily mounted upon a motor vehicle, and which is designed to provide facilities for temporary human habitation.

ii. **Motor Home.** A motor vehicle with a permanently attached camper, or that is originally designed, reconstructed or permanently altered to provide facilities for temporary human habitation.

iii. **Travel Trailer.** A trailer that is capable of being used for temporary human habitation, which is not more than eight feet (8') wide, and except in the case of a tent trailer, has four (4) permanent walls when it is in the usual travel position.

iv. **Self-Contained Recreational Vehicle.** A vehicle that contains a factory-equipped, onboard system for the storage and disposal of gray water and sewage.

(73) **Residential Home**. A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing

requirements shall not be counted in the number of home residents, and need not be related to each other or to any resident of the residential home.

(74) **Residential Facility**. A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for six (6) to fifteen (15) who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

(75) **Riparian.** Of, pertaining to, or situated on the edge of the bank of a river or other water body.

(76) **Setback.** A linear distance perpendicular to a lot line that describes the depth of a lot or parcel that shall not be occupied by a structure, unless specifically provided for in this *Ordinance.*

(77) **Shopping Center.** Three (3) or more retail or service establishments on a single unit of land.

(78) **Shoreline Stabilization**. The protection of the banks of tidal or non-tidal streams, rivers or estuarine waters by vegetative or structural means.

(79) **Short-Term Rentals.** A building or group of buildings, residential in nature, containing less than six (6) dwelling units that are intended and/or designed to be used; or which are used, rented or hired out for transient lodging purposes.

(80) **Sign**. An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure or land; and which directs attention to a product, place, activity, persons, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.

(81) **Sign, Advertising**. A sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold, or offered upon the premises where the sign is located.

(82) **Standards**. Rules governing the size, dimensions, shape, or orientation of a lot or parcel, or the placement of buildings or activities thereon.

(83) **Start of Construction**. For a structure other than a mobile/manufactured home, start of construction means the first placement of permanent material for the construction of the primary use on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.

i. For a structure without a basement or poured footings, the Start of Construction means the first permanent framing or assembly of the structure, or any part thereof, on its piling or foundation.

ii. For mobile/manufactured homes not within a mobile/manufactured home park or subdivision, Start of Construction means securing the mobile/manufactured home at its permanent location by means of tie-downs or, in the case of a double-wide mobile/manufactured home, its placement upon piers.

(84) **Story.** That portion of a building between the finished surface of any floor and the next floor above, that is at least six feet (6') above grade; the top story shall be the topmost living space.

(85) **Stream**. A water body with a distinct channel and flow.

(86) **Street**. The entire right-of-way of every public and private way for vehicular and pedestrian traffic; and includes the terms road, highway, lane, place, avenue, alley and other similar designations. For setback purposes, non-vehicular public and private ways are not considered streets and require no setbacks.

(87) **Structure.** Anything constructed or installed or portable, the use of which requires a location on a parcel of land.

(88) **Structural Alteration**. Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

(89) **Subdivision**. A tract of land that has been divided into four (4) or more lots within a calendar year.

(90) **Substantial Improvement**. Any repair, reconstruction or improvement of a structure, where the cost equals or exceeds fifty percent (50%) of the market value of the structure, either: (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred.

i. Structural Improvement occurs upon the first structural alteration of a building, whether or not the alteration affects the external dimensions of the building.

ii. The term does not, however, include: (a) Any improvements made to a structure to comply with existing state or local health, sanitary or safety code specifications, and which are solely necessary to assure safe living conditions; or (b) Any restoration work on a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

(91) **Townhouse.** Townhouse is a single-family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

(92) **Transient Lodging.** Means a room or suite of rooms which is occupied not as a principal residence:

i. By persons for periods of less than thirty (30) consecutive days; or

ii. With which the services normally offered by hotels is provided, including but not limited to maid and linen service, a front desk and a telephone switchboard, regardless of the length of occupancy of a person.

(93) **Urban or Urbanizable Land.** Urban areas are those places which must have an incorporated city. Such areas may include lands adjacent to and outside the incorporated city and may also: (a) Have concentrations of persons who generally reside and work in the area; and (b) Have supporting public facilities and services.

i. **Urbanizable Lands** are those lands within the Urban Growth Boundary and which are identified and: (a) Are determined to be necessary and suitable for future urban uses; (b) Can be served by urban services and facilities; and (c) Are needed for the expansion of an urban area.

(94) **Urban Growth Boundary.** A line established by the State and contained within a city's Comprehensive Plan, which distinguishes urbanizable land adjacent to an incorporated city from surrounding rural land.

(95) **Use.** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

(96) **Utility Facilities.** Structures, pipes or transmission lines which provide the public with electricity, gas, heat, steam, communication, water, sewage collection or other similar services.

(97) **Variance.** A grant of relief from one or more of the standards contained within this *Ordinance*.

(98) **Water-dependent**. A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

(99) **Water-related**. Uses and activities which do not require direct water access, but provide goods and services that are directly associated with a water dependent use and a location other than adjacent to the water would result in a public loss of quality in the goods and services offered, considering the economic, social, and environmental consequences of the use.

(100) **Yard.** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this *Ordinance*.

(101) **Yard, Front**. A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or other structure. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.

(102) **Yard, Rear**. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of a building or other structure.

(103) **Yard, Side**. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

(Adopted: 80-2)
(Amended: 91-01, 94-01, 99-02, 2000-1, 2002-01, 2004-01)

Article II. Marine Residential – MR Zone

Section 2.010 Intent

1. The Marine Residential zone, designated by the primary symbol "MR", is established along the waterfront to provide for a mixture of residential and marine-oriented commercial use.

(Adopted: 80-2)

Section 2.020 Permitted Principal Uses & Activities

1. The following uses and their accessory uses and activities are permitted outright:
    a. Marine research and/or marine-related educational activities.
    b. Navigational aids.
    c. Ship and boat building and repair.
    d. Marinas and/or port marine operations and shipping activities, except in new locations.
    e. Restaurant in conjunction with a marina.
    f. Low-intensity water-dependent recreation facilities and public access points.
    g. Single-family housing, or duplex, except manufactured home housing.
    h. Shoreline stabilization.
    i. Home occupation.
    j. Short-Term Rentals.

(Adopted: 80-2)
(Amended: 91-01, 2004-01)

Section 2.030 Conditional Uses & Activities

1. The following conditional uses and the accessory uses and activities are permitted in an "MR" zone, subject to *Article XVIII*:
    a. Marinas, port marine facilities and shipping activities in new locations.
    b. Aquaculture.
    c. Permanent recreation facilities including boat ramps, boat docks and moorages, gazebos, public restrooms, fences, walkways, and other developed recreation facilities.
    d. Motel/hotel in conjunction with a connecting marine facility.
    e. Residential condominiums in multi-family structures in accordance with a planned development approved according to standards and procedures contained in *Article XII*.
    f. Manufactured home.

(Adopted: 80-2)
(Amended: 91-01, 94-01)

Section 2.040 Development Standards

1. In the "MR" zone, the following standards shall apply:
    a. The minimum lot size shall be five thousand (5,000) square feet, plus two thousand five-hundred (2,500) square feet for an additional residential unit.
    b. The density of a hotel or motel development shall be determined by the parking requirement.
    c. The minimum lot width shall be fifty (50) feet, except on a corner lot it shall be sixty (60) feet.
    d. The minimum lot depth shall be one hundred (100) feet.
    e. The minimum front yard shall be twenty (20) feet.
    f. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
    g. The maximum building height shall be twenty-four (24) feet.
    h. Outdoor storage areas shall be enclosed by suitable vegetation, fencing or walls.

i. Exterior lighting shall not adversely affect the livability of nearby residential property.
j. When a commercial use abuts a residential use, there will be an attractively designed and maintained buffer which can be in the form of vegetation, fencing or walls.
k. Development shall be in accordance with the shoreline and aquatic standards of *Section 14.120*.
l. Parking shall be in accordance with *Article XXV*.
m. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 80-2)
(Amended: 94-01, 2004-01)

Section 2.050 Special Use Standards

1. A use permitted outright or a conditional use allowed in the "MR" zone shall meet at least one of the following criteria:
   a. The use is a water-dependent use—which means that it can only be carried out on, in, or adjacent to water and the water location or access is needed for:
      i. Waterborne transportation;
      ii. Recreation;
      iii. Source of water; and/or
      iv. Marine research or education.
   b. The Use does not require filling or dredging of the estuary.
   c. The Use is approved by the City in accordance with *Article XII* of this *Ordinance.*

(Adopted: 80-2)
(Amended: 91-01)

Article III. Low-Density Residential – RL Zone

Section 3.010 Intent

1. The Low-density Residential area, designated by the primary symbol "RL", is established to provide for orderly residential development in areas with physical limitations or unique natural values.

(Adopted: 80-2)

Section 3.020 Permitted Principal Uses

1. In a "RL" zone, the following uses and their accessory uses are permitted outright:
    a. Single-family housing.
    b. Duplexes or two-family housing.
    c. Home occupations.
    d. Park and publicly-owned recreation area.
    e. Residential home.
    f. Manufactured home.
    g. Short-Term Rentals.

(Adopted: 80-2)
(Amended: 91-01, 94-01, 2004-01)

Section 3.030 Conditional Uses

1. In the "RL" zone, the following conditional uses and their accessory uses are permitted subject to the provisions of *Article XVIII*:
    a. Cemetery.
    b. Church or community meeting hall.
    c. Public utility structures – such as a utility substation.
    d. Nursery.
    e. Golf course.
    f. Government structure.
    g. Motels, guest cottages, tourist courts.
    h. Radio or television transmitting tower.
    i. Schools and day care centers.
    j. Mining, quarrying or other extractive activity or solid waste sites.
    k. Resort motel including related facilities such as restaurant, gift shop, meeting rooms, developed recreation facilities and the like.
    l. Bed and breakfast enterprise, boarding, lodging or rooming house.

(Adopted: 80-2)
(Amended: 83-9, 91-01)

Section 3.040 Development Standards

1. In the "RL" zone, the following development standards shall apply:
    a. The minimum lot size shall be ten thousand (10,000) square feet, plus seven thousand-five hundred (7,500) square feet for an additional unit, except in an approved cluster or planned-unit development the overall project density may be reduced to the equivalent of seven thousand-five hundred (7,500) square feet for each unit.
    b. The minimum lot width shall be sixty (60) feet, except on a corner lot it shall be seventy-five (75) feet.
    c. The minimum lot depth shall be one hundred (100) feet.
    d. The minimum front yard shall be twenty (20) feet.
    e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.

f. The minimum rear yard shall be twenty feet except on a corner lot it may be five (5) feet.
g. The maximum building height shall be twenty-four (24) feet except that building heights of up to thirty-five (35) feet may be authorized for conditional uses as part of the conditional uses and as part of the conditional use review and approval process.
h. Parking shall be in accordance with *Article XXV*.
i. Development shall be in accordance with the shoreline and aquatic development standards of *Section 14.120*.
j. Manufactured homes shall be in accordance with *Section 14.030*.
k. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 80-2)
(Amended: 83-9, 94-01, 2004-01)

Article IV. Medium-density Residential – RM Zone

Section 4.010 Intent

1. The Medium-density Residential area, designated by the primary symbol "RM", is established to promote residential development in areas that have already been subdivided or where there are few physical constraints on development.

(Adopted: 80-2)
(Amended: 99-02)

Section 4.020 Permitted Principal Uses

1. In a "RM" zone, the following uses and their accessory uses are permitted outright:
    a. Single-family housing.
    b. Duplexes or two-family housing.
    c. Home occupations.
    d. Park and publicly-owned recreation area.
    e. Manufactured home.
    f. Residential home.
    g. Short-Term Rentals.

(Adopted: 80-2)
(Amended: 91-01, 94-01, 2004-01)

Section 4.030 Conditional Uses

1. In the "RM" zone, the following conditional uses are permitted subject to the provisions of *Article XVIII*:
    a. Multiple-family housing.
    b. Cemetery.
    c. Church or community meeting hall.
    d. Forestry or nursery.
    e. Golf course.
    f. Government structure, excluding a storage or repair facility.
    g. Health facility.
    h. Motels, hotels, guest cottages, tourist courts.
    i. Radio or television transmitting tower.
    j. School or daycare center.
    k. Bed and breakfast enterprise, boarding, lodging or rooming house.
    l. Residential facility.

(Adopted: 80-2)
(Amended: 91-01)

Section 4.040 Development Standards

1. In a "RM" zone, the following standards shall apply:
    a. The minimum lot size shall be five thousand (5,000) square feet for a single family dwelling, plus two thousand-five hundred (2,500) square feet for each additional dwelling unit.
    b. The minimum lot width shall be forty (40) feet, except on a corner lot it shall be sixty (60) feet.
    c. The minimum lot depth shall be eighty-five (85) feet.
    d. The minimum front yard shall be twenty (20) feet.
    e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
    f. The minimum rear yard shall be twenty (20) feet, except on a corner lot it may be five (5) feet.
    g. The maximum building height shall be twenty-four (24) feet.

h. Parking shall be in accordance with *Article XXV*.
i. Manufactured homes shall be in accordance with *Section 14.030*.
j. Short-Term Rentals shall comply with *Section 14.170*.

(Adopted: 80-2)
(Amended: 94-01, 2004-01)

Article V. Medium-Density Residential – R1 Zone

Section 5.010 Intent

1. The Medium-Density Residential area, designated by the primary symbol "R1", is established to promote residential development in areas that have already been subdivided or where there are few physical constraints on development.

(Adopted: 81-7)

Section 5.020 Uses Permitted Outright

1. The following uses and their accessory uses are permitted outright:
    a. Single-family housing.
    b. Home occupation.
    c. Park and publicly owned recreation area.
    d. A mobile home or recreation vehicle used during the construction of a permitted use for which a building permit has been issued.
    e. Residential home.
    f. Manufactured home.
    g. Short-Term Rentals.

(Adopted: 81-7)
(Amended: 91-01, 94-01, 2004-01)

Section 5.030 Conditional Uses

1. The following conditional uses and their accessory uses are permitted subject to the provisions of *Article XVIII*:
    a. Two-family dwelling.
    b. Church.
    c. Public or private school or college.
    d. Community meeting building.
    e. Golf course except driving range or miniature course operated as a business.
    f. Utility substation.
    g. Cemetery.

(Adopted: 81-7)
(Amended: 91-01)

Section 5.040 Development Standards

1. The following standards shall apply:
    a. The minimum lot size shall be seven thousand-five hundred (7,500) square feet.
        i. Where public sewers are not available the County Sanitation may establish a minimum lot size greater than seven thousand-five hundred (7,500) square feet.
    b. The minimum lot width shall be seventy-five (75) feet.
    c. The minimum lot depth shall be eighty-five (85) feet.
    d. The minimum front yard shall be twenty (20) feet.
    e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
    f. The minimum rear yard shall be twenty (20) feet, except on a corner lot it may be five (5) feet.
    g. The maximum building height shall be twenty-four (24) feet.
    h. Parking shall be in accordance with *Article XXV*.
    i. Manufactured homes shall be in accordance with *Section 14.030*.
    j. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 81-7)
(Amended: 94-01, 2004-01)

Article VI. Medium-Density Residential – R2 Zone

Section 6.010 Intent

1. The Medium-density Residential area, designated by the primary symbol "R2", is established to promote residential development in areas that have already been subdivided or where there are few physical constraints on development.

(Adopted: 81-7)

Section 6.020 Permitted Principal Uses

1. In a "R2" zone, the following uses and their accessory uses are permitted outright:
    a. Single-family housing.
    b. Duplexes or two-family housing.
    c. Home occupations.
    d. Park and publicly owned recreation areas.
    e. A mobile home or recreation vehicle used during the construction of a permitted use for which a building permit has been issued.
    f. Manufactured home.
    g. Residential home.
    h. Short-Term Rentals.

(Adopted: 81-7)
(Amended: 91-01, 94-01, 2004-01)

Section 6.030 Conditional Uses

1. In the "R2" zone, the following conditional uses are permitted subject to the provisions of *Article XVIII*:
    a. Cemetery.
    b. Church or community meeting hall.
    c. Golf course, except driving ranges or miniature golf courses operated as businesses.
    d. Government structure, excluding a storage or repair facility.
    e. Heath facility.
    f. Radio of television transmitting tower.
    g. School and daycare center.
    h. Utility substation.

(Adopted: 81-7)
(Amended: 91-01)

Section 6.040 Development Standards

1. In the "R2" zone the following standards shall apply:
    a. The minimum lot size shall be five thousand (5,000) square feet for a single-family dwelling, plus two thousand-five hundred (2,500) square feet for each additional dwelling unit.
    b. The minimum lot width shall be forty (40) feet, except on a corner lot it shall be sixty (60) feet.
    c. The minimum lot depth shall be eighty-five (85) feet.
    d. The minimum front yard shall be twenty (20) feet.
    e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
    f. The minimum rear yard shall be twenty (20) feet, except on a corner lot it may be five (5) feet.
    g. The maximum building height shall be twenty-four (24) feet.
    h. Parking shall be in accordance with *Article XXV*.

i. Manufactured homes shall be in accordance with *Section 14.030*.
j. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 81-7)
(Amended: 94-01, 2004-01)

Article VII. Medium-density Residential – R3 Zone

Section 7.010 Intent

1. The Medium-density Residential area, designated by the primary symbol "R3", is established to promote residential development in areas that have already been subdivided or where there are few physical constraints on development.

(Adopted: 81-7)

Section 7.020 Permitted Principal Uses

1. In an "R3" zone, the following uses and their accessory uses are permitted outright:
    a. Single-family dwellings.
    b. Duplexes or two-family dwellings.
    c. Multi-family dwellings.
    d. Home occupations
    e. Park and publicly-owned recreation area.
    f. A mobile home or recreation vehicle used during construction of a permitted use for which a building permit has been issued.
    g. Residential home.
    h. Residential facility.
    i. Manufactured home.
    j. Short-Term Rentals.

(Adopted: 81-7)
(Amended: 91-01, 94-01, 2004-01)

Section 7.030 Conditional Uses

1. In the "R3" zone, the following conditional uses are permitted subject to the provisions of *Article XVIII*:
    a. Manufactured home park or manufactured home subdivision.
    b. Cemetery.
    c. Church or community meeting hall.
    d. Forestry or nursery.
    e. Golf course.
    f. Government structure, excluding a storage or repair facility.
    g. Health facility.
    h. Motels, hotels, guest cottages, tourist courts, including an eating or drinking establishment in conjunction therewith.
    i. Radio or television transmitting tower and utility substation.
    j. School and daycare center.
    k. Bed and breakfast enterprise, boarding lodging or rooming house.

(Adopted: 81-7)
(Amended: 91-01, 94-01)

Section 7.040 Development Standards

1. In the "R3" zone, the following standards shall apply:
    a. The minimum lot size for a single-family dwelling and mobile home shall be five thousand (5,000) square feet.
        i. For multiple-family dwellings (duplexes and larger) the minimum lot size shall be five thousand (5,000) square feet for the first dwelling and two thousand-five hundred (2,500) square feet for each additional dwelling.
    b. The minimum lot width shall be forty (40) feet, except on a corner lot it shall be sixty (60) feet.
    c. The minimum lot depth shall be eighty-five (85) feet.
    d. The minimum front yard shall be twenty (20) feet.

e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
f. The minimum rear yard shall be twenty (20) feet, except on a corner lot it may be five (5) feet.
g. The maximum building height shall be twenty-four (24) feet.
h. Parking shall be in accordance with *Article XXV*.
i. Manufactured home parks shall be in accordance with *Section 14.050*.
j. Manufactured home subdivisions shall be in accordance with the *Subdivision Ordinance 80-3*.
k. Manufactured homes located on individual lots in parks or subdivision shall be in accordance with *Section 14.030*.
l. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 81-7)
(Amended: 94-01, 2004-01)

Article VIII. Residential Trailer – RT Zone

Section 8.010 Intent

1. The Residential Trailer area, designated by the primary symbol "RT", is established to provide for mobile homes, as well as conventional housing, in areas where there are few constraints on development.

(Adopted: 81-7)

Section 8.020 Permitted Principle Uses

1. The following uses and their accessory uses are permitted outright:
    a. Single-family housing.
    b. Duplexes or two-family housing.
    c. Home occupation.
    d. Park and publicly owned recreation area.
    e. Utility lines necessary for public services.
    f. Manufactured home, subject to the provisions of *Section 14.030*.
    g. A recreation vehicle or mobile home used during the construction of a permitted use for which a building permit has been issued.
    h. Residential home.
    i. Short-Term Rentals.

(Adopted: 81-7)
(Amended: 91-01, 94-01, 2004-01)

Section 8.030 Conditional Uses

1. The following conditional uses and their accessory uses are permitted subject to the provisions of *Article XVIII*:
    a. Church.
    b. Public or private school or college.
    c. Community meeting building.
    d. Golf course, except driving range or miniature course operated as a business.
    e. Utility substation.
    f. Cemetery.
    g. Hospital, sanitarium, rest home, nursing home and medical office.
    h. Governmental structure, such as a fire station or library, but excluding a storage or repair type of facility.
    i. Radio or television transmitter tower.
    j. Manufactured home park, subdivision or recreation vehicle park.
    k. Recreation vehicle.
    l. Bed and breakfast enterprise, boarding, lodging or rooming house.

(Adopted: 81-7)
(Amended: 91-01)

Section 8.040 Development Standards

1. The following standards shall apply:
    a. The minimum lot size shall be five thousand (5,000) square feet for a one-family dwelling, plus two thousand-five hundred (2,500) square feet for each additional dwelling unit.
        i. Where public sewers are not available, the County Sanitarian may establish a minimum lot size greater than five thousand (5,000) square feet.
    b. The minimum lot width shall be sixty (60) feet, except on a corner lot it shall be sixty-five (65) feet.
    c. The minimum lot depth shall be eight-five (85) feet.

d. The minimum front yard shall be twenty (20) feet.
e. The minimum side yard shall be five (5) feet, except on the side street of a corner lot it shall be fifteen (15) feet.
f. The minimum rear yard shall be twenty (20) feet, except on the side street of a corner lot it may be five (5) feet.
g. The maximum building height shall be twenty-four (24) feet.
h. Parking shall be in accordance with *Article XXV*.
i. Manufactured home parks shall be in accordance with *Section 14.050*.
j. Manufactured home subdivisions shall be in accordance with the *Subdivision Ordinance 80-3*.
k. Manufactured homes located on individual lots in parks or subdivisions shall be in accordance with *Section 14.030*.
l. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 81-7)
(Amended: 94-01, 2004-01)

Article IX. Commercial – C Zone

Section 9.010 Intent

1. The commercial zoned area, designated by the primary symbol "C", is established to provide for City center commercial uses.

(Adopted: 80-2)

Section 9.020 Permitted Principal Uses & Activities

1. In a "C" zone, the following uses and their accessory uses and activities are permitted outright:
    a. A use permitted outright in the "RM" zone where an existing use permitted outright in the "RM" zone currently exists or had previously existed in the same structure.
    b. Mixed-use developments.
    c. Restaurants or lounges that do not include an automobile-oriented use and/or facility.
    d. Financial institutions.
    e. Retail trade establishment, other than automobile-oriented uses and facilities, and the outdoor storage of materials.
    f. Park and publicly owned recreation area.
    g. Shoreline stabilization.
    h. Short-Term Rentals.

(Adopted: 80-2)
(Amended: 84-2, 94-01, 2004-01)

Section 9.030 Conditional Uses

1. In the "C" zone, the following conditional uses are permitted subject to the provisions of *Article XVIII*:
    a. Automobile-oriented uses and facilities.
    b. Health facilities, other than a doctor's office.
    c. Government structure or facility such as a fire station.
    d. Motel or hotel developments.
    e. Light manufacturing and wholesale trade establishments.
    f. Warehousing, storage or outdoor storage of materials.
    g. Recreational vehicle parks.
    h. Recreation facilities including boat ramps, boat docks and moorages, gazebos, restrooms, fences, walkways and other developed recreation facilities.
    i. Manufactured commercial structures.

(Adopted: 80-2)
(Amended: 84-2, 91-01, 94-01, 2004-01)

Section 9.040 Development Standards

1. In a "C" zone, the following standards shall apply:
    a. The maximum building height shall be thirty-five (35) feet (thirty-seven (37) feet within the Flood Hazard Overlay Zone) for a commercial and/or mixed-use structure except east of U.S. Highway 101 or 7th Street/North Fork Road; where it shall be twenty-six (26) feet above the base flood elevation.
        i. The maximum building height for residential structures (excluding mixed-use) will be twenty-four (24) feet, except it shall be twenty-six (26) feet above the base flood elevation when it is located in the Flood Hazard Overlay Zone.
    b. Parking shall be in conformance with *Article XXV*.

c. Outdoor storage areas shall be enclosed by suitable sight-obscuring vegetation, fencing or wall.
    i. Outdoor storage of materials within the Flood Hazard Overlay Zone is not allowed unless fully enclosed within an approved flood-proofed structure, fence or wall.
d. Exterior lighting shall not adversely affect the livability of property in nearby residential zones.
e. The development standards for residential uses (except mixed-use) shall be the same as those within the "RM" zone.
f. Development shall be in accordance with the shore land development standards of *Section 14.120*.
g. Mixed-use developments shall be in accordance with *Section 14.110.*
h. Automobile-oriented uses and facilities shall be in accordance with *Section 14.130.*
i. Light manufacturing shall conform to the following standards which are intended to protect the pedestrian-friendly, storefront character of the Commercial Zone:
    i. Retail or Service Use Required. Light manufacturing is allowed only when it is in conjunction with a permitted retail or service use and does not exceed seventy percent (70%) of the gross floor area.
    ii. Location. The light manufacture use shall be enclosed within a building; or shall be located within a rear yard not adjacent to a street.
j. Short-Term Rentals shall comply with *Section 14.170.*

(Adopted: 80-2)
(Amended: 91-01, 94-01, 99-02, 2004-01)

Article X. Public Lands – P Zone

Section 10.010 Intent

1. The public lands zone, designated by the primary symbol "P", is established to be applied to lands publicly owned.

(Adopted: 80-2)
(Amended: 81-7)

Section 10.020 Permitted Principal Uses & Activities

1. In a "P" zone, the following uses and their accessory uses are permitted outright:
    a. Parks.
    b. Playfields.
    c. Wayside areas.

(Adopted: 80-2)
(Amended: 81-7)

Section 10.030 Conditional Uses

1. In a "P" zone, the following conditional uses are permitted subject to the provisions of *Article XVIII*:
    a. Schools.
    b. Hospitals.
    c. Community meeting halls.
    d. Public utility buildings.
    e. Other public buildings.

(Adopted: 81-7)

Section 10.040 Development Standards

1. In a "P" zone, the following standards shall apply:
    a. The maximum building height shall be twenty-eight (28) feet.
    b. Parking shall be in accordance with *Article XXV*.

(Adopted: 80-2)
(Amended: 81-7)

Article XI. Flood Hazard Overlay – FHO Zone

Section 11.010 Statement of Purpose

1. It is the purpose of this *Ordinance* to promote the public health, safety, and general welfare; and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
   a. Protect human life and health;
   b. Minimize expenditure of public money and costly flood costly flood control projects;
   c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
   d. Minimize prolonged business interruptions;
   e. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
   f. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
   g. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
   h. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Adopted: 80-2)
(Amended: 87-3)

Section 11.020 Definitions

1. Unless specifically defined below, words or phrases used in this *Ordinance* shall be interpreted so as to give them the meaning they have in common usage and to give this *Ordinance* its most reasonable application.
   (1) **Area of Special Flood Hazard**. The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
      i. Designations on maps always include the letters "A" or "V".
   (2) **Base Flood**. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
      i. Also referred to as the "100-year flood."
   (3) **Basement.** Any area of a building having its floor subgrade (below ground level) on all sides.
   (4) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
   (5) **Flood or Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from:
      i. The overflow of inland of tidal waters; and/or
      ii. The unusual and rapid accumulation of runoff of surface waters from any source.
   (6) **Flood Insurance Rate Map (FIRM).** The official map on with the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the City of Nehalem.
   (7) **Flood Insurance Study**. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

(8) **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(9) **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this *Ordinance* found in *Section 11.050 (b.1.a.ii.)*

(10) **Manufactured Home**. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

i. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred-eighty (180) consecutive days.

ii. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(11) **New Construction**. Structures for which the "start of construction" commenced on or after the effective date of this *Ordinance.*

(12) **Start of Construction**. Includes substantial improvement, and means the date the building permit was issued; provided that the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as pouring of slab or footings; the installation of piles; the construction of columns; or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

i. Permanent construction does not include land preparation; such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(13) **Structure.** A walled and roofed building including a gas or liquid storage tank that is principally above ground.

(14) **Substantial Damage.** Damage to any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(15) **Substantial Improvement**. Any repair, reconstruction, or improvement of a structure; the cost of which equals or exceeds fifty percent of the market value of the structure either:

i. Before the improvement or repair is started; or

ii. If the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences; whether or not that alteration affects the external dimensions of the structure.

(Adopted: 80-2)
(Amended: 87-3, 2004-01)

Section 11.030 General Provisions

1. Lands to which this Ordinance Applies
   a. This *Ordinance* shall apply to all areas of special flood hazards within the jurisdiction of the City of Nehalem.
2. Basis for Establishing the Areas of Special Flood Hazard
   a. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Nehalem" dated most current, with accompanying Flood Insurance maps is hereby adopted by reference and declared to part of this *Ordinance*. The Flood Insurance Study is on file at Nehalem City Hall, 35900 8th Street, Nehalem, Oregon.

(Adopted: 80-2)
(Amended: 87-3, 99-02)

Section 11.040 Administration

1. **Establishment of Development Permit**
   a. Development Permit Required.
      i. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in *Section 11.030 (2).*
      ii. The permit shall be for all structures including manufactured homes, as set forth in *Section 11.020*, and for all development including fill and other activities, also as set forth in *Section 11.020*.
2. **Designation of the Building Official**
   a. The Building Official is hereby appointed to administer and implement this *Ordinance* by granting or denying development permit applications in accordance with its provisions.
3. **Duties and Responsibilities of the Building Official**
   a. Duties of the Building Official shall include, but not be limited to:
      i. **Permit Review**
         1. Review all development permits to determine that the permit requirements of the *Ordinance* have been satisfied.
         2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
         3. Review all development permits to determine if the proposed development is located in the floodway.
            a. If located in the floodway, assure that the encroachment provisions of *Section 11.050 (3)(b)* are met.
   b. **Use of Other Base Flood Data**
      i. When base flood elevation data has not been provided in accordance with *Section 11.030 (2),* the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source; in order to administer *Section 11.050 (2)* and *(3).*
   c. **Information to be Obtained and Maintained**
      i. Where base flood elevation data is provided through the Flood Insurance Study or required as in *Section 11.040 (3)(b)*, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new substantially improved structures, and whether or not the structure contains a basement.
      ii. For all new or substantially improved flood-proofed structures:
         1. Verify and record the actual elevation (in relation to mean sea level), and

2. Maintain the flood-proofing certifications.

iii. Maintain for public inspection all records pertaining to the provisions of this *Ordinance*.

d. **Alteration of Watercourses**

i. Notify adjacent communities and the Building Official prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

ii. Require that maintenance is provided within the altered or relocated portion of the said watercourses so that the flood carrying capacity is not diminished.

e. **Interpretation of Firm Boundaries**

i. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

ii. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation.

1. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

(Adopted: 80-2)
(Amended: 87-3)

Section 11.050 Provisions for Flood Hazard Reduction

1. **General Standards**: In all areas of special flood hazards, the following provisions are required:

a. **Anchoring**

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

ii. All manufactured commercial structures and homes must likewise be anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage.

iii. Anchoring methods may include, but are not limited to the use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

b. **Construction Materials and Methods**

i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

iii. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. **Utilities**

i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

1. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. **Subdivision Proposals**
   i. All subdivision proposals shall be consistent with the need to minimize flood damage.
   ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
   iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
   iv. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less.

e. **Review of Building Permits**
   i. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (*Section 11.040 (3)(b)*), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding.
      1. The test of reasonableness is a local judgment and includes the use of historical data, high water marks, photographs of past flooding, etc., where available.
   ii. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

2. **Specific Standards**: In all areas of special flood hazards where base flood elevation data has been provided as set forth in *Section 11.030 (2)* or *Section 11.040 (3)*, the following provisions are required

a. **Residential Construction**
   i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to two (2) feet above base flood elevation.
   ii. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
      1. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
         a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
         b. The bottom of all openings shall be no higher than one (1) foot above grade.
         c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. **Nonresidential Construction**
   i. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have either the lowest floor, including basement, elevated to two (2) feet above the base flood elevation; or together with the attendant utility and sanitary facilities, shall:
      1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
      2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of the subsection based on their development and/or review of the structural design, specifications and plans.
    a. Such certification shall be provided to the Official as set forth in *Section 11.040 (3)(c)(ii).*
4. Nonresidential structures that are elevated, but not flood-proofed, must meet the same standards for space below the lowest floor as described in *Section 11.050 (2)(a)(ii)*.
5. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

c. **Manufactured Commercial Structures & Homes**
    i. All manufactured commercial structures and homes to be placed or substantially improved within Zones A1 – A30, AH and AE, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is two (2) feet above base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of *Section 11.050 (1)(a)(ii)* and *(iii)*.

d. **Height Measurements**
    i. For all construction in a FHO-Flood Hazard Overlay Zone, all building height restrictions shall be calculated as starting two (2) feet above the base flood elevation.

3. **Floodways**
    a. Located within areas of special flood hazard established in *Section 11.030 (2)* are areas designated as floodways.
    b. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential the following provisions apply:
        i. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of base flood discharge.
        ii. If *Section 11.050 (1)* is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of *Section 11.050*.

(Adopted: 80-2)
(Amended: 87-3, 99-02, 2004-01)

Article XII. Planned Development

Section 12.010 Intent

1. Planned developments allowed by this *Ordinance* are intended to provide for developments incorporating a single type or variety of housing types and for any appropriate non-residential uses.
    a. They are also intended to provide a more desirable environment through application of flexible and diversified land development standards in an overall site development plan approved by the Planning Commission.

(Adopted: 80-2)

Section 12.020 General Standards for Approval

1. The Planning Commission shall approve a planned development only if it determines that:
    a. The planned development is an effective and unified treatment of the development possibilities of the project site while remaining consistent with the *Comprehensive Plan* and making appropriate provisions for the preservation of natural features such as shore lands and wooded cover.
    b. The planned development complies with applicable standards referred to in this Section and additional *Zoning Ordinance* provisions.

(Adopted: 80-2)

Section 12.030 Potential Uses

1. The following uses are allowed in a planned development if the Planning Commission considers them appropriate for the particular development being proposed and if other applicable standards are satisfied:
    a. Single-family dwellings, detached or attached;
    b. Duplexes and triplexes;
    c. Multi-family housing developments;
    d. Commercial-uses supported mainly by residents of the planned development only when economic feasibility can be shown and such commercial uses require an area no larger than five percent of the area devoted to residential uses; and
    e. Non-residential uses permitted in the parent zone as either an outright use or a conditional use.

(Adopted: 80-2)

Section 12.040 Density

1. The density of a planned development shall not exceed the density of the parent zone, except in the Low-Density Residential “RL” zone.
    a. In the “RL” zone, the Planning Commission may reduce the overall project density to the equivalent of seven thousand-five hundred (7,500) square feet per unit.

(Adopted: 80-2)

Section 12.050 Basic Use Standards

1. Minimum area, width, depth, yard and lot coverage requirements for lots in a planned development may be less than the minimums set forth in this *Ordinance*; provided that the residential density, open space and other requirements of this *Section* are satisfied.
2. No building shall be located closer than twenty (20) feet from any street right-of-way within the planned development.
    a. Other setbacks may be established by the Planning Commission to provide adequate light, ventilation, privacy and other characteristics.

3. The maximum building height shall not exceed those building heights prescribed in the applicable zoning district.

(Adopted: 80-2)

Section 12.060 Open Space

1. In all planned developments, forty percent (40%) of the total land area shall be devoted to open space.
    a. Of this space, twenty-five percent (25%) of said open space may be utilized privately by individual owners or users of the planned development.
        i. However, seventy-five percent (75%) of this area shall be common open space.
2. No area may be accepted as common open space within a planned development unless it meets the following requirements:
    a. The location, shape, size and character of the common open space is suitable for development.
    b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the development based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.
    c. The common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved.
        i. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.
    d. The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development.

(Adopted: 80-2)

Section 12.070 Transportation

1. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic.
    a. Minor streets within planned developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.
2. Streets in a planned development may be dedicated to public use or may be retained in private ownership except the Planning Commission may require major streets to be dedicated to the public.
    a. All streets will be constructed in accordance with *City Subdivision Regulation Standards.*
3. All uses shall comply with access, parking and loading standards in *Article XXV.* – except additional requirements may be specified by the Planning Commission when appropriate.

(Adopted: 80-2)

Section 12.080 Signs

1. All signs larger than twenty-four (24) square feet within a planned development are subject to approval of the Planning Commission.
    a. The Planning Commission shall consider each such sign on its merits based on the aesthetic impact on the area, potential traffic hazards, and the need for the sign.

(Adopted: 80-2)
(Amended: 91-01)

Section 12.090 Compatibility with Adjacent Development

1. If topographical or other barriers near the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Planning Commission shall require buildings in the planned development to be setback an adequate distance from the perimeter and/or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls, and/or berms.

(Adopted: 80-2)

Section 12.100 Maintenance of Common Areas

1. Common open space, streets and any area or facility designated by the Planning Commission as a shared area will comply with the following provisions:
    a. The developer shall enter into a contractual agreement with the City specifying the developer's responsibility to adequately maintain any common open space, streets, shared area or structures or the property will be conveyed under one of the following options:
        i. To a public agency which agrees to maintain the common open space and any buildings or structures which have been placed on it; or
        ii. To an association of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and by-laws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space.
    b. The property may not be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use.
        i. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.
    c. If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:
        i. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.
        ii. The association must be responsible for liability insurance, local taxes and the maintenance of the property.
        iii. Homeowners and tenants must pay their pro rate share of the cost.
        iv. The association must be able to adjust the assessment to meet changed needs.
        v. Authorize the City to enforce these and other provisions governing the use, improvement and maintenance of the property.
    d. If the common open space is not conveyed to a public agency, approval of the planned development shall be expressly conditioned upon a conveyance by the developer to the City of the development rights.

(Adopted: 80-2)
(Amended: 91-01)

Section 12.110 Utility Easements

1. Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

(Adopted: 80-2)

Section 12.120 Other Standards

1. All planned developments will comply with any applicable portions of the *City Subdivision Ordinance*.

a. The Planning Commission may also establish additional requirements which it considers necessary to assure that any development conforms to the purpose and intent of this *Section*.

(Adopted: 80-2)

Section 12.130 Application Requirements

1. When an application is submitted for a planned development, the following items will be submitted:
   a. Written documents:
      i. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant.
         1. This statement should include a description of the character of the proposed development.
      ii. A statement of the present ownership of all property within the planned development.
      iii. A statement of the proposed financing and the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development such as land areas and dwelling units.
      iv. A development schedule including:
         1. The approximate date when construction of the project can be expected to begin;
         2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
         3. The anticipated rate of development;
         4. The approximate dates when each stage in the development will be completed; and
         5. The area, location and degree of development of common open space that will be provided at each stage.
      v. Quantitative data for the following:
         1. Total number and type of dwelling units;
         2. Parcel sizes;
         3. Proposed lot coverage of buildings and structures;
         4. Approximate residential densities;
         5. Total amount of open space (including separate figures for common open space and usable open space); and
         6. Total amount of non-residential acreage (including a separate figure for commercial and industrial acreage).
      vi. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned development and any of its common open space areas.
   b. A site plan and any supporting maps necessary to show the major details of the proposed planned development must contain the following minimum information:
      i. The existing site conditions; including contours at two (2) foot intervals, shorelines, floodplains, unique natural features and forest cover.
      ii. A grading plan for the site showing future contours if the existing grade is to be changed by more than two (2) feet.
      iii. Proposed lot lines and other divisions of land for management, use or allocation purposes.
      iv. The approximate location of present and proposed buildings and structures.
      v. The location and size of all areas proposed to be conveyed, dedicated, or reserved for streets, parks, playgrounds, public and semi-public buildings, and similar uses.

vi. The existing and proposed vehicular circulation system including off-street parking and loading areas.
vii. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatments of points of conflict.
viii. The existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas and telephone lines.
ix. Enough information on land areas adjacent to the proposed development to indicate the relationship between the proposed development and existing and proposed adjacent areas; including land-uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.
x. The proposed treatment of the perimeter of the development including materials and techniques used such as screens, fences and walls.
xi. Any additional information as required by the review authority necessary to evaluate the character and impact of the proposed development.

(Adopted: 80-2)

Section 12.140 Review Procedures

1. Planned developments will be reviewed in two phases; a preliminary development plan phase and a final development plan phase.
   a. However, informal discussions of the project before these phases are encouraged.
2. The preliminary development plan will include the information specified in *Section 12.130.*
   a. The procedure for reviewing the preliminary development plan is the procedure set forth in *Article XVI.*
   b. If the proposed planned development involves subdividing land, the preliminary plat shall be reviewed concurrently with the preliminary development plan.
3. Within a year of the date of approval of the preliminary development plan or approval of the plan with conditions, the applicant shall file with the Planning Commission a final development plan containing in final form the information required in the preliminary plan.
   a. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the development.
   b. If the proposed planned development involves subdividing land, the final plat shall be reviewed concurrently with the final development plan.
4. If the Planning Commission finds evidence of a significant deviation from the preliminary development plan, the Planning Commission shall advise the applicant to submit an application for an amendment of the preliminary development plan.
   a. An amendment shall be considered in the same manner as an original application.
   b. If no significant deviation from the preliminary development plan is found, the Planning Commission will approve the planned development.

(Adopted: 80-2)

Section 12.150 Adherence to Approved Plan

1. Building permits for construction within a planned development shall be issued only on the basis of an approved planned development plan.
   a. Any changes in an approved plan will be submitted to the Planning Commission and shall be reviewed using the same procedure used to review the original application.

(Adopted: 80-2)

Article XIII. Low-Density Residential, Agricultural, Forestry and Recreation – A1 Zone

Section 13.010 Intent

1. A-1 Low Density Residential, Agricultural, Forestry and Recreation zone.

(Adopted: 81-7)

Section 13.020 Permitted Principal Uses

1. The following uses and their accessory uses are permitted outright:
    a. One-family dwellings.
    b. Two-family dwellings.
    c. Farm use.
    d. Forestry.
    e. Animal hospital.
    f. Open land recreation and boat launching or moorage facility including incidental commercial and service activities such as the sale of bait, tackle, groceries, gasoline and the smoking and canning of fish.
    g. Roadside stand for farm produce grown on the premises.
    h. Home occupation.
    i. Utility lines necessary for public service.
    j. Manufactured home.
    k. Planned development subject to the provisions of *Article XII.*
    l. Church.
    m. Public or private school or college.
    n. Community meeting building.
    o. Golf course, except driving range or miniature course operated as a business.
    p. Utility substation.
    q. Temporary real estate sales office in a legally recorded subdivision.
    r. Cemetery.
    s. Hospital, sanitarium, rest home and nursing home.
    t. Governmental structure such as a fire station or library; but excluding a storage or repair type of facility.
    u. Radio or television transmitter tower.
    v. A recreation vehicle used during the construction of a permitted use for which a building permit has been issued.

(Adopted: 81-7)
(Amended: 94-01)

Section 13.030 Conditional Uses

1. The following conditional uses and their accessory uses are permitted subject to the provisions of *Article XVIII:*
    a. Mining.
    b. Airport.
    c. Sanitary disposal of garbage and other waste material.
    d. Activities related to processing forest, agricultural and other products derived from permitted uses where close proximity to such land use resources is required and appropriate urban industrial areas are not nearby.
    e. Resort-type residential use, fishing establishment, commercial riding stable, and overnight camper or recreation vehicle park facility; including incidental commercial and service activities such as eating accommodations, the sale of bait, tackle, groceries and the smoking and canning of fish.

f. Park and publicly owned recreation area.
g. Recreation vehicle-park. See *Section 14.070*.
h. Sewage treatment plant.

(Adopted: 81-7)
(Amended: 91-01, 99-02)

Section 13.040 Development Standards

1. The following standards shall apply:
   a. The minimum lot size shall be twenty thousand (20,000) square feet.
   b. The minimum lot width shall be sixty (60) feet, except on a corner lot it shall be sixty-five (65) feet.
   c. The minimum lot depth shall be eighty-five (85) feet.
   d. The minimum front yard shall be twenty (20) feet.
   e. The minimum side yard shall be five (5) feet, except on the street side of a corner lot it shall be fifteen (15) feet.
   f. The minimum rear yard shall be twenty (20) feet, except on a corner lot it may be five (5) feet.
   g. The maximum building height for agricultural structures shall be seventy (70) feet.
      i. The maximum height for all other structures shall be thirty-five (35) feet, except for ocean or bay frontage lots the maximum building height shall be twenty-four (24) feet.
      ii. Higher structures may be permitted by the Planning Commission only after holding a Public Hearing.
   h. There are no restrictions on the location of livestock.
   i. Manufactured homes shall be in accordance with *Section 14.030*.

(Adopted: 81-7)
(Amended: 94-01)

Article XIV. Supplementary Provisions

Section 14.010 Intent

1. The purpose of the *Supplementary Provisions Article* is to provide for general zoning rules including suitable access parking and sign control; as well as to make provisions for geologic investigations, home occupations and criteria for approval of mobile home parks and accessory uses/structures.

(Adopted: 80-2)
(Amended: 2002-01)

Section 14.020 Geologic Investigation

1. The following are Geologic Hazard Areas to which the standards of this *Section* apply:
    a. Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGMI) Bulletins 74 and 79;
    b. Inactive landslides, landslide topography and mass movement topography, identified in DOGMI Bulletins 74 and 79 where slopes are greater than twenty percent (20%);
    c. Areas prone to mudflows identified in DOGMI Bulletin 79;
    d. Brallier Peat soils identified in Soil Survey, Tillamook Area, Oregon (USDA, Soil Conservation Service, 1964) and the unpublished Soil Conservation Service soils survey for coastal Tillamook County; or
    e. Other locally known areas of Geologic Hazard based on evidence of past occurrences.
2. All development within Geologic Hazard Areas shall comply with the following standards:
    a. Vegetation removal shall be the minimum necessary to accommodate the use.
    b. Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding), sediment basins or other performance equivalent structures required by the City.
    c. Exposed areas shall be planted in permanent cover as soon as possible after construction.
    d. Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses.
    e. Additional requirements contained in a Geologic Report required by this *Section* shall be followed.
3. A Geologic Hazard Report is required prior to approval of planned developments, subdivisions and partitions governed by the City's *Subdivision Ordinance 80-03*, building permits, manufactured home permits, mining and excavation occurring in areas identified in *Section 14.020 (1)* above.
4. A report prepared for a subdivision, planned development or partition pursuant to the requirements of this *Section*, may be used to satisfy these requirements for subsequent building, mobile home or manufactured home permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed.
5. The Geologic Hazard Report shall be prepared by a geologist, engineer, engineering geologist or other person having professional experience analyzing the relevant Geologic Hazards.
    a. Structural recommendations must be stamped by a registered professional engineer.
    b. The boundaries of the study area shall be determined by the City.

c. It shall be prepared in a format easily understood by a "lay-person" and shall include plan and sectional diagrams of the area showing property boundaries and the geographic information required by *Section 14.020 (6)* below.

6. The Geologic Hazard analysis shall include the following:
   a. In landslide areas [*(1)(a)* and *(b)* of this *Section*]:
      i. Soils and bedrock type;
      ii. Slope;
      iii. Orientation of bedding planes in relation to the dip of the surface slope;
      iv. Soil depth;
      v. Other relevant soils engineering data;
      vi. Water drainage patterns; and
      vii. Identification of visible landslide activity in the immediate area.
   b. In areas prone to mudflow [*(1)(c)* of this *Section*];
      i. History of mud or debris flow; and
      ii. Areas likely to be affected by future mudflow.
   c. In Brallier peat soils [*(1)(d)* of this *Section*]:
      i. Boring log or other similar measure;
      ii. Bearing capacity; and
      iii. Drainage patterns.
7. The Geologic Hazards Report shall recommend development standards that will protect development on the property and surrounding properties. These should include standards for:
   a. Development density (when more than one use is possible);
   b. Locations for structures and roads;
   c. Land grading practices, including standards for cuts and fills;
   d. Vegetation removal and re-vegetation practices;
   e. Foundation design (if special design is necessary);
   f. Road design (if applicable); and
   g. Management of stormwater runoff during and after construction.
8. The Geologic Hazard Report shall include the following summary findings and conclusions:
   a. The type of use proposed and the adverse effects it might have on adjacent areas;
   b. Hazards to life, public and private property, and the natural environment which may be caused by the proposed use;
   c. Methods for protecting the surrounding area from any adverse effects of the development;
   d. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
   e. The proposed development is adequately protected from any reasonably foreseeable hazards including but not limited to geologic hazards, wind erosion, undercutting and flooding; and
   f. The proposed development is designed to minimize adverse environmental effects.

(Adopted: 80-2)
(Amended: 91-01, 2002-01)

Section 14.030 Manufactured Homes on Individual Lots

1. When a manufactured home is installed it shall comply with State installation standards.
   a. A manufactured home on an individual lot shall comply with the following additional provisions:
      i. The manufactured home shall have an Oregon Insignia of Compliance as provided by State law.
         1. With a date not previous to June 16, 1976, no reconstruction or equipment installation shall have been made to the mobile home

unless it has been State approved as evidenced by an appropriate insignia.

ii. The manufactured home shall be connected to the required sanitary facility and potable water supply.

iii. Except for a structure which conforms to the State definition of a manufactured home accessory structure, no extension shall be attached to a manufactured home unless it meets the Uniform Building Code.

iv. Cabanas and awnings of like design to the manufactured home are permitted.

v. Two (2) off-street parking spaces shall be provided for each manufactured home.

vi. The manufactured home shall be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.

vii. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter (fire resistant skirting) such that the manufactured home is located not less than twelve (12) inches above grade.

viii. The manufactured home shall have a nominal pitched roof of at least three (3) in twelve (12) feet, although four (4) in twelve (12) feet is preferred.

ix. The manufactured home shall have exterior siding and roofing, which in color and appearance, is commonly used on residential homes in the community or which is comparable to the predominant materials used on surrounding homes.

x. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under State Building Code defined in ORS 455.010 (1973).

xi. The manufactured home may have an optional garage or carport constructed of exterior materials similar to the manufactured dwelling.

2. No manufactured home shall be used as a residential dwelling without first obtaining a placement permit from the Planning Commission.

   a. The application for such a permit shall contain the following information:

      i. Name and address of the applicant.

      ii. Name and address of the property owner of record.

      iii. Location of the property on which the manufactured home is to be placed.

      iv. A plot plan showing parcel survey location, square footage, driveway, the size and proposed location of the manufactured home, garage/carport or storage building, setbacks, landscaping and provision for off-street parking.

      v. Evidence of arrangements for potable water supply and sewage disposal.

      vi. Plans and specifications for the foundation system.

      vii. Evidence of appropriate Oregon State Insignia and construction in accordance with Federal Manufactured Housing Construction and Safety Standards Regulations in effect at the time of construction.

      viii. All pre-owned and pre-occupied units (i.e., used) shall be inspected by the Building Official prior to installation and occupancy to insure compliance with Uniform Building Code.

      ix. The application shall also include a filing fee and the required deposit and hook-up fees for necessary City utilities, said amounts to be paid in the amount listed in the City's most up-to-date *Schedule of Fees, Charges & Monetary Penalties*.

3. It shall be unlawful to park a mobile home, camping vehicle or recreation vehicle on a public street for more than twenty-four (24) hours if it is being used for human occupancy.

(Adopted: 80-2)
(Amended: 94-01, 2002-01)

Section 14.040 Special Standards for Manufactured Homes on Individual Lots within the City of Nehalem and Specific "RT" Zones

1. In addition to the requirements of *Section 14.030* for manufactured homes on individual lots, the following requirements shall also be met:
    a. Manufactured homes shall be multi-sectional and not "single wide."
    b. Manufactured home roofs shall have a pitch of two (2) inches in twelve (12) inches or greater.
    c. Manufactured home roofing shall be of composition shingles or other conventional house-type roofing.
    d. Siding shall be lap or other wood-like siding.
    e. If skirting is used, it shall be of material compatible with the siding and meet the requirements of *Section 14.030 (1.a.v.)* for fire resistance.
    f. The standards of this section shall apply only within the City of Nehalem and the following listed specific "RT" zones:
        i. Tax lot 5900, except the northeasterly 100' x 165' thereof, in Section 22, T3N, R10W, W.M.

(Adopted: 86-1)

Section 14.050 Manufactured Home Parks

1. A manufactured home park shall be built to State Standards in effect at the time of construction and shall comply with the following additional provisions:
    a. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by State Law.
    b. The space provided for each manufactured home shall be provided with City water and sanitary sewage connections.
    c. The park shall abut and have direct access to an arterial or collector street and shall not have access to minor residential streets.
    d. A centralized storage area for boats, campers, camping trailers shall be provided.
        i. Such storage area shall contain a minimum of one hundred-sixty (160) square feet for each manufactured home space and be enclosed by a sight-obscuring fence.
    e. Streets which are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with the *Subdivision Ordinance*.
        i. For other streets, required rights-of-way shall be as follows:
            1. Minor one-way streets serving less than twenty (20) spaces shall be fifteen (15) feet.
            2. Minor two-way streets serving less than forty (40) spaces shall be twenty-two (22) feet.
            3. Streets serving forty (40) or more spaces shall be twenty-eight (28) feet.
        ii. At a minimum, connection to a public street shall be provided by a minor, two-way street.
            1. Aside from the pavement widths set forth above, private streets shall conform to the design and improvement standards of the *Subdivision Ordinance*.
    f. Walkways not less than four (4) feet in width shall be provided from each manufactured home to service buildings and along one side of all streets.

g. Signs are limited to one identification sign with a maximum area on one side of twenty-four (24) square feet; and limited to eight (8) feet in height above the ground.
    i. Such signs maybe indirectly illuminated.
h. Manufactured homes placed in the park shall conform to the provisions of *Section 14.030 & 14.040.*
i. Applications for manufactured home parks shall be accompanied by complete plans and specifications of the proposed park and all permanent buildings indicating the proposed methods of compliance with the requirements.
    i. Such plans shall be to a scale of not less than one (1) inch to fifty (50) feet.
    ii. A performance bond may be required, in an amount to be determined by the Building Official or Planning Commission, to insure that a development proposal is completed as approved and within the time limit agreed to.

(Adopted: 81-7)
(Amended: 94-01)

Section 14.060 Temporary Manufactured Home Permits

1. The Planning Commission may grant a permit for the occupation of a manufactured home, camping vehicle or recreation vehicle during the construction of a permanent residence.
    a. A permit will not be issued until a City Building Permit has been obtained.
        i. The fee for the permit is listed on the City's most up-to-date *Schedule of Fees, Charges & Monetary Penalties*.
    b. Permits are good for one year and may be renewed at the discretion of the Planning Commission.
2. The Planning Commission may grant a temporary permit for up to five (5) days for the use of a manufactured home, camping vehicle or recreation vehicle as a residence without a placement permit as specified in *Section 14.030 (2).*

(Adopted: 80-2)
(Amended: 2002-01)

Section 14.070 Recreational Vehicle Park

1. A recreational vehicle park shall be built to the standards of the Oregon Department of Health in effect at the time of construction and shall comply with the following additional provisions:
    a. The space provided for each recreational vehicle shall be at least two thousand-one hundred (2,100) square feet.
    b. All recreational vehicles and structures shall be located at least twenty-five (25) feet from all park property lines.
    c. Except for access roadways into the park, the park shall be screened on all sides by a sight-obscuring hedge or fence not less than six (6) feet in height.
    d. Streets which are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with the *Subdivision Ordinance*.
        i. For other streets, required rights-of-way shall be as follows:
            1. Minor one-way streets serving less than twenty (20) spaces shall be twenty-five (25) feet.
            2. Minor two-way streets serving less than forty (40) spaces shall be thirty (30) feet.
            3. Streets serving forty (40) or more spaces shall be forty (40) feet.
        ii. At a minimum, connection to a public street shall be provided a minor, two-way street.
        iii. Aside from the standards set forth above, private streets shall conform to the design and improvement standards of the *Subdivision Ordinance.*

e. The recreational vehicle pad shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water.
f. No recreational vehicle shall remain in the park for more than thirty (30) days in a sixty (60) day period.
g. Signs are limited to one identification sign with a maximum area on one side of twenty-four (24) square feet and limited to eight (8) feet in height above the ground.
    i. Such signs may be indirectly illuminated.
h. Applications for a recreational vehicle park shall be accompanied by complete plans and specifications of the proposed park and all permanent buildings – indicating the proposed method of compliance with the requirements.
    i. Such plans shall be to a scale of not less than one (1) inch to fifty (50) feet.
    ii. A performance bond may be required, in an amount to be determined by the Planning Commission, to ensure that a development proposal is completed as approved and within the time limit agreed to.

(Adopted: 81-7)

Section 14.080 Home Occupations

1. In residential zones, home occupations are allowed in order to promote a local economic base consistent with the character of the City.
    a. Allowable uses include light manufacturing, crafts and small-scale services which have little impact on the neighborhood in terms of traffic generation, noise, appearance and operating hours.
    b. Activities are to be allowed on an implied contractual basis, with the primary stipulation that approval can be revoked for violation of standards.
2. All Home Occupations shall meet the following standards and/or conditions in addition to all other applicable *Ordinance* requirements:
    a. It is operated by the resident/owner of the property upon which the activity is located within the residence or accessory structure(s);
    b. It will employ no more than four (4) full- or part-time persons, including the resident/owner;
    c. It will not interfere with existing users on nearby land or with other uses permitted in the Zone in which the property is located;
    d. Where Home Occupations are allowed conditionally, conditions of approval shall limit retail sales, signs, traffic, noise, obnoxious odors, hazardous activities and other identifiable adverse off-site impacts;
    e. The existence of a Home Occupation shall not be used as justification for a Zone change or Comprehensive Plan Amendment;
    f. Signs shall conform to *Article XXVI* of this *Ordinance*;
    g. Uses involving the delivery of materials shall be limited to between 8:00 a.m. and 6:00 p.m. daily;
    h. The use shall be architecturally and aesthetically compatible with the surrounding residential area and the existing structure(s) on the site;
    i. There shall be no outdoor storage of materials or equipment;
    j. Noise generated by the Home Occupation shall be limited to two decibels (2dBs) measured twenty feet (20') from the outside of the building or half the distance to the nearest structure, whichever is less; and
    k. Machinery shall not be operated except between the hours of 8:00 a.m. and 5 p.m. daily.
3. Home Occupations permitted outright shall meet the following additional standards or requirements:
    a. The owner/resident must reside on the same property as the Home Occupation.

b. There shall be no activities that give the outward appearance or manifest the characteristics of a retail business, such as:
   i. Signs other than those permitted under *Section 14.130* of this *Ordinance;*
   ii. Advertising of the dwelling as a business location;
   iii. More than six (6) customers daily entering the business premises;
   iv. More than two (2) customer vehicles at a time;
   v. Noise that adversely affects neighbors;
   vi. Obnoxious odors;
   vii. Hazardous activities; and
   viii. Other adverse off-site impacts.

c. Complaints from neighbors may be cause for requiring a Conditional Use Review of the activity.

(Adopted: 80-2)
(Amended: 91-01, 2002-01)

Section 14.090 Access

1. Every lot shall abut a street, other than an alley, for at least twenty feet (20').

(Adopted: 80-2)
(Amended: 2004-01)

Section 14.100 Clear-Vision Areas

1. A clear-vision area shall be maintained on the corners of all property at the intersection of two streets.
   a. A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines extended in a straight line to a point of intersection and so measured, and the third side of each is a line across the corner of the lot joining the non-intersecting ends of the other two sides.
   b. A clear-vision area shall contain no planting, fences, walls, structures or temporary or permanent obstructions exceeding two and a half (2 ½) feet in height; measured from the top of the curb, or, where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area provided that all branches and foliage are removed to a height of eight (8) feet above the grade.
   c. The following measurements shall establish clear-vision areas:
      i. In a residential zone, the minimum distance shall be twenty-five (25) feet, or at an intersection including an alley – ten (10) feet.
      ii. In all other zones, where yards are required, the minimum distance shall be fifteen (15) feet; or at intersections including an alley it shall be ten (10) feet; except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.

(Adopted: 80-2)

Section 14.110 Residential Development in the Commercial Zone (Mixed-use)

1. All residential mixed-use developments shall comply with this *Section* (in addition to any other applicable *Section* or provision) which are intended to require mixed-use development; conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; and avoid or minimize impacts associated with traffic and parking.
   a. Mixed-Use Development Required.
      i. New residential uses shall be permitted only when part of a mixed-use development (residential with commercial or public/institutional use).

ii. Both "vertical" mixed-use (housing above the ground floor) and "horizontal" (housing on the ground floor) developments are allowed.

b. Limitation on Street-level Housing.

i. No street frontage may be occupied by residential uses.

1. For parcels with street access at more than one level (e.g., sloping sites with two (2) street frontages), the limitation on residential building space shall apply to all street frontages.

ii. Residential uses shall not occupy more than fifth percent (50%) of the gross floor area of street-level housing.

iii. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories or behind street-level storefronts.

(Adopted: 2004-01)

Section 14.120 Shore Land and Development Standards

1. Shore land development standards are requirements which apply to uses adjacent to the Nehalem River and Nehalem Bay in the following zones: Marine Residential "MR", Commercial "C", and Low-density Residential "RL".
2. **General Standards**: The following general standards shall apply:

a. **Setbacks**

i. The shoreline setback for non-water-dependent structures and accessory used, including parking, shall be fifteen (15) feet from the line of non-aquatic vegetation.

ii. If it can be demonstrated that existing structures on adjoining lots infringe on the fifteen (15) foot setback, the setback shall be determined by the building line common to the adjacent existing structures; provided that in no case will the structures be set back less than ten (10) feet without a variance.

1. Further, where stream-bank erosion or flood hazard exists, the required setback will be determined on a case-by-case basis.

b. **Riparian Vegetation**

i. Removal of existing vegetation within the required setback line (fifteen (15) foot setback) will not be permitted except for water-dependent development.

ii. Limited removal of vegetation may be made on properties used for non-water-dependent uses only to provide walkways and trails, after being reviewed by the Planning Commission.

iii. Placement or replacement of riparian vegetation may be required by the Planning Commission.

c. **Waterfront Access**

i. Waterfront access for the public such as walkways, trails and landscaped areas will be provided whenever possible.

ii. Subdivision will provide for pedestrian access to the shoreline within the development.

iii. Commercial uses are encouraged to provide access to the waterfront consistent with public safety.

d. **Signs**

i. Placement of signs for commercial and industrial uses will be done in such a way as to minimize impact on waterfront views.

ii. When feasible, signs should be constructed against buildings.

e. **Lot Area**

i. Marsh and other aquatic areas will not be used to compute lot area or density, except behind the proposed Nehalem Community Dike.

1. Marsh area may be used in lot area and lot density calculations should the community dike project be initiated.

f. **Utilities**
   i. Whenever feasible, utility lines will be located underground or along existing rights-of-way.
   ii. Above-ground utilities are subject to design review by the Planning Commission.
   iii. All above-ground utilities should be designed to minimize view interference and the amount of land clearing.

g. **Architectural Design**
   i. Uses shall be aesthetically compatible with their waterfront locations and shall relate architecturally to any adjacent historic of scenic structure or areas.

h. **Parking**
   i. Parking facilities shall not be located over the water or within thirty (30) feet of the line of non-aquatic vegetation except where parking elsewhere is rendered impractical by topography or constitutes a severe economic hardship – in which case it shall remain as far from the line of non-aquatic vegetation as feasible.

i. **Views**
   i. The placement of structures will take into account the impact on views from adjacent areas.

3. **Specific Standards**: The following specific standards shall also apply:

a. **Aquaculture**
   i. Structures and activities associated with an aquaculture operation shall not interfere with navigation.
   ii. Water diversion or other shoreline structures shall be located so as not to interfere with public shoreline access.
      1. Public access to the facility shall be provided consistent with safety and security considerations.
   iii. Aquaculture facilities shall be constructed to blend in and not detract from the aesthetic qualities of the area.
      1. In developed areas, views of upland owners shall be given consideration in facility design.
   iv. Water diversion structures or man-made spanning channels shall be constructed so as to maintain stream flows.

b. **Marinas**
   i. Marine facilities shall be designed and constructed so as to minimize negative impacts on navigation, water and air quality, sedimentation rates and patterns, fish rearing or migration routes, important sediment-dwelling organisms, birds, other wildlife, tidal marshes and other important vegetative habitat.
      1. The effects on traffic patterns, parking facilities, noise levels and uses in adjacent shore land and aquatic areas shall be considered.
   ii. Unless the developer can demonstrate that existing water quality conditions can be maintained or improved, marinas shall not be allowed in poorly flushed embankments.
   iii. The amount of water surface occupied shall be the minimum to meet the need.
   iv. Fill, when absolutely necessary shall be permitted only for the water-dependent portions of the facility.

c. **Shoreline Stabilization**

i. Vegetative (non-structural) stabilization will be used unless inappropriate due to a high erosion rate, and inability to accommodate a permitted water-dependent use, or other relevant factors.

ii. Acceptable engineering and construction practices shall be used in the placement of rip-rap, with regard to slope, size, composition and quality of material, excavation, gravel placement and operation of equipment in water.

iii. Shoreline protection measures shall not restrict existing public access to public shorelines.

iv. Shoreline protection measures shall be designed to minimize the impact on the aesthetic qualities of the shoreline.

v. Shoreline protection measures shall minimize negative impacts on adjacent property.

vi. Bank-line protection is not in itself a way to increase land surface area.

1. Where an avulsion has occurred, fill may be used to restore the previous bank-line, so long as the corrective action is initiated within one (1) year of the avulsion.
2. Any extension of the bank-line into traditional aquatic areas will be considered a fill.

vii. Construction of shoreline protection measures shall be coordinated with State and Federal Agencies and local interests to minimize the effects on aquatic resources and habitat.

viii. Emergency repair to shoreline stabilization facilities is permitted, consistent with the above standards and subject to those standards imposed by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

d. **Docks and Moorage**

i. Where a private individual dock or moorage is proposed, the applicant must demonstrate that the alternative moorage sites such as nearby marinas, community docks or mooring buoys are not available and are impractical or will not satisfy the need.

1. Where need is demonstrated, only one boat dock or moorage area will be permitted for each waterfront residence, subdivision or other use, except for a planned development, in which case the Planning Commission may approve more than one moorage facility if appropriate for the proposed development.

ii. The size and shape of the dock or moorage shall be the minimum necessary to fulfill the purpose.

iii. Open moorages are encouraged, except in connection with a commercial or industrial use where shelter is necessary for repair and maintenance of vessels and associated equipment.

iv. Open pile piers or secured floats shall be used for dock construction.

(Adopted: 80-2)
(Amended: 83-9, 91-01, 99-02)

Section 14.130 Automobile-Oriented Uses & Facilities

1. Automobile-oriented use means automobiles and/or other motor vehicles are an integral part of the use. These uses are restricted because, when unrestricted, they detract from the pedestrian-friendly storefront character of the Commercial Zone and can consume large amounts of land relative to other permitted uses.
2. Automobile-oriented uses and facilities shall comply with the following standards:
   a. Vehicle Repair, Sales, Rental & Storage.

i. Business that repair, sell, rent, store or service automobiles, trucks, motorcycles, buses, recreational vehicles, boats, construction equipment and similar vehicles and equipment are permitted when:
   1. The use is wholly contained within an enclosed building; and
   2. The use does not exceed twenty thousand (20,000) square feet (indoor and outdoor) or two hundred (200) feet of street frontage (on any single street), whichever is less.

b. Drive-up, Drive-In and Drive-through Facilities.
   i. Drive-up, drive-in and drive-through facilities (e.g., associated with restaurants, banks, car washes, and similar uses) are permitted only when accessory to a primary commercial "walk-in" use, and shall conform to all of the following standards:
      1. The facility receives access from an alley or driveway, and not a street.
      2. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, window, teller machines, service windows, drop-boxes, and similar facilities) are located within twenty (20) feet of a street and shall not be oriented to a street corner.
         a. Walk-up only teller machines and kiosks are exempted from this requirement.
      3. The facility is subordinate to a primary permitted use.
         a. "Subordinate" means all components of the facility, in total, occupy less street frontage than the primary commercial or public/institutional building.
      4. No more than one drive-up, drive-in or drive-through facility shall be permitted on one block, or for a distance of three hundred (300) linear feet along the same street frontage, whichever is less.

(Adopted: 2004-01)

Section 14.140 Riparian Vegetation, Small Streams

1. Riparian vegetation along small streams shall be protected by a fifteen (15) foot riparian zone for all creeks.
2. Limited removal of vegetation may be made to provide walkways or trails, or in other cases after review by the Planning Commission.
3. Replacement of riparian vegetation may also be required by the Planning Commission.

(Adopted: 81-7)
(Amended: 99-02)

Section 14.150 Buffers Required Adjacent to Exclusive Farm Use (EFU) Zones

1. Where development is proposed on lands adjacent to Exclusive Farm Use Zones, the City shall require that a buffer of not less than fifty (50) feet be required between the development and the EFU boundary in order to protect the farm and development from incompatible uses or activities.
   a. Such a buffer shall be in addition to any required setback for structures or uses.
   b. Buffers may include, if the Planning Commission requires, the maintenance of tree stands, fencing or other separation.

(Adopted: 81-7)

Section 14.160 Accessory Uses/Structures

1. An accessory use shall comply with all requirements for a principal use, except as this *Ordinance* specifically allows to the contrary, and shall comply with the following limitations:
    a. An accessory use is allowed only as an ancillary use to the principal use located on the same parcel as allowed by the current Zone standards of that parcel;
    b. An accessory structure that is separate from the main building may be located in the required rear and side yard setbacks, provided that it is at no point closer than three feet (3') to a property line;
    c. An accessory structure/use is not allowed in the street side yard setback of a corner lot; and
    d. Storage of recreational vehicles, boats and utility trailers is permitted as an accessory use in any residential zone when stored in accordance with the provisions of this *Ordinance*.

(Adopted: 80-2)
(Amended: 2002-01)

Section 14.170 Short-Term Rentals

1. Short-term rentals are allowed in any residential or mixed-use structure as long as said short-term rental(s) does not entail the conversion of an existing commercial use to a residential use.
2. Any person who is proposing to operate a short-term rental shall make application to the City upon suitable forms furnished by the City.
    a. Applications for a Short-Term Rental Permit shall list all of the property owners of record. Property ownership, for purposes of this *Section*, shall consist of those individuals who are listed on the Tillamook County Assessor's tax records.
    b. All applications for a Short-Term Rental Permit shall be accompanied by the fee(s) as set out in the City's most up-to-date *Schedule of Fees, Charges & Monetary Penalties.*
3. The Short-Term Rental Permit is issued to the owner and does not transfer with the sale or conveyance of the property.
4. At the time of initial application, the dwelling unit shall be subject to inspection by the Building Official or his/her designee. The purpose of the inspection is to determine the conformance of the dwelling unit with the requirements of the relevant Building Code(s) as is currently in use by the Tillamook County Building Department. (SEE "Nehalem Short-Term Rental Inspection Procedures" for examples of inspection).
5. An approved visible house number is required.
6. There shall be provisions for regular garbage removal. Garbage containers shall be secured and placed behind the dwelling.
7. Off-street parking shall comply with the standards of *Article XXV.*
    a. All vehicles must be parked off the street and on the property of the dwelling being used as a short-term rental.
        i. For purposes of this *Section,* a vehicle includes, but is not limited to: Cars, trucks, RV's, boats and their trailers, and motorcycles.
    b. Guests of a short-term rental shall complete a registration form for each vehicle that will be parked at the rental site. Registration forms shall be completed according to the instructions contained on the form.
    c. Location and design of parking spaces shall comply with all applicable City Ordinances.
8. The property owner shall designate a representative who permanently resides within the City's telephone prefix area. The owner may be the designated representative where the owner resides in the City's telephone prefix area.

a. Where the owner does not reside in the City's telephone prefix area, the owner shall designate a resident in the City's telephone prefix area as his/her representative. The representative shall serve as a contact person if there are questions regarding the operation of the short-term rental.
    i. The owner is responsible for the operation of the short-term rental and ensuring that it complies with all applicable City Ordinances and regulations.
b. The name, address and telephone number of the representative shall be clearly posted in the dwelling and also registered with the City.

9. Owners and guests of short-term rentals shall obey all applicable Ordinances and regulations of the City. Any individual found in violation of a City Ordinance shall be subject to the enforcement and penalty provisions contained in the applicable Ordinance(s).
    a. Any property owner who operates a short-term rental in violation of the conditions of this *Section* and *Ordinance* shall be subject to *Article XXI. Enforcement.*
10. In addition to the penalties specified herein, the City may determine that an appropriate penalty is the revocation of the Short-Term Rental Permit.
    a. The Planning Commission shall hold a Hearing on a proposed revocation of a Short-Term Rental Permit at their next regularly scheduled Meeting in accordance with *Article XIX.* At the conclusion of the Hearing, based on the evidence presented, the Commission may:
        i. Take no action on the request for the revocation of the permit;
        ii. Attach conditions to the existing permit; or
        iii. Revoke the permit.
    b. Should a Permit be revoked, the owner may reapply for a new Permit no sooner than one year after the date of revocation.

(Adopted: 2004-01)

Article XV. Exceptions to Zoning Rules

Section 15.010 Intent

1. The purpose of the *Exceptions Article* is to specify cases of exemptions from zoning rules and to assist in administrative interpretation of the *Zoning Ordinance.*

(Adopted: 80-2)

Section 15.020 Zone Boundaries

1. If a zone boundary as shown on the *Official Zoning Map* divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies; provided that this adjustment involves a distance not to exceed twenty (20) feet from the mapped zone boundary.
    a. Except as otherwise described, zone boundaries follow property lines, street right-of-ways, or City Limit lines.

(Adopted: 80-2)

Section 15.030 Authorization of Similar Uses

1. The Planning Commission may permit in a particular zone, a use not listed in this *Ordinance* provided the use is of the same general type as the uses permitted there by this *Ordinance*, or provided the use is required by State or Federal Law – such as pollution control equipment.

(Adopted: 80-2)

Section 15.040 Projections from Buildings

1. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than eighteen (18) inches into a required yard.

(Adopted: 80-2)

Section 15.050 General Exception to Lot Size Requirements

1. If the aggregate of contiguous lots held in a single ownership as recorded in the Office of the County Clerk at the time of the passage of this *Ordinance* has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone; provided that if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone.

(Adopted: 80-2)

Section 15.060 General Exceptions to Yard Requirements

1. The required front yard for a dwelling need not exceed the average depth of the front yards of dwellings within one hundred (100) feet on both sides of the proposed dwelling, but in no case shall the front yard setback be less than twelve (12) feet.

(Adopted: 80-2)

Section 15.070 General Exception to Building Height Limitations

1. Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and other extensions may be permitted by the Planning Commission.

(Adopted: 80-2)

Article XVI. Matters Subject to the Review and Approval by the Planning Commission

Section 16.010 General

1. All applications for zone changes, *Comprehensive Plan* Amendments, conditional use permits, variances and planned developments; along with all enforcement actions relevant to this *Ordinance* shall be under the jurisdiction of the Planning Commission.

(Adopted: 80-2)
(Amended: 91-01)

Section 16.020 Limitation on Reapplications

1. Unless the Planning Commission determines otherwise regarding a particular application, re-application for a zone change, *Comprehensive Plan* Amendment, conditional use permit, variance or planned development shall not be considered by the Planning Commission within a one year period immediately following a previous denial of a substantially similar request.

(Adopted: 91-01)

Section 16.030 Legislative Zone Changes or Comprehensive Plan Amendment

1. Zone changes or *Comprehensive Plan* Amendments that are legislative in nature, i.e., without a specific applicant or project in mind but of more general application shall require such Public Hearings as are required in *Ordinance 90-3* and ORS 227.160 through 227.185, with notice given as therein required.

(Adopted: 91-01)

Section 16.040 Standards for Approval of Zone Changes or Comprehensive Plan Amendments

1. All zone changes or *Comprehensive Plan* Amendments, whether legislative in nature or whether quasi-judicial, may be approved only if ALL of the following are satisfied:
    a. The proposed change is consistent with the *Comprehensive Plan's* policies.
    b. The proposed change shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection Goals.
    c. The site involved is better suited to the purposes allowed by the proposed change than it is to the purposes of the existing zone.
    d. Development anticipated to result from the proposed change shall not impair the actual or the legally-designated uses of neighboring properties.

(Adopted: 91-01)

Article XVII. Variances

Section 17.010 Intent

1. The purpose of the *Variance Article* is to allow for the granting of a variance permit from specified site-development requirements of this *Ordinance* where it can be shown that owing to special and unusual circumstances related to a specific lot, strict interpretation of the *Ordinance's* site-development requirements would cause undue or unnecessary hardship.
    a. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property, or vicinity and otherwise achieve the purpose of this *Ordinance.*

(Adopted: 80-2)

Section 17.020 Conditions for Granting a Variance

1. No variance shall be granted by the Planning Commission unless it can be shown that ALL of the following conditions exist:
    a. Exceptional or extraordinary circumstances apply to the property and result from lot size and shape, topography or other circumstances over which the owners of the property have no control.
    b. The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.
    c. The variance would not be materially detrimental to the purposes of the *Ordinance*, the *Comprehensive Plan*, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any City policy.
    d. The variance request is the minimum variance which would alleviate the hardship.

(Adopted: 80-2)

Section 17.030 Application

1. A request for a variance may be initiated by a property owner, or his/her authorized agent, by filing an application with the City Manager/Recorder.
2. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.
3. For waterfront property, the location of mean higher high water shall also be shown.
4. The City Manager/Recorder or Planning Commission may request other drawings or materials essential to an understanding of the proposed use and its relationship to surrounding properties.

(Adopted: 80-2)

Section 17.040 Time Limit

1. Authorization of a variance shall be void after one (1) year unless substantial construction has taken place.
2. Upon request, the Planning Commission may grant one six (6) month extension.
3. A change in plan requires a new application.

(Adopted: 80-2)

Article XVIII. Conditional Uses & Activities

Section 18.010 Intent

1. In certain districts, conditional uses or activities may be permitted subject to the granting of a Conditional Use Permit.
2. Because of their unusual characteristics or potential disruption of the area in which they are to be located, conditional uses require special considerations so they may be properly located with respect to the *Comprehensive Plan* and to the objectives of this *Ordinance.*

(Adopted: 80-2)

Section 18.020 Authorization

1. Uses designated in this *Ordinance* as conditional uses may be permitted, enlarged or otherwise altered upon authorization by the Planning Commission.
    a. A conditional use may be authorized if the Planning Commission finds that it is in conformity with the City of Nehalem's Land-Use Ordinance, that the proposed use of the site and design of the project will be compatible with the permitted uses in the area, and the proposed use of the site and design of the project minimizes adverse impacts to the site and adjacent areas.
        i. The burden is on the applicant to demonstrate that these requirements can be met.
2. In granting a conditional use the City may impose, in addition to those standards and requirements expressly specified in this *Ordinance,* any conditions which it considers necessary to protect adjacent uses and the resources of the site and adjacent areas.
    a. These conditions may include, but are not limited to:
        i. Increasing the required lot size or yard dimensions;
        ii. Reducing the required height and size of buildings;
        iii. Controlling the location and numbers of vehicle access points;
        iv. Increasing the required off-street parking spaces;
        v. Increasing the required street width;
        vi. Limiting the number, size, location and lighting of signs;
        vii. Required diking, fencing, screening, landscaping, berms, or other items to protect adjacent or nearby property;
        viii. Designating sites for open space; and,
        ix. Increasing pipe size or other facility installment requirements, such as for fire protection, water flow, sewerage or storm drainage.

(Adopted: 80-2)
(Amended: 2002-01)

Section 18.030 Preexisting Conditional Uses

1. In the case of a use existing prior to the effective date of this *Ordinance* and classified in the *Ordinance* as a conditional use, and change in use or in lot area or an alteration of structure shall conform to the requirements for a conditional use.

(Adopted: 80-2)

Section 18.040 Application

1. Any person seeking a conditional use permit shall provide the Planning Commission such information as they may reasonably require to determine whether the permit is authorized by law.
2. At a minimum, the proposed conditional use description shall include:
    a. Legal description of the affected property.

b. Site plan and elevations, drawn to scale, indicating the subject property, the location of all structures, walkways, driveways, landscaped areas, fences, walls, and all parking and loading spaces.
c. A sketch, showing the location of existing tees and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site.
d. Site analysis data indicating square footage of the site, building coverage, landscaped areas, and parking.
e. Location of mean higher high water when appropriate.
f. Other information, as requested by the Planning Commission.

(Adopted: 80-2)

Section 18.050 Performance Sureties

1. The Planning Commission may require that the applicant for a Conditional Use furnish to the City a performance bond, refundable cash deposit, letter of credit from an accredited and FDIC Insured financial institution, or other surety as approved by the Planning Commission not to exceed the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission and that the standards established in granting the Conditional Use are observed.
2. All such types of sureties will name the City of Nehalem as the sole owner. If all conditions are met as set forth by the Planning Commission, then and only then will all such sureties revert back in ownership to the applicant(s).

(Adopted: 80-2)
(Amended: 2002-01)

Section 18.060 Compliance with Conditions of Approval

1. Compliance with conditions established for a conditional use and adherence to the submitted plans, as approved, is required.
2. Any departure from these conditions of approval and approved plans constitutes a violation of this *Ordinance.*
3. Enforcement of compliance with conditions of approval shall be accomplished according to the procedure established in *Article XXI* of this *Ordinance.*

(Adopted: 80-2)
(Amended: 91-01)

Section 18.070 Time Limit for Conditional Uses

1. Authorization of a conditional use shall be void after one (1) year or such lesser time as the authorization may specify unless substantial construction has taken place.
   a. However, when requested, the Planning Commission may extend authorization for an additional period not to exceed six (6) months; provided such a request is submitted to the Planning Commission at least ten (10) days prior to the expiration of the permit.
2. If a conditional use is discontinued for more than one (1) year, a new conditional use permit shall be applied for.

(Adopted: 80-2)

Section 18.080 Limitations on Refilling of Application

1. Applications for which substantially similar applications have been denied, will be heard by the Planning Commission only after a period of six (6) months has elapsed from the date of the earlier decision.

(Adopted: 80-2)

Section 18.090 *Basic Conditional Use Standards*

1. Before a conditional use is approved, findings will be made that the use will comply with the following standards:
    a. A need exists for the use at the proposed location.
    b. The use will not overburden the following public facilities and services: water, sewer, storm drainage, electrical services, fire protection and schools.
    c. The site layout shall provide an adequate amount of space for yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by City Ordinances or desired by the applicant.
    d. The topography, soils and other physical characteristics of the site are appropriate for the use.
    e. The use will not create traffic congestion on nearby streets.
    f. The proposed use will be compatible with the general character of the area due to the architectural style, building materials and colors, landscaping, fencing, and/or other building or site characteristics.

(Adopted: 80-2)

Section 18.100 *Specific Conditional Use Standards*

1. In addition to the standards of the zone in which the conditional use is located and the general standards of *Section 18.090,* specific conditional uses shall meet the following standards, at a minimum, where applicable:
    a. **Day Care Centers**
        i. Day care centers or nursery schools shall provide and maintain at least one hundred (100) square feet of outdoor play area per child.
        ii. A sight-obscuring fence (except in clear vision areas) at least four (4) feet but not more than six (6) feet high shall separate the play area from abutting lots and from a street.
    b. **Public Utility or Communication Facility**
        i. When located in or adjacent to a residential zone, suitable fencing or landscaping shall be provided.
        ii. When located in or adjacent to a residential zone, all equipment storage shall be in an enclosed building.
        iii. The minimum lot size may be waived on a finding that a reduced lot size will not have a detrimental effect on adjacent property.
    c. **Mining Quarrying or Other Extractive Activity or Solid Waste Sites**
        i. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner so as to eliminate, as far as practical; noise, vibration or dust which are injurious or substantially annoying to persons or other uses in the vicinity.
        ii. Open pit or sand and gravel excavating or processing shall not be permitted nearer than fifty (50) feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained.
            1. Excavating or processing shall not be permitted closer than thirty (30) feet to the right-of-way line of an existing or platted street.
        iii. Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding one (1) foot horizontal for one (1) foot vertical.
        iv. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.
        v. A rock crusher, washer or sorter shall not be allowed.
        vi. All relevant State and Federal air quality, water quality and solid waste disposal regulations shall be adhered to.
            1. Leaching of harmful substances into ground and surface waters will be avoided, and public health and safety protected.

vii. Natural or planted vegetation may be required to minimize aesthetic impacts.

viii. The operator shall present to the local government one (1) copy each of a surface mining plan and a reclamation plan if required by State or Federal standards.

d. **Motel, Hotel, or Guest Cottages**

i. Evidence of site, design, location and dimension and the resulting impact of the development upon commercial businesses and on residential views from adjacent properties and, if applicable, other homes in the City Limits.

ii. Uses shall be aesthetically compatible with their location and shall relate architecturally to any adjacent business structures, historic structures or scenic areas.

iii. In shore land areas, motels and hotels shall utilize existing wharves and piers to the greatest extent possible.

iv. In shore land areas, the project shall provide significant public access or recreation uses through the provision of waterfront seating, walkways, street furniture or similar facilities.

v. In shore land areas, visual access to the water shall not be impaired by the placement of signs.

1. Visual obstruction of the water caused by development of any structures shall be minimized.

(Adopted: 80-2)
(Amended: 2010-01)

Article XIX. Administrative Provisions

Section 19.010 General

1. This *Article* shall cover the procedural aspects of Public Hearings, Appeals and Public Notice of same; regarding non-legislative zone changes, non-legislative *Comprehensive Plan* Amendments, all conditional use permits, all variances, all planed use developments and other related matters, except as provided otherwise in this *Ordinance* or by State and/or Federal Law.

(Adopted: 91-01)

Section 19.020 Application

1. Applications for review and approval of individual zone changes, *Comprehensive Plan* Amendments, conditional use permits, variances and planned developments shall be submitted as described in *Section 19.030* below.
    a. In addition to the above, applications must also include:
        i. A legal description for the parcel involved in the request;
        ii. A description of the nature of the request;
        iii. Plans sufficient to document and describe the request;
        iv. The name, address and phone number of the applicant(s);
        v. Stamped, pre-addressed envelopes of all property owners of record, according to the most up-to-date Tillamook County Assessor's Tax Rolls, within two hundred-fifty (250) feet of the parcel involved in the request; and
        vi. Such other information as the City Manager/Recorder may deem appropriate.
    b. An application (twelve (12) copies) will not be considered complete for the purposes of any time limitations until the City Manager/Recorder certifies that all request information has been received.
2. Completed applications must be submitted to the City no later than ten (10) days prior to the thirty (30) day requirement upon the City as listed in *Section 19.040 (1)(a).*

(Adopted: 91-01)
(Amended: 99-02, 2002-01, 2004-01)

Section 19.030 Fees

1. The Planning Commission shall not consider, nor shall any authorized City Official commence processing any matter for which a fee is assigned until such fee is paid in full; except that fees shall not be required where the City is the moving party.
2. Fees are required in order to defray expenses incurred in connection with the processing of applications and this shall be their only use.
3. The amount of required fees shall be those as specified in the City's most up-to-date *Schedule of Fees, Charges & Monetary Penalties*.

(Adopted: 91-01)
(Amended: 2002-01)

Section 19.040 Preliminary Matters

1. **Notice by City Manager/Recorder to interested persons**
    a. Within thirty (30) days of receipt of a complete application, including payment of the required fee in full, the City Manager/Recorder shall send by first class mail, a notice of the application to the following:
        i. The applicant.
        ii. All owners of property within two hundred-fifty (250) feet of the parcel on which a decision is requested.

iii. The owner of the title to real property or the contract purchaser of real property, as shown in the last available complete assessment roll in the Office of the County Assessor, if the applicant is not the owner.
iv. Any person, agency or organization that has filed with the City Manager/Recorder written request to receive notice on the matter.
v. Other persons, agencies or organizations the City Manager/Recorder deems appropriate.
vi. Members of the Planning Commission.

2. **Content of the *Section 19.040 (1)* Notice**
   a. The notice described above shall:
      i. Generally describe the nature of the request.
      ii. Set forth the street address or other easily understood geographical reference to the property involved in the request.
      iii. List the applicable criteria from the *Ordinance* and the *Comprehensive Plan* and/or *Subdivision Ordinance* that apply to the matter.
      iv. State the name of the applicant.
      v. State that a completed application has been received.
      vi. State that there is a right to respond with oral or written comments or objections to the proposal.
      vii. State that the Planning Commission shall hold a Public Hearing on the application on the date and at the time and place specified in the Notice – such date not less than twenty (20) nor more than fifty (50) days from the date the Notice was mailed.
      viii. State that the City Manager/Recorder shall prepare a report on the matter which, along with a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria will be available for public inspection and copying at reasonable cost at City Hall not less than ten (10) days before the Hearing.
      ix. State that failure of an issue to be raised either in writing before or during the Hearing or orally at the Hearing or to raised with sufficient specificity to afford the Planning Commission an opportunity to respond to the issue shall preclude appeal to the City Council on that issue.
      x. Include the City Manager/Recorder's name and business telephone number to contact for additional information during regular working hours.
      xi. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the Hearings.
3. **Publication of Notice**
   a. The City Manager/Recorder shall cause the Notice described in *Section 19.040 (2)* to be published in a newspaper of general circulation within the City at least ten (10) days before the Public Hearing.

(Adopted: 91-01)
(Amended: 2002-01)

Section 19.050 City Manager/Recorder's Report & Quasi-judicial Land Use Hearings

1. **City Manager/Recorder's Report**
   a. Not less than seven (7) days before the Public Hearing, the City Manager/Recorder shall distribute to the Planning Commission a report on the matter.
   b. The report shall contain such information as the City Manager/Recorder determines would be necessary or helpful for the Planning Commission to pass judgment on the matter.
   c. The report shall be distributed to the applicant and to the Planning Commission members and shall be available for public inspection at City Hall.

2. **Quasi-judicial Land Use Hearings**
    a. **Conflicts of Interest**
        i. A Planning Commission Member shall not participate in any Commission proceedings or actions in which any of the following has a direct or substantial financial interest:
            1. The member or spouse, brother, sister, child, parent, father-in-law or mother-in-law of the Member, any business in which the Member is then serving or has served within the previous two (2) years, or any business with which the Member is negotiating for or has an arrangement or understanding concerning prospective partnerships or employment.
            2. However and notwithstanding the before-mentioned, should disqualification of a Member preclude a decision being made within the prescribed time limits, such otherwise disqualified Member may vote in the matter.
                a. Any actual or potential interest shall be disclosed at the Meeting of the Commission where the action is being taken.
    b. **Standing**
        i. The following persons shall have standing to appear at the Hearing:
            1. All persons or organizations to whom notice was sent under *Section 19.040* above; and,
            2. Any persons adversely affected.
    c. **Evidence**
        i. All evidence and/or testimony submitted before or at the Hearing shall be admitted; except evidence that the Planning Commission determines is irrelevant, immaterial or repetitious.
        ii. Demonstrative evidence shall be received if the Planning Commission determines the same to be reliable, probative and material.
            1. Upon admission, the same should be marked and identified.
        iii. The Planning Commission may set time limits on the length of oral presentations.
        iv. All parties shall have the right to rebut the evidence and testimony presented, at the discretion of the Planning Commission, by either oral or written statements or both, as determined by the Planning Commission.
        v. A Planning Commission member may vote on a particular matter based on his or her personal knowledge, as long as the same is made a part of the Hearing record.
        vi. The Planning Commission may, at its discretion, conduct a tour of the site involved at the Hearing.
    d. **Burden of Proof**
        i. The burden of proof is on the proponent of the action seeking change.
            1. The more drastic the proposed change, the greater will be the burden on the proponent to support the change.
    e. **Conduct of the Parties**
        i. The Planning Commission shall maintain order to insure that all parties have an opportunity to be heard in an orderly fashion.
        ii. Parties shall not unduly interrupt or otherwise disrupt or encourage another party's presentation.
        iii. The Planning Commission Members may interrupt the testimony presented with questions to the persons presenting the testimony.
    f. **Order of the Proceedings**
        i. The Presiding Officer shall cause, at the commencement of the Hearing, a statement to be made to those in attendance that lists the applicable

substantive criteria; that declares that testimony and evidence must be directed toward that criteria or other criteria in the *Ordinance* or *Comprehensive Plan* or *Subdivision Ordinance* which the person believes applies to the decision; and that declares that failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes appeal to the City Council based on that issue.

1. The City Manager/Recorder shall then orally summarize his or her report on the matter, as well as previously-submitted evidence.
2. The proponent of the change or action shall then present his/her evidence.
3. All interested parties shall then present their evidence.
4. The proponent shall then be given an opportunity to rebut the evidence presented either orally or in writing, as determined by the Planning Commission.
5. All other interested parties shall then be given an opportunity to rebut the evidence presented in the same manner as is provided to the proponent.
6. The proponent shall, at the end of the Hearing be given a final opportunity to comment or rebut previously-presented evidence or testimony.

ii. If a participant so requests, the Record shall remain open for at least seven (7) days after the last Evidentiary Hearing on the matter.

iii. The Presiding Officer shall state at the close of the Hearing that notice of the findings will be given to any party who requests same in writing.

g. **Standards and Findings**

i. The standards to be applied for the matter in question are contained within the *Comprehensive Plan*, *Zoning Ordinance* and/or *Subdivision Ordinance*, as each Section and/or subsection may be applicable to the subject at hand.

ii. The Planning Commission shall adopt specific findings on the matter that shall specifically state:

1. The criteria and standards relevant to the decision.
2. The facts relied upon to support the decision.
3. The decision of the Planning Commission which shall be based on substantial evidence.
4. An explanation that justified the decision on the basis of the facts, standards and criteria.

iii. Any party and the City Manager/Recorder may present proposed findings.

h. **The Decision**

i. At the close of the Record, the Planning Commission may postpone the findings to another Meeting not more than sixty (60) days after the Hearing; may make tentative findings and instruct the City Manager/Recorder or other staff to prepare final, formal findings for adoption at a later meeting; may adopt formal written findings; or may articulate its findings for the Record and instruct the City Manager/Recorder or other staff to draft a written report of the findings to be signed by the Chairperson and attested to by the City Manager/Recorder.

ii. The decision becomes final as to the Planning Commission when the written findings are signed by the Chairperson and attested to by the City Manager/Recorder.

iii. The decisions becomes final as to the applicant and all other parties when and if the findings have not been appealed within fifteen (15) calendar days

of the date a copy of the findings is to be sent by certified mail to the applicant and to those parties who have, in writing, requested a copy of the findings.

i. **Appeal**

i. The applicant and any party who submitted either oral or written evidence or testimony at the Hearing (merely signing a petition is not sufficient) shall have the right to appeal the Decision of the Planning Commission to the City Council.

ii. The appeal must be in writing, must be signed by the appellant, must state the grounds for the appeal, must be accompanied by the fee established for the appeal by the City Council and must be received by the City Manager/Recorder no later than fifteen (15) days after the findings were mailed.

iii. The City Council shall conduct a De Novo Hearing on all appeals properly filed.

1. The notice required, the conduct of the parties and the Hearing, the burden of proof, the evidence, the standards and findings, the decisions and other matters shall be in compliance with *Section 19.030* to *19.050 (2.h.)* above; modified only to reflect, from a wording standpoint, the appellate nature of the proceedings; such as a change of all references from the Planning Commission to the City Council.

iv. The City Manager/Recorder shall prepare the Record of the Planning Commission's action, which shall consist of:

1. Written Findings; Copies of all written evidence; and a summary of oral testimony presented at the Hearing and such other information as the City Manager/Recorder determines would be helpful or necessary to the City Council.

v. The Record shall be submitted to the City Council at least ten (10) days before the appeal is heard.

1. Copies of the record shall be sent certified mail at least ten (10) days before the appeal is heard and addressed to appellant and, if the applicant is not the appellant, to the applicant.

(Adopted: 91-01)
(Amended: 2002-01, 2010-01)

Article XX. Nonconforming Uses

Section 20.010 Continuation of Nonconforming Use

1. Subject to the provisions of the *Oregon Revised Statutes* and subsequent provisions of this *Article,* a nonconforming use or structure may be continued.
2. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this *Ordinance* is not considered an enlargement or expansion of a nonconforming use.
3. Nonconforming structures or uses relating to Signs shall be governed solely by the provisions of *Section 26.080* of this *Ordinance*.

(Adopted: 80-2)
(Amended: 91-01, 2002-01, 2010-01)

Section 20.020 Enlargement or Expansion of a Nonconforming Use

1. In case of practical difficulty and unnecessary hardship, the Planning Commission may grant a variance for the enlargement or expansion of a nonconforming use up to twenty percent (20%) in floor area or in those cases not involving structures, up to ten percent (10%) in land area as existing on the effective date of this *Ordinance.*
2. The Planning Commission shall grant expansion or enlargement where required to conform to another law; such as a pollution control requirement.

(Adopted: 80-2)
(Amended: 91-01)

Section 20.030 Discontinuance of Nonconforming Use

1. If a nonconforming use involving a structure is discontinued for a period of one (1) year, further use of the property shall conform to this *Ordinance.*

(Adopted: 80-2)
(Amended: 91-01)

Section 20.040 Destruction of Nonconforming Use or Structure

1. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding eight percent (80%) of its fair-market value as indicated by the records of the County Assessor and is not returned to use within one (1) year from the date of destruction, a future structure or use on the site shall conform to this *Ordinance.*

(Adopted: 80-2)
(Amended: 91-01)

Section 20.050 Completion of Structure

1. Nothing contained in this *Ordinance* shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced, provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within two (2) years from the time the building permit is issued.

(Adopted: 80-2)
(Amended: 91-01)

Article XXI. Enforcement

Section 21.010 Investigation of the Violation

1. It shall be the duty of the Planning Commission to enforce this *Ordinance.*
    a. Either the City Manager/Recorder or the Planning Commission shall start the process.
2. Should the City Manager/Recorder determine that a violation may exist, he/she shall investigate and prepare a written report on the matter for the Planning Commission who, at a Public Hearing, shall determine if such violation exists and what enforcement action, if any, should be taken.
    a. The City Manager/Recorder may issue a Stop-Order if it appears that a violation does exist.
3. Should the Planning Commission believe reasonable cause exists that a violation exists, the City Manager/Recorder shall be instructed to prepare the written report described in the *Section 21.010 (2)* above.

(Adopted: 91-01)
(Amended: 2004-01)

Section 21.020 Preliminary Matters

1. **Notice of Enforcement Hearing**
    a. The City Manager/Recorder, upon completion of the report; shall send, postmarked or hand-delivered not less than ten (10) days before the Planning Commission Hearing, a notice of the enforcement matter to the following persons:
        i. The alleged violator of the *Ordinance* shall be sent notice by certified mail.
        ii. Any person, agency or organization that has filed with the City Manager/Recorder a written request to receive notice on the matter.
        iii. Members of the Planning Commission.
        iv. Other persons, agencies or organizations the City Manager/Recorder deems appropriate.
2. **Content of *Section 21.020 (1)***
    a. The notice described above shall state the name of the alleged violator of the *Ordinance*; shall generally describe the nature of the alleged violation and of the property involved in the matter; shall state that there is right to respond with written comments or objections up to the close of the receipt of testimony; that the Planning Commission shall hold a Public Hearing on the matter on the date and at the time and place specified in the notice and that the City Manager/Recorder has prepared a report on the matter which is available for public inspection at City Hall.
    b. The alleged violator of the *Ordinance* and Planning Commission members shall receive a copy of the notice and City Manager/Recorder's report.
3. **Publication of Notice**
    a. The City Manager/Recorder shall cause the notice as described in *Section 21.020 (2)* also to be published in a newspaper of general circulation within the City at least ten (10) days before the Public Hearing.
4. **Public Hearing, Decision of the Planning Commission and Appeal to the City Council**
    a. The Public Hearing, the procedural aspects of the decision of the Planning Commission and of appeal to the City Council shall be conducted in accordance with the provisions of *Section 19.050,* notified only to reflect, from a wording standpoint, the enforcement nature of the proceedings such a change of all references to the Planning Commission to the City Council.

(Adopted: 91-01)

Section 21.030 Enforcement Remedies

1. The Planning Commission may take abatement action to remove a nuisance (which violation of the *Ordinance* is hereby declared); may impose a civil penalty of not more than that listed in the City of Nehalem's most up-to-date *Schedule of Fees, Charges and Monetary Penalties* for each day the violation continues; may revoke the violator's permit(s); may allow for a curative period which, if cure does not occur, may result in revocation of the permit and/or imposition of a civil penalty in a designated amount without further action of the Planning Commission; and may take such other enforcement actions as are available to it under law or in equity.
2. The violator will be deemed to have received notice of the Planning Commission's decision on the mater upon the date the same is personally delivered, or if by certified mail, three (3) days after the date of mailing.
3. Imposition of the civil penalty or commencement of the curative period shall begin as of the date of the receipt of notice, as described above.

(Adopted: 91-01)
(Amended: 2002-01)

Article XXII. Estuary Zones

Section 22.010 *Use Priorities and Uses Permitted Outright*

1. **Intent:** Estuary Zones shall be applied to all Estuarine waters, intertidal areas, submerged and submersible lands and tidal lands up to the line of non-aquatic vegetation landward of the Mean Higher High Water (MHHW) line.
2. **General use priorities and areas** included: general priorities, from highest to lowest, for uses within all estuary zones shall be applied to all estuarine waters, intertidal areas, submerged and submersible lands and tidal lands up the line of non-aquatic vegetation landward of the Mean Higher High Water (MHHW) line:
    a. Uses that maintain the integrity of the estuarine ecosystem.
    b. Water-dependent uses requiring an estuarine location, as consistent with the overall Oregon Estuarine Classification.
    c. Water-dependent uses that do not degrade or reduce the natural estuarine resources and values.
    d. Non-dependent, non-related uses which do not alter, reduce or degrade the estuarine resources and values.
    - The application of a particular type of estuary zone within a given estuary is dependent upon the classification of the estuary under LCDC Rule No. OAR 660-17-010, and the criteria outlined in individual zone descriptions in *Section 22.030* to *22.050.*
    - Estuary Classification/Permitted Zones: Estuary Development "ED", Estuary Conservation 1 "EC1", Estuary Conservation 2 "EC2", Estuary Conservation Aquaculture "ECA" and Estuary Natural "EN".
3. **Uses Permitted Outright "P"**: the following uses are permitted outright within all estuary zones:
    a. Maintenance and repair of existing structures or facilities not involving a regulated activity. (See *Section 22.060*).
        i. For the purpose of this *Ordinance,* "existing structures or facilities" are defined as structures or facilities in current use or good repair as of the date of adoption of this *Ordinance* (including structures or facilities which are in conformance with the requirements of this *Ordinance* and non-conforming structures or facilities established prior to October 7, 1977).
    b. Dike maintenance and repair for:
        i. Existing serviceable dikes (including those that allow some seasonal inundation); and,
        ii. Dikes that have been damaged by flooding, erosion or Tide Gate failure where the property has reverted to estuarine habitat only if the property is in the Farm "F1" Zone and it has been in agricultural use for three (3) of the last five (5) years and reversion to estuarine habitat has not occurred more than five (5) years prior.
            1. The City of Nehalem 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.
            2. For the purpose of this subsection, agricultural use means maintaining agricultural improvements and using the area for pasture several months of the year or harvesting this area once a year.
    c. Low-intensity, water-dependent recreation, including but not limited to fishing, crabbing, clamming, wildlife observation, swimming and hunting.
    d. Low-intensity marine research and education.
    e. Grazing of livestock.

f. Fencing, provided that it is not placed across publicly owned intertidal areas so as to restrict public access to, or recreational boating access across said lands and intertidal areas.

g. Passive restoration.

(Adopted: 83-9)
(Amended: 91-01, 99-02)

Section 22.020 Definitions

- As used in the *Ordinance,* the following words and phrases shall mean:

(1) **Accretion**. Growth by external addition; the build-up of land along a beach or shore by the gradual deposition of airborne or waterborne and sediment or other material.

(2) **Active Restoration**. The use of specific positive remedial action, such as removing fills, dredging of shoaled navigation channels, installing water treatment facilities or rebuilding deteriorated urban waterfront areas.

(3) **Activity**. A development action generally taken in conjunction with a use and which makes a use possible: activities do not in and of themselves result in a specific use of land or water area: often several activities (e.g., dredging, piling, filling) may occur with a single use (e.g., port facility). Most activities take place in conjunction with a wide variety of uses. (See also "Regulated Activity").

(4) **Aesthetic**. Values derived from sensory experiences including vision, smell and hearing: Values relating to harmony, as in landscape features, rather than strictly economic or utilitarian values: The aggregate of qualities that give pleasure to the sense or exalt the mind or spirit.

(5) **Aggregate**. A material such as gravel composed of mineral crystals of one or more kinds of mineral or rock fragments.

(6) **Anadromous Fish**. Oceanic or estuarine fish species that enter fresh water to spawn.

(7) **Aquaculture**. The propagation, planting, feeding or growing and harvesting of fish, shellfish, plankton or aquatic plants.

(8) **Aquaculture Facility**. A structure which is built, installed or established as a means to engage in aquaculture: Fish release and recapture facilities in association with facilities for growing fish or shellfish, and tanks for cultivation of fish or shellfish are included within this category.

(9) **Aquatic Areas**. Estuarine waters, intertidal areas, tidal wetlands and submerged lands: The upper limit of aquatic areas is the line of non-aquatic vegetation or, where such a line cannot be accurately determined, the Mean Higher High Water line in tidal areas or Ordinary High Water (OHW) in non-tidal areas.

(10) **Aquatic Habitat**. Pertaining to aquatic areas: Growing in aquatic areas: Living in or frequenting the margins of aquatic areas, as do aquatic plants and waterfowl.

(11) **Avulsion**. A tearing away or separation by the force of water: Land that is separated from adjacent lands or properties by the action of a stream or river cutting through the land to form a new streambed.

(12) **Bank-line or Stream Alteration**. Realignment of a stream bank or the entire stream, either within or outside of its normal high water boundaries.

(13) **Beach Nourishment**. A program in which sand, dredge spoils or other materials are deliberately deposited in a place calculated to result in beneficial beach accretion.

(14) **Biocide**. Any chemical designed to kill living organisms; examples include insecticides, herbicides and/or fungicides.

(15) **Biological Oxygen Demand (BOD)**. A measure of the amount of dissolved oxygen required in biochemical processes to oxidize wastes in water.

(16) **Biological Productivity**. The amount of living material produced in a given area (or volume of water) in a given amount of time. This may be subdivided into primary production (amount of green plant production) and secondary production (amount of animal consumer production).

(17) **Breakwater**. An offshore structure of rock, steel, concrete or piling designed to protect a beach or harbor from the force of waves and currents. They may be either attached to the bottom or may be floating structures.

(18) **Buffer**. A limited use area separating a developed or intensively used area from a protected area.

(19) **Bulkhead**. A vertical wall of steel, timber, concrete or piling (a type of seawall).

(20) **Buoy**. A distinctively marked and shaped anchored float, sometimes carrying a light, whistle or bell, which marks a channel or obstruction.

(21) **Coastal Lakes**. Lakes in the coastal zone that are created by a dune formation or that have a hydrologic surface or subsurface connection with salt water.

(22) **Communication Facilities**. Electrical distribution lines and line support structures.

(23) **Current**. Mass of water moving in a certain direction. There are surface currents, bottom currents and mid-water currents that do not necessarily move in the same direction or with the same velocity.

(24) **Dike**. A wall or mound-built around a low-lying area to prevent flooding or to contain dredge material. A dike is considered new when placed on an area that has never previously been diked. Maintenance and repair refer to 1.) Existing serviceable and dikes (including those that allow some seasonable inundation), and 2.) Those that have been damaged by flooding, erosion, Tide Gate failure, etc. A temporary dike is one that is established in an emergency situation for the purposes of flood protection in the interest of safety or welfare of the public and is removed within sixty (60) days of construction.

(25) **Dissolved Oxygen**. The amount of oxygen dissolved in water.

(26) **Ditching**. The digging of a long narrow excavation in the earth for drainage of surface waters or for irrigation. Ditching does not include alteration of a natural watercourse.

(27) **Diversity**. The number of species in a given area or volume of water, or the variety of species present in a biological community.

(28) **Dock**. A pier, piling or secured floatation platform for marine craft tie-up in association with one or more private residences.

(29) **Dolphin**. A group of pilings held together by a steel cable.

(30) **Dredged Material Disposal (DMD)**. The deposition of material obtained from dredging. (Also see "Fill").

(31) **Dredged Material Disposal Settling Pond**. An impoundment for run-off water from a dredged material disposal site. Settling ponds allow suspended particles in runoff water to settle out before the runoff water enters an aquatic area.

(32) **Dredged Material Disposal (DMD) Site**. An area identified in the Tillamook/Nehalem Bay dredged material disposal plan element of the *Tillamook County Comprehensive Plan* as a potential site for the disposal of dredged material, subject to State and Federal permit requirements.

(33) **Dredging**. The removal of sediment or other inorganic material from a stream, river or coastal lake, or from estuarine waters, intertidal areas and tidal wetlands.

(34) **Dredging for On-Site Maintenance**. Is dredging for the purpose of maintaining the functional operation of an existing structure or facility. Dredging for on-site maintenance is confined to the same geographic area as the existing structure or facility, and is the minimum necessary to maintain the functional operation of a structure or facility.

(35) **Dredging Maintenance**. Dredging for the purpose of maintaining access by water to an existing structure or facility.

(36) **Ecology**. The study of the interrelationships among organisms and their physical, chemical and biological environments.

(37) **Eelgrass**. A true seed-producing, blade-like marine plant which forms beds on estuary bottoms.

(38) **Energy Facility**. Equipment or a piece of equipment designed to generate energy. Solar collectors, wave, wind and tidal power generators and low-head hydroelectric dams are included within this category.

(39) **Entrance Channel**. The portion of a waterway exposed to wave surge from the open sea, and which provides protected access or opening to the main channel.

(40) **Erosion**. The wearing away of land by any of several agents or due to gravity. Erosion may be cause by the action of water or wind, or through any of several types of mass movement including slump, debris slide, rock-fall, soil creep, etc.

(41) **Erosion Control Structure**. Any structure designed to prevent or reduce erosion of land, including structural methods of shoreline stabilization such as riprap, groins, or bulkheads.

(42) **Estuarine Waters**. Channel areas below Mean Lower Low Water: Subtidal areas.

(43) **Estuary**. A body of water semi-enclosed by land, connected with the open ocean, and within which salt water is usually diluted by freshwater derived from the land. The estuary includes: 1.) Estuarine water; 2.) Intertidal areas; 3.) Tidal wetlands; and 4.) Submerged lands. Estuaries extend upstream to the head of tidewater.

(44) **Estuary Planning Boundary**. The management boundary around each of the estuaries of Tillamook County within which estuary zones are located. The estuary-planning boundary includes estuarine waters, intertidal areas and tidal wetlands up to Mean Higher High Water (MHHW) or the line of non-aquatic vegetation (whichever is most landward). The estuary-planning boundary extends upstream in coastal streams and rivers to the head of tidewater.

(45) **Existing Structure or Facility**. A structure or facility which is in current use or good repair as of the date of adoption of this *Ordinance* (including structures or facilities which are in conformance with the requirements of this *Ordinance* and nonconforming structures or facilities established prior to October 7, 1977) or dikes established prior to October 7, 1977 which have been damaged by flooding, erosion or Tide Gate failure.

(46) **Facility**. A group or combination of structures that is built, installed or established to serve a particular purpose.

(47) **Fill**. The placement by man of soil, sediment, dredged materials or other materials which result in the replacement of an aquatic area with dry lands: a change in the bottom elevation of a water-body (in estuarine waters, intertidal areas or tidal wetlands): An increase in the elevation of land (on Shore lands). The placement of riprap or manure spreading is excluded from this category.

(48) **Flood Control Structure**. Any structure designed to prevent or reduce flooding of land, such as a dike or Tide Gates.

(49) **Flushing Capacity**. The relative rate at which the water of an estuary or a portion of an estuary is replaced. The flushing rate is usually expressed as the time required for one (1) complete replacement. Important measurement for estimating sewage and other discharge dilution and dispersion, and the exchange of oxygen, seawater, plankton, etc., between the estuary and the ocean.

(50) **Groin**. A dam for sand: A structure built at right angles to the beach to interrupt long-shore sand movement (littoral drift) and trap sand in order to stabilize or widen a beach.

(51) **Habitat**. The place of residence of a species, sometimes characterized by the dominant vegetation, or the grain size of the sediment.

(52) **Herbicide**. Any chemical that is designed to kill plants. Such chemicals may act through the soil to kill seeds or be applied directly to foliage.

(53) **High Intensity Recreation**. Recreation that requires specially built facilities, or occurs in such density or form that is required or results in a modification of the area or resource. Examples include: campgrounds, golf courses, marinas, docks and moorages, and commercial off-road vehicle use areas.

(54) **Hydrographic Characteristics**. The description of the oceans, estuaries, rivers and lakes: Specifically the measurement of flow and investigation of the behavior of bodies of water and the surveying, sounding and charting of bodies of water including the determination of bottom contours and the position of channels and shoals.

(55) **Impoundment**. A body of water formed by impounding (the collection of water in a reservoir).

(56) **Integrity**. The quality or state of being complete and functionally unimpaired: The wholeness or entirety of a body or system including its parts, materials and processes. The integrity of an ecosystem emphasizes the interrelatedness of all parts and the unity of its whole.

(57) **Intertidal**. Between the tides - here considered to be that area between the Mean Lower Low Water (MLLW) and Mean Higher High Water (MHHW).

(58) **Jackson Turbidity Unity (JTU)**. The standard unit used in measuring the turbidity of a water sample: Designed in terms of the depth of water to which a candle flame can be clearly distinguished. The Jackson Candle Turbidity Meter is the standard measuring instrument which compares the amount of light penetrating a given water sample with that penetrating a standard sample.

(59) **Jetty**. A large navigational structure made of rock or concrete that is generally used to stabilize channels and improve scour at the mouth of an estuary.

(60) **Littoral**. Of or pertaining to the shore, especially of the sea: Coastal.

(61) **Littoral Drift**. The movement of sand by littoral (long-shore) currents in a direction parallel to the beach along the shore.

(62) **Log Dump/Sort Area**. (in water) An area used to transfer logs to or from the land to water, normally associated with log storage or yards, log booming, processing of shipping facilities where rafts are built or dismantled.

(63) **Log Storage**. (in water) The use of water surface area to store commercial logs in rafts until ready for market or processing.

(64) **Log Storage/Sorting Area**. (dry land). An area where logs are gathered from surrounding harvest areas, weighed, sorted for species and size and quality, and stored until ready for transfer to water storage areas or to market.

(65) **Long-shore Current**. A current, created by waves, which moves parallel to and against the shore, particularly in shallow water and which is most noticeable in the surf or breaker zone: Littoral current.

(66) **Low Intensity**. Refers to a use or activity that does not require developed facilities and which can be accommodated without significant adverse impact to the area or resource.

(67) **Low Intensity Recreation**. Recreation that does not require developed facilities and can be accommodated without change to the area or resource. Examples include: boating, hunting, hiking, wildlife photography, beachcombing and picnicking.

(68) **Low Water Bridge**. A temporary bridge, generally constructed of logs and planking, which is placed over minor streams and sloughs in early summer when water flow is very low or intermittent. The bridges are removed when fall freshets occur. Low water bridges involve less than fifty 50 cubic yards of fill, and are generally constructed of logs and planking.

(69) **Main Channel**. That part of the waterway that extends upstream from the entrance channel in to the estuary proper. All or segments of the main channel may be maintained by dredging. The main channel does not include auxiliary channels or waterways.

(70) **Maintenance**. The work of keeping an existing structure or facility in good working order or in conformance with current building or engineering cods. Maintenance work is confined to the same geographic area as the existing structure or facility and does not result in an increase in floor area or surface area. 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 o that portion of the highway.

(71) **Marinas**. Publicly-owned or privately-owned commercial facilities which provide berthing, launching, storage, supplies and a variety of services of recreational, commercial fishing and charter fishing marine craft. Marinas are differentiated from moorages by their

larger scale, the provision of significant accessory landslide services and/or the use of solid breakwater (rock, bulk heading, etc.).

(72) **Mean Higher High Water**. A determined average elevation of a set of tide planes defined in Oregon 26, U.S. Department of Commerce Environment Science Services Administration Coast and Geodetic Survey Tidal Bench Mark for the Lower Nehalem River.

(73) **Mean Lower Low Water**. The average height of the lower tides observed over a specific time interval.

(74) **Mining and Mineral Extraction**. The removal of minerals, petroleum resources, sand, gravel, stone or other naturally occurring materials from the Shore land and/or the bed beneath an estuarine area. Dredging for the sole purpose of channel or harbor improvements, or for flood control, is not included within this category.

(75) **Minor Navigational Improvement**. A navigational improvement of such limited size or scale that it can be accomplished without significant adverse impacts to an area or its resources. Examples are the installation of navigational aids or floating breakwaters, snag removal, and dredging of less than fifty (50) cubic yards for which State and Federal permits are not required. Other dredging or fill actions which require State or Federal permits may be included within this category upon a determination by the Division of State Lands or the U.S. Army Corps of Engineers that the action is consistent with the resource capabilities and purposes of a given area.

(76) **Mitigation Sites**. An area identified in the Mitigation/Restoration Plan element of the *Tillamook County Comprehensive Plan* as a potential site for estuarine creation, restoration or enhancement; subject to applicable State and Federal standards.

(77) **Moorage**. A publicly-owned or privately-owned pier, piling or secured float or floats or marine craft tie-up which is operated as a commercial use or in association with a commercial use or a light industrial facility. Moorages contain less than twenty-five (25) berths, and have minimal shore-side services and no solid breakwater. (See also "Dock" and "Marina").

(78) **Mooring Buoy**. A device of buoyant material which is attached by guideline to the Shore land, or anchored to the bed of an estuary, river, stream or coastal lake and is used for marine craft tie-up in association with one or more private residences. Floating docks are not included within this category.

(79) **Natural Estuaries**. Estuaries lacking maintained jetties or channels and which are usually little developed for residential, commercial or industrial uses. They may have altered shorelines, provided that these altered shorelines are not adjacent to an urban area. Shore lands around natural estuaries are generally for agricultural, forest, recreation and other rural uses. (Sandlake).

(80) **Navigation Aid**. A beacon, buoy or channel marker.

(81) **Navigational Improvement**. Any structure or action that serves to increase the ability of a navigable waterway to provide passage to marine craft. Examples are the installation of navigational structures or aids, or activities such as dredging. (See also "Minor Navigational Improvement.").

(82) **Navigational Structures**. Structures such as pile dikes, groins, jetties, dolphins or breakwaters that are installed to help0 maintain navigation channels or protect marinas and harbors by controlling water flow, wave action or sand improvement.

(83) **Non-Point Source.** A source of pollution that does not come from a point source. The four (4) major types of non-point source pollution in the estuary area are: agricultural, urban, forestry and stream bank runoff.

(84) **Ordinary High Water Line.** A line delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, such as: A clear, natural line impressed on the bank; shelving; changes in character of the soil; change from predominately aquatic to predominately terrestrial vegetation; or the presence of organic litter or debris.

(85) **Passive Restoration.** The use of natural processes, sequences and timing that occurs after removal or reduction of adverse stresses without other specific positive remedial action.

(86) **Performance Standards.** A specific measure for control of a human use or activity.

(87) **Pesticide.** Any chemical that is used to control pests.

(88) **Pier.** A structure extending out into the water generally supported with piling and generally used to afford convenient passage for persons and goods to and from vessels alongside the pier. Sometimes anonymous with wharfs.

(89) **Pile Dike.** A flow control structure that is used primarily in riverine systems and is made of closely spaced piling connected by timbers; usually it is perpendicular to the shore. Pile dikes are constructed to increase scour in the navigation channel and/or control shoreline erosion by interrupting sand transport and encouraging sedimentation in the sheltered lee of the pile dike. Pile dikes are generally constructed in groups and may require fill between individual pilings.

(90) **Piling.** A long, slender column of wood, steel or reinforced concrete driven, jetted or otherwise embedded on and into the ground or into the bed of rivers or estuaries for the purpose of supporting piers and docks, floating structures, vessels, log rafts or other structures or loads.

(91) **Point Source.** Point source pollutants are those collected and discharged from discernible, confined and discrete conveyances such as pipes and discharge canals.

(92) **Practicable.** Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment, cost or technology.

(93) **Priority Dredged Material Disposal (DMD) Sites**. Sites that may not be developed or used in a manner that would preclude their ultimate use as DMD sites. An Amendment to the *Tillamook County Comprehensive Plan* and *Zoning Maps* must be taken to remove a DMD site from this category.

(94) **Priority Mitigation Sites**. Sites that may not be developed or used in a manner that would preclude their ultimate use as mitigation sites. An Amendment to the *Tillamook County Comprehensive Plan* and *Zoning Maps* must be taken to remove a mitigation site from this category.

(95) **Protection**. Saving or shielding from loss, destruction or injury or for future intended use.

(96) **Public Need**. A community desire or preference that produces, when satisfied, a net affect that is a direct benefit to the public at large.

(97) **Recreation**. Enjoyable active and passive leisure time activities.

(98) **Recreational Facility**. A structure that is built, installed or established as an aid to recreation. Temporary or easily removable structures such as picnic tables are not considered as recreational facilities.

(99) **Regulated Activity**. The following actions involving alterations to estuary aquatic areas which are generally undertaken in conjunction with offshore uses, and for which State and Federal permits are required: fill; dredging, dredged material disposal; in-water log storage; and out-fall installation.

(100) **Repair**. To restore an existing structure or facility to sound condition after damage or injury. Repair work is confined to the same geographic area as the existing structure or facility, and does not result in an increase in floor area or surface area.

(101) **Resource Capability.** The measure of an area, or the biological communities within an area to withstand alteration. A use or activity is considered to be consistent with the resource capabilities of an area if the level of use proposed can be accommodated without producing significant adverse impacts to biological productivity or to the quality of air, land and water resources within the area.

(102) **Restoration.** Replacing or restoring original attributes or amenities such as natural biological productivity and aesthetic or cultural resources that have been diminished or lost by past alterations, activities or catastrophic events.

(103) **Revetment.** A structure with armors: The slope face of a dune or bluff with one or more layers of rock (riprap) or concrete.

(104) **Riparian.** Of, pertaining to, or living on the narrow zone adjacent to a river, estuary, lake or other watercourse.

(105) **Riprap.** A facing layer of material (usually stone) placed on an embankment to prevent erosion, scour or sloughing.

(106) **Rural Shore land.** Shore land areas that are outside of the Urban Growth Boundary off an incorporated or unincorporated community.

(107) **Salt Marsh.** A tidal wetland which has poorly drained soil; poorly aerated soil; varying concentrations of salt; and whose dominant plants are salt-tolerant aquatic or semi-aquatic emergent species such as sedges, rushes and some grasses. Salt marshes typically develop on mud or sand flats that have attained an elevation near main sea level and often occur behind sand spits at river mouths and along shallow bays.

(108) **Sanitary Landfill.** A system for final disposal of solid waste on lane, in which the waste is spread and compacted on an inclined, minimized working face in a series of cells and a daily cover of earth is provided so that no hazard or insult to the environment results.

(109) **Seawall.** A solid barricade built at the water's edge to protect the shore and to prevent inland flooding.

(110) **Sedimentation.** The settling or deposition of sediments (e.g., eroded soils) that are suspended within or being transported by water.

(111) **Setback.** A distance measured in feet from a property line, zone boundary, ordinary high water line, Mean Higher High Water line or other boundary within which development is not permitted.

(112) **Shallow-Draft Development Estuary.** An estuary with maintained jetties and a main channel maintained by dredging at twenty-two (22') or less. (Tillamook Bay, Nehalem Bay).

(113) **Shoal.** A build-up of waterborne or airborne sand, sediment or other material within an estuary, stream or river channel that causes a reduction in water channel depth.

(114) **Shore land.** Land shown on the *Tillamook County Zoning Maps* that is contiguous with the ocean; to estuaries ad to coastal lakes.

(115) **Shoreline Stabilization.** The protection of the banks of tidal or non-tidal streams or rivers, estuarine waters or coastal lakes from flooding or erosions by vegetative means; or by structural means such as riprap, groins, bulkheads or dikes.

(116) **Slope.** The inclined surface of a hill, mountain, dune or any part of the surface of the earth: The angle at which such surfaces deviate from the horizontal.

(117) **Solid Waste.** All putrescible and nonputrescible wastes including, but not limited to: garbage; rubbish; refuse; ashes; waste paper; cardboard; sewage sludge; septic tank and cesspool pumping; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded appliances, manure, vegetable or animal solid or semisolid wastes; but NOT including environmentally hazardous wastes; materials used for fertilizer or for other productive purposes; or fill material.

(118) **Stake.** A piece of wood, pipe or other material driven into land or into the bed of an estuary, river, stream or coastal lake as a marker or support. Stakes differ from piling in that their installation does not require pile drivers or other heavy equipment.

(119) **Support Structure.** A structure designed to hold up or serve as a foundation for something. Examples are pilings, piers, trestles or culverts in association with bridge crossings for roads and railroads; or poles in association with power or telephone lines.

(120) **Tidal Prism.** The total amount of seawater that flows into a bay or estuary and out again with the movement of the tide.

(121) **Tidal Wetlands.** All areas between Mean High Water (MHW) and the line of non-aquatic vegetation. This includes both salt water wetlands (salt marshes) and freshwater wetlands (bogs, fresh marshes and swamps) with unrestricted tidal influence.

(122) **Tide Gate.** A water-control structure placed across a channel to stop the flow of water at high tides. Tide Gates allow drainage of diked areas while preventing their inundation by the tides.

(123) **Topography.** The configuration of a surface including its relief and the position of its natural and man-made features.

(124) **Tributary Stream.** A stream feeding a larger stream or lake.

(125) **Turbidity.** Reduction in water clarity resulting from the presence of suspended matter; e.g., sediment, detritus and plankton. Turbidity may decrease phytoplankton productivity, clog the gills of aquatic animals, and smother sessile-benthic animals and eggs.

(126) **Type 1 Restoration.** Active or passive restoration for the purpose of improvement or return to a former or original condition; the natural biological productivity and functioning of an estuarine ecosystem. This may serve as mitigation for dredge or fill in intertidal areas.

(127) **Type 2 Restoration.** Active or passive restoration for the purpose of bringing back to a former or original condition the cultural, historic, economic or navigation features of an estuary.

(128) **Utilities.** Water, sewer and gas lines; storm water and sewer outfalls; potable water treatment plants; sewage treatment plants; power lines and substations; electrical transmission lines and line support structures; antennas and microwave receivers. Industrial outfalls and industrial wastewater treatment plants are excluded from this category.

(129) **Water-Dependent.** Uses and activities which can be carried out only on, in or adjacent to water because the water location or access is needed for one of the following: 1.) Water-borne transportation (navigation, moorage, fueling and servicing of ships or boats; terminal and transfer facilities resource and material receiving and shipping); 2.) Recreation (active or passive such as viewing and walking); 3.) A source of water (energy production, cooling of industrial equipment or wastewater, other industrial processes, aquaculture operations); and 4.) Marine research or education (viewing, sampling, recording information, conducting experiments, teaching).

(130) **Water Related.** Uses and activities that do not require direct water access (are not water-dependent), but which: 1.) Provide goods and/or services that are directly associated with other water-dependent uses (supplying materials to, or using products of, or water-dependent uses), and 2.) 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).

(131) **Watershed.** The region draining into a river, river system or body of water.

(132) **Wharf.** A structure built beside a waterway (estuary, river, stream or coastal lake) for the purpose of receiving and discharging cargo, passengers, etc. A wharf does not include new land created on submersible or submerged land by artificial fill or deposits.

(Adopted: 83-9)
(Amended: 91-01, 99-02)

Section 22.030 Estuary Conservation 1 Zone (EC1)

1. **Purpose & Areas Included**: The purpose of the "EC1" zone is to:
   a. Provide for long-term utilization of areas that support or have the potential to support valuable biological resources.
   b. Provide for long-term maintenance and enhancement of biological productivity.
   c. Provide for the long-term maintenance of the aesthetic values of estuarine areas in order to promote or enhance the low-intensity recreational use of estuarine areas adjacent to rural or agricultural Shore lands.

d. Except where a goal exception has been taken in the *Tillamook County Comprehensive Plan*, the "EC1" zone includes the following areas within Development and Conservation Estuaries:
   i. Tracts of tidal marshes, tide-flats, sea-grass and algae beds that are smaller or have less biological importance than those included in "EN" or "ECA" zones.
   ii. Productive recreational or commercial shellfish and fishing areas.
   iii. Areas that are partially altered and adjacent to existing development of moderate intensity that do not possess the resource characteristics of natural or development management units.
   iv. Areas with potential for shellfish culture (excluding platted oyster beds in Tillamook Bay).

2. **Uses Permitted with Standards**: The following uses are permitted subject to the procedure of *Section 22.060* and the standards in *Section 22.070:*
   a. Maintenance and repair of existing structures or facilities involving a regulated activity.
   b. Navigational aids.
   c. Vegetative shoreline stabilization.
   d. Structural shoreline stabilization, limited to riprap.
   e. Boat dock in conjunction with one or more private residences.
      i. Single-purpose private docks shall be limited to a maximum of five hundred (500) square feet in size.
      ii. Larger docks may be permitted subject to the conditional use provisions of *Article XVIII* of this *Ordinance.*
   f. Tide Gate installation in existing functional dikes adjacent to "EC1" zones.
   g. Water, sewer, gas or communication lines.
   h. Electrical distribution lines and line support structures.
   i. Active restoration and estuarine enhancement.
   j. Temporary dikes for emergency flood protection.
   k. Temporary low-water bridge.
   l. Signs subject to *Section 14.130.*
   m. Aquaculture and water-dependent portions of aquaculture facilities not requiring dredge or fill other than incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
   n. Bridge crossings and crossing support structures.
   o. Boat ramps for public use where no dredging or fill for navigational access is needed.
   p. Water intake structures for out-bay aquaculture.

3. **Uses Permitted Conditionally**: The following uses may be permitted subject to the procedures of *Article XXII* and *Article XVIII*, and the standards in *Article XXII:*
   a. Water-dependent portions of aquaculture facilities that require dredge or fill.
   b. Water-dependent recreational facilities, including:
      i. Boat ramps requiring dredging of fill for navigational access.
      ii. Community boat docks in conjunction with a subdivision or planned development.
      iii. Public or commercial docks and moorages for recreational marine craft (including seaplanes), and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.
   c. Mining and mineral extraction.
   d. Storm water and treated sewage outfalls.
   e. Bulkheads for structural shoreline stabilization.
   f. Temporary alterations.
   g. Minor navigational improvements.

4. **Regulated Activities**: The following regulated activities are permitted subject to the procedure and standards of and in *Article XXII.*
    a. Regulated activities in association with on-site maintenance and repair of existing structures or facilities, limited to:
        i. Dredging for on-site maintenance of:
            1. Drainage tiles.
            2. Drainage ditches.
            3. Tide Gates.
            4. Bridge crossing support structures.
            5. Water, sewer, gas or communication lines.
            6. Electrical distribution lines.
            7. Outfalls.
        ii. Fill or riprap for on-site maintenance of:
            1. Dikes.
            2. Bridge crossing support structures or other land transportation facilities.
        iii. Replacement of pilings.
    b. Piling installation for:
        i. Water-dependent recreational facilities.
        ii. Aquaculture facilities.
        iii. Navigational aids.
        iv. Bridge crossing support structures.
    c. Riprap for structural shoreline stabilization or protection of utility lines.
    d. Dredging for:
        i. Bridge crossing support structure installation.
        ii. Storm water or treated sewage outfall installation.
        iii. Tide Gate installation in existing functional dikes adjacent to "EC1" zones.
        iv. Water, sewer, gas or communication line installation.
        v. Water intake facilities.
        vi. Electrical distribution line installation.
        vii. Mining or mineral extraction.
    e. Fill for:
        i. Bridge crossing support structures.
        ii. Structural shoreline stabilization.
        iii. Boat ramps.
        iv. Bridge approaches where a goal exception has been taken and included as an Amendment to the *Tillamook County Comprehensive Plan (Ordinance #33).*
    f. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.
    g. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
    h. Regulated activities in conjunction with temporary alterations.

(Adopted: 83-9)
(Amended: 91-01)

Section 22.040 Estuary Conservation 2 Zone (EC2)

1. **Purpose & Areas Included**: The purpose of the "EC2" zone is to:
    a. Provide long-term use of renewable resources that do not require major alterations of the estuary except for purposes of restoration.
    b. Other than minor navigational improvements, aquaculture facilities and water-dependent recreational facilities; provide for new water-dependent industrial and commercial uses only where dredging and filling are not necessary and where

consistent with the resource capabilities of the area and purposes of the management unit.

c. Except where a goal exception has been taken, the "EC2" zone includes the following areas within Development and Conservation Estuaries:
   i. Tracts of significant habitat not qualifying for "EN" or "EC1" designation.
   ii. Areas containing existing water-dependent facilities that require periodic dredging to maintain water access.
   iii. Partially altered estuarine areas or estuarine areas adjacent to existing water-dependent development that do not otherwise qualify for "EN", "EC1" or "ED" designations.
   iv. Subtidal navigable areas that are adjacent to urbanized areas, which do not qualify for "EN", "ECA" or "EC1" designations and are not Federally authorized and maintained navigation channels.

2. **Uses Permitted with Standards**: The following uses are permitted subject to the procedure of *Section 22.060* and the standards in *Section 22.070:*
   a. Maintenance and repair of existing structures or facilities involving a regulated activity.
   b. Navigational aids.
   c. Vegetative shoreline stabilization.
   d. Structural shoreline stabilization, limited to riprap.
   e. Boat dock in conjunction with one or more private residences.
      i. Single-purpose private docks shall be limited to a maximum of five hundred (500) square feet in size.
      ii. Larger docks may be permitted subject to the conditional use provisions of *Article XVIII* of this *Ordinance.*
   f. Aquaculture and water-dependent portions of aquaculture facilities not requiring dredging or fill other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.
   g. Water intake facilities for out-bay aquaculture requiring dredge or fill.
   h. Tide Gate installation in existing functional dikes adjacent to "EC2" zones.
   i. Water, sewer, gas or communication lines.
   j. Electrical distribution lines and line support structures.
   k. Temporary dikes for emergency flood protection.
   l. Active restoration and estuarine enhancement.
   m. Temporary low water bridges.
   n. Signs subject to *Section 14.130.*
   o. Boat ramps for public use where no dredging or fill for navigational access is needed.
   p. Bridge crossing support structures.

3. **Uses Permitted Conditionally**: The following uses may be permitted subject to the procedures of *Section 22.060* and *Article XVIII* and the standards in *Section 22.070:*
   a. Water-dependent recreational facilities, including:
      i. Boat ramps that require dredging or fill for navigational access.
      ii. Community boat docks in conjunction with a subdivision or planned development.
      iii. Public or commercial docks, moorages and marinas; recreational marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.
   b. Water-dependent commercial facilities not requiring the use of dredging or fill; including moorages, docks and marinas for commercial marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.

c. Water-dependent industrial facilities not requiring the use of dredging or fill, including:
   i. Piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber or timber products, machinery or equipment.
   ii. Water intake and discharge structures.
   iii. Water access structures or facilities that require access to a water body as part of the manufacturing, assembly, fabrication or repair of marine craft or marine equipment due to the size of the craft or equipment.
d. Other water-dependent uses not requiring the use of fill.
   i. A use is determined to be water-dependent when it can only be carried out on, in or adjacent to water and the location or access is needed for:
      1. Water-borne transportation.
      2. Recreation.
      3. A source of water (such as energy production, cooling of industrial equipment or waste water or other industrial processes).
e. Navigational structures limited to floating breakwaters.
f. Mining and mineral extraction.
g. Storm water and treated sewage outfalls.
h. Bulkheads for structural shoreline stabilization.
i. Temporary alterations.
j. Minor navigational improvements.
k. Water-dependent portion of aquaculture facilities requiring dredging or fill.

4. **Regulated Activities**: The following regulated activities are permitted subject to the procedure of *Section 22.060* and the standards in *Section 22.070:*
   a. Regulated activities in association with on-site maintenance and repair of existing structures or facilities, limited to:
      i. Dredging for on-site maintenance of:
         1. Drainage tiles.
         2. Drainage ditches.
         3. Tide Gates.
         4. Bridge crossing support structures.
         5. Water, sewer, gas or communication lines.
         6. Electrical distribution lines.
         7. Outfalls.
      ii. Fill or riprap for on-site maintenance of:
         1. Dikes.
         2. Bridge crossing support structures or other land transportation facilities.
         3. Shoreline stabilization structures.
   b. Piling installation for:
      i. Water-dependent industrial, commercial or recreational facilities.
      ii. Water dependent portions of aquaculture facilities or aquaculture operations.
      iii. Navigational aids.
      iv. Bulkheads.
      v. Bridge crossing support structures.
   c. Dredging for:
      i. Maintenance of existing facilities.
      ii. Minor navigational improvements.
      iii. Water-dependent recreational facilities.
      iv. Water-dependent portions of aquaculture facilities.
      v. Mining and mineral extraction.

vi. Bridge crossing support structure installation.
vii. Outfall installation.
viii. Water, sewer, gas and communication line installation.
ix. Electrical distribution line installation.
x. Tide Gate installation in existing functional dikes adjacent to "EC2" zones.
xi. Boat ramps

d. Riprap for structural shoreline stabilization protection of utility lines allowed by the zone.
e. Fill for:
   i. Bridge crossing support structures.
   ii. Structural shoreline stabilization.
   iii. Water-dependent recreational facilities.
   iv. Water-dependent portions of aquaculture facilities.
   v. Boat ramps.
f. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.
g. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
h. Regulated activities in conjunction with temporary alterations.

(Adopted: 83-9)
(Amended: 91-01)

Section 22.050 Estuary Development Zone (ED)

1. **Purpose & Areas Included**: Provide for long-term maintenance, enhancement, expansion or creation of structures or facilities for navigational and other water-dependent commercial, industrial or recreation uses.
   a. Provide for the expansion or creation of other commercial, industrial or recreational facilities; subject to the general use priorities outlined within this *Section.*
   b. The "ED" zone includes the following areas within Development Estuaries:
      i. Areas that contain public facilities that are utilized for shipping, handling or storage of water-borne commerce or for moorage or fueling of marine craft.
      ii. 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 basis).
      iii. Areas of minimum biologic significance needed for uses requiring alteration of the estuary not included in "EN", "ECA", "EC1" or "EC2" zones.
      iv. 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 Shore lands or developed estuarine areas, and to the availability of services.
2. **Uses Permitted with Standards**: The following uses are permitted subject to the procedure of *Section 22.060* and standards in *Section 22.070:*
   a. Maintenance and repair of existing structures or facilities involving a regulated activity.
   b. Navigational structures and navigational aids.
   c. Water-dependent commercial uses, including docks, moorages and marinas for commercial marine (including seaplanes).
   d. Water-dependent industrial uses, including:
      i. Piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber and timber products, machinery or equipment.
      ii. Water intake and discharge structures.

iii. Water access structures or facilities which require access to a water body as part of the manufacturing, assembly or fabrication or repair of marine craft or marine equipment due to the size of the craft or equipment.

e. Water-dependent public recreational facilities including:
   i. Boat ramps.
   ii. Docks, moorages and marinas for recreational marine craft (including seaplanes).

f. Aquaculture and water-dependent portions of aquaculture facilities.

g. Other water-dependent when it can only be carried out on, in or adjacent to water; and the location or access is needed for:
   i. Water-borne transportation.
   ii. Recreation.
   iii. A source of water (such as energy production, cooling of industrial equipment or waste water, or other industrial processes).

h. Accessory uses or accessory structures in conjunction with a *Permitted with Standards* use listed above in this *Article*; limited in size to a maximum of ten percent (10%) of the lot or parcel size.

i. Vegetative shoreline stabilization.

j. Structural shoreline stabilization.

k. Tide Gate installation in existing functional dikes adjacent to "ED" zones.

l. Water, sewer, gas or communication lines.

m. Electrical distribution lines and line support structures.

n. Temporary dikes for emergency flood protection.

o. New dike construction if:
   i. Required for a water-dependent use for which a substantial public benefit is demonstrated; the use or alteration does not unreasonably interfere with public trust rights and for which no practicable upland locations exist.
   ii. Adverse impacts are avoided or minimized to be consistent with the resource capabilities and purposes of the area.

p. Temporary low water bridges.

q. Signs subject to *Section 14.130.*

r. Temporary alterations.

s. Active restoration or estuarine enhancement.

t. Bridge crossing support structures.

3. **Uses Permitted Conditionally**: The following uses may be permitted subject to the procedures of *Section 22.060* and *Article XVIII,* the standards in *Section 22.070* and only after a finding that the proposed facility does not preclude or unduly conflict with water-dependent use on the site or in adjacent water-dependent development Shore lands; and is consistent with the resources capabilities of the area:

   a. Water-related uses not requiring the use of fill. A use is determined to be water-related when the use:
      i. Provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of, water-dependent uses); and,
      ii. If not located near the water, would experience a public loss of quality in the goods and services offered.
         1. Evaluation of public loss of quality will involve a subjective consideration of economic, social and environmental consequences of the use.

   b. Water-related uses can include, but are not limited to, the following:
      i. Water-related industrial uses such as:
         1. Fish or shellfish processing plants; or

2. Warehousing and/or other storage areas for marine equipment or water-borne commerce.

ii. Water-related commercial uses, such as:

1. Fish or shellfish retail or wholesale outlet;
2. Marine craft or marine equipment sales establishments;
3. Charter fishing offices;
4. Sport fish cleaning, smoking or canning establishments;
5. Retail trade facilities in which the majority of products are products such as ice, bait, tackle, nautical charts, gasoline or other products incidental to or used in conjunction with a water-dependent use.
6. Restaurants which provide a view of the waterfront and which are in conjunction with water-dependent or other water-related uses; such as a seafood processing plant or a charter office.

iii. Non-water dependent and non-water-dependent uses not requiring the use of fill.

iv. In-water sorting, storage and handling of logs in association with water-borne transportation of logs.

v. Accessory uses or accessory structures in conjunction with a conditional use listed in this *Section* above, limited in size to a maximum of ten percent (10%) of the lot or parcel size.

vi. Mining and mineral extraction.

vii. Storm water and sewer outfalls.

viii. Water-related, non-dependent or non-related uses requiring the use of fill; provided that a Goal 16 exception has been approved and included as an Amendment to the *Tillamook County Comprehensive Plan.*

ix. Boat docks on parcels without residences

4. **Regulated Activities**: The following regulated activities are permitted subject to the procedure of *Section 22.060* and the standards in *Section 22.070:*

a. Regulated activities in association with on-site maintenance and repair of existing structures or facilities.

b. Dredging for:

i. Navigational improvements.

ii. Maintenance dredging of existing facilities.

iii. Water-dependent uses.

iv. Water-dependent portions of aquaculture facilities or aquaculture operations.

v. Mining and mineral extraction.

vi. Bridge crossing support structure installation.

vii. Water, sewer, gas or communication line installation.

viii. Outfall installation.

ix. Electrical distribution line installation.

x. Tide Gate installation in existing functional dikes adjacent to “ED” zones.

c. Fill for:

i. Water-dependent uses.

ii. Water-dependent portions of aquaculture facilities.

iii. Navigational structures or navigational improvements.

iv. Structural shoreline stabilization.

v. Bridge crossing support structures.

vi. Water-related or non-water-dependent uses in areas where Goal 16 exceptions have been taken.

vii. New dike construction.

d. Piling and dolphin installation in conjunction with a *Permitted with Standards* or conditional uses within this zone.

e. Riprap for structural shoreline stabilization or protection of utility lines allowed by this zone.
f. Dredged material disposal in an approved "DMD" site or in conjunction with an approved fill project; subject to State and Federal permit requirements for dredged material disposal.
g. Flow-land disposal of dredged material, subject to State and Federal permit requirements.
h. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.
i. Incidental dredging for harvest of benthic species or removal or in-water structures such as stakes or racks.
j. Regulated activities in conjunction with temporary alternatives.

(Adopted: 83-9)
(Amended: 91-01)

Section 22.060 *Review of Regulated Activities*

1. **Purpose**
   a. The purpose of this section is to provide an assessment process and criteria for local review and comment on State and Federal permit applications that could potentially alter the integrity of the estuarine ecosystem.
2. **Regulated Activities**
   a. Regulated activities are those actions which require State and/or Federal permits and include the following:
      i. Fill (either in excess of fifty cubic yards (50 c.y.) or fill if less than fifty cubic yards (50 c.y.) requires a Section 10 or Section 404 permit from the U.S. Army Corps of Engineers);
      ii. Dredging (either dredging in excess of fifty cubic yards (50 c.y.) within a twelve (12) month period; or dredging lf less than fifty cubic yards (50 c.y.) which requires a Section 10 permit from the U.S. Army Corps of Engineers);
      iii. Dredged material disposal;
      iv. Piling and/or dolphin installation;
      v. Shoreline stabilization, bank-line or streamline alteration involving fill or dredging in excess of fifty cubic yards (50 c.y.); and,
      vi. In-water log storage.
3. **Procedure for Reviewing Regulated Activities**
   a. Review of State and Federal permit notices is a function of the Planning Commission.
      i. Regulated activities and any associated use or uses as a whole shall be reviewed according to the requirements of the zone(s) in which the proposed uses and activities are to be located (*Section 22.010* to *22.050)*, standards relevant to the proposed uses and activities (*Section 22.070*), an impact assessment (*Section 22.060 (5)*), resource capability and purpose determinations where applicable (*Section 22.060 (6)*), requirements for degradations or reductions of estuarine natural values where applicable (*Section 22.060 (7)*) and comments from State and Federal agencies having responsibility for permit review (*Section 22.060 (8)*).
      ii. Based on this review, the Planning Commission will decide whether the proposed uses and activities comply with this *Ordinance* and will forward this decision to the appropriate permitting agencies and the permit applicant prior to the final date set for comments.
         1. Decisions of the Planning Commission may be appealed (*Section 22.060 (9)*).

4. **Zone Requirements**
    a. Uses and activities shall be allowed only if they are allowed in the zones in which they are to be located.
        i. Accessory uses proposed for adjacent upland areas must be allowed in the upland zones in which they are to be located.
    b. Uses that are permitted with standards must comply with the standards of *Section 22.070.*
    c. Uses listed as conditional uses shall be reviewed according to the procedures of *Article XVIII* and the standards of *Section 22.070.*
    d. If a conditional use review is required, the Planning Commission shall notify the applicant and State and Federal permitting agencies and shall request an extension of the comment period.
5. **Impact Assessments**
    a. The Planning Commission shall, with the assistance of affected State and Federal agencies, develop impact assessments for regulated activities.
        i. Federal Environmental Impact Statements or Assessments may be substituted if made available to the Planning Commission.
    b. The following considerations must be addressed in the impact assessment:
        i. The type and extent of alterations expected.
        ii. The type of resource(s) affected including but not limited to aquatic life and habitats, riparian vegetation, water quality and hydraulic characteristics.
        iii. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary.
        iv. The methods that could be employed to avoid or minimize adverse impacts.
        v. Navigation and public access to the water; impacts on present and/or anticipated use.
        vi. Engineering of structures; ability to withstand expected forces.
6. **Requirements for Resource Capability Determinations**
    a. Uses and activities for which a resource capability determination is required by *Section 22.070*, shall be allowed only if they are found to be consistent with the resource capabilities of the management unit(s) and the purposes of the zone(s) in which they are to be located.
    b. An activity will be found to be consistent with the resource capability of a management unit (as described in *Section 2* of the *Estuarine Resources Element* of the *Tillamook County Comprehensive Plan*) when either:
        i. The impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant; or,
        ii. The resources of the area are able to assimilate the use and activity and their effects; and continue to function in a manner consistent with the purposes of the zone.
            1. The resource capability determination shall be based on information generated by the impact assessment.
7. **Significant Degradations or Reductions of Estuarine Natural Values**
    a. Significant degradations or reductions of estuarine natural values include dredging, fill and other activities that will cause significant offsite impacts as determined by the impact assessment (*Section 22.060 (5)*).
    b. Dredging and fill must comply with the standards in *Section 22.070 (5)* and *(7)*.
    c. Other reductions and degradations of estuarine natural values shall be allowed only if:
        i. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

ii. No feasible alternative upland locations exist; and,
iii. Adverse impacts are minimized as much as feasible.

8. **State and Federal Reviewing Agency Comments**
   a. In the review of regulated activities, the Planning Commission shall notify the following agencies:
      i. Oregon Department of Fish and Wildlife
      ii. Oregon Division of State Lands
      iii. Oregon Department of Land Conservation and Development
      iv. Oregon Department of Economic Development
      v. U.S. Fish and Wildlife Service
      vi. National Marine Fisheries Service
      vii. Environmental Protection Agency
      viii. U.S. Army Corps of Engineers.
   b. Notice will be mailed within seven (7) days of receipt of the State or Federal permit notice.
      i. The notice will include permit reference, identification of the local decisions to be made, references to applicable policies and standards and notification of comment and appeal periods.
      ii. The Planning Commission shall consider any comments received no later than seven (7) days before the closing date for comments on the State or Federal permit notice.
9. **Appeals**
   a. Planning Commission decisions on regulated activities may be appealed according to the requirements of *Section 16.070.*
      i. Planning Commission decisions on regulated activities that involve a conditional use may be appealed according to the requirements of *Section 16.070.*
   b. If the decision of the Planning Commission is appealed, the Planning Commission shall notify the appropriate State and Federal permitting agencies and shall request an extension to the comment period to allow for the local appeals process.

(Adopted: 83-9)
(Amended: 91-01)

Section 22.070 Estuary Development Standards

1. **Aquaculture Facilities**
   a. Aquaculture facilities in estuary zones shall be subject to the following standards:
      i. Evidence shall be provided by the applicant and findings made by the County that aquaculture facilities do not prevent access to navigation channels and that obstruction of access to publicly-owned lands and recreational use areas are minimized.
      ii. Aquaculture facilities should be designed to minimize their visual impact (view obstruction).
         1. Whenever feasible, submerged structures are preferred over floating structures.
      iii. In the design and construction of aquaculture facilities, reclamation and reuse of wastewater should be considered.
      iv. Water diversion structures or man-made spawning channels shall be constructed so as to maintain required stream flows for aquatic life in adjacent streams and avoid significant reduction and acceleration of average water flow in an associated marsh.
         1. Water quality policies shall apply.
      v. Shellfish culture facilities shall either be located more than two thousand (2,000) feet away from sanitary sewer outfalls so that there will be no

potential health hazard; or shall make provisions for purification of water used in the aquaculture operation.

vi. Water discharge from an aquaculture facility shall meet all Federal and State water quality standards and any conditions attached to a waste discharge permit.

1. Water quality policies shall apply.

vii. All State and Federal laws governing environmental quality, resource protection, public health and safety, and engineering standards shall be met in the design, siting, construction and operation of aquaculture facilities.

1. This determination shall be made by the Oregon Department of Fish and Wildlife or other State or Federal agencies with regulatory authority over aquaculture facilities.

viii. Aquaculture facilities in Estuary Conservation (EC) zones, Estuary Development (ED) zones and Estuary Natural (EN) zones shall be permitted only if evidence can be provided by the applicant and findings made by the County that:

1. Aquaculture facilities in "EC" zones will require a resource capability determination where dredging, fill or other alterations of the estuary is needed, other than incidental dredging for harvest of benthic species or removal of in-water structures.
2. Aquaculture facilities in "ED" zones will not preclude the provision or maintenance of navigation or other needs for commercial and industrial water-dependent uses and will not preempt the use of Shore lands especially suited for water-dependent development.
3. Aquaculture facilities in "EN" zones will be consistent with the resource capabilities and purpose of the management unit(s) in which they are to be located.
   a. The Oregon Department of Agriculture shall provide these findings for oyster culture and the Oregon Department of Fish and Wildlife shall provide them for other types of aquaculture in instances where Tillamook County finds that it does not have the technical expertise or resources to make them.
4. Aquaculture facilities in "EN" zones will not require dredging of fill other than incidental dredging for harvest of benthic species or removal of in-water structures.

ix. Leasing of publicly-owned estuarine waters, intertidal areas or tidal wetlands for aquaculture shall be subject to the requirements of the Division of State Lands.

x. Dredge, fill, shoreline stabilization, piling/dolphin installation or other activities in conjunction with an aquaculture facility shall be subject to the respective standards for these activities.

2. **Diking**

a. Siting, design, construction, maintenance or expansion of dikes in estuary zones shall be subject to the following standards:

i. Diking policy requirements in the *Tillamook County Comprehensive Plan* shall be met.

ii. Proposals for new dike construction or dike maintenance or repair shall be accompanied by a brief statement from the local Soil and Water Conservation Service or a certified engineer stating that:

1. The project is in conformance with good engineering practices and any applicable rules and regulations set forth by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
2. Provides for suitable erosion protection for the dike face.
3. Will produce no appreciable flood and erosion potential upstream or downstream of the proposed project.

iii. When temporary dikes are constructed in intertidal areas or tidal wetlands, notice must be given to the Department of State Lands within twenty-four (24) hours following the start of such activity and their approval for continuation of the project must be obtained (ORS 541.615 (4)).

1. Intertidal areas and tidal wetlands shall be restored by the sponsor of the dike to pre-dike conditions after the removal of temporary dikes.

iv. Fill shoreline stabilization or other activities in conjunction with dike construction, maintenance or repair shall be subject to the respective standards for these activities.

v. Repair and maintenance of existing dikes, and construction of new dikes involving fill in intertidal areas and tidal wetlands are subject to the requirements of the State Fill and Removal Law (ORS 541.605 through .665) and the Clean Water Act of 1977 (P.L. 95-217). (Applies to fill only).

3. **Docks and Moorages**

a. Siting, design, construction, maintenance or expansion of new docks and moorages in estuary zones.

b. Water-Dependent Development (WDD) Shore land zones or other areas within the Shore land Overlay Zone shall be subject to the following standards:

i. Docks and moorages policy requirements in the *Tillamook County Comprehensive Plan* shall be met.

ii. When new construction or expansion of docks and moorages is proposed, evidence shall be provided by the applicant and findings made by the County that:

1. The size of the facility is the minimum necessary to accommodate the number and size of boats using the facility.

a. The maximum size limit for a single-purpose dock (excluding walkways) shall be five hundred (500) square feet.

b. Larger docks may be permitted subject to the conditional use provisions of *Article XVIII* of this *Ordinance.*

2. Alternatives such as dry-land storage, launching ramps or mooring buoys are impractical.

iii. To ensure that consideration is given to the beneficial economic and social impacts of moorages on local communities, proposals for new or expanded moorages should include statements on the impacts to local communities derived from increases in employment or increases in commercial or recreational activity.

iv. Open pile piers or secured floats shall be used for dock construction.

1. Piers and floats shall extend no further out into the water than is needed to provide navigational access.

v. Floating docks shall be designed so that they do not rest on the bottom at low water.

vi. Single-purpose docks shall be permitted if evidence is provided by the applicant and findings made by the County that cooperative use facilities (marinas or community docks or mooring buoys) are unavailable, impractical or will not satisfy the need.

vii. Covered or enclosed moorages shall be limited to not more than thirty percent (30%) (in number) of the total moorage spaces of a given moorage.

viii. To avoid contamination of estuarine waters, intertidal areas or tidal wetlands, public docks and moorages should provide enclosed facilities on shore lands for public dumping of oil and emptying of holding tanks.

ix. When docks and moorages are proposed in "EC1" or "EC2" zones, evidence shall be presented by the applicant and findings made by the County that the proposed dock or moorage is consistent with the resource capabilities of the area and the long term use of renewable resource and does not constitute a major alteration to other estuaries.

1. In assessing the resource capabilities of an area, consideration shall be given to the size or intensity of the proposed facility, and its location with respect to adjacent resources.

x. Docks and moorages in Water-Dependent Development (WDD) Shore land Zones or other areas within the Shore land Overlay Zone shall be subject to Shore land Development standards.

xi. Moorages with a capacity greater than twenty-five (25) boats shall be subject to Shallow Draft Port Facility and Marina standards.

xii. Dredging, fill, piling/dolphin installation, shoreline stabilization or other activities in conjunction with the construction of docks and moorages shall be subject to the respective standards for these activities.

4. **Dredged Material Disposal**

a. Dredged material disposal in estuary zones, Water-Dependent Development (WDD) Shore land Zones or other areas within the Shore land Overlay Zone shall be subject to the following standards:

i. Dredged material disposal shall occur only in approved dredged material disposal sites, of for fill of development sites that have received appropriate local, State and Federal permits.

1. All dredged material disposal policy requirements and fill standards shall apply.

ii. State and Federal water quality standards shall be met during all phases of dredged material disposal.

1. Water quality policies shall apply.

iii. The timing of dredged material disposal shall be coordinated with State and Federal resource agencies to ensure adequate protection of wildlife habitat, bird nesting areas, fish runs and fish spawning activity and to minimize interference with fishing activities.

iv. Ocean disposal of dredged materials shall be permitted only in an ocean disposal site approved by the U.S. Army Corps of Engineers and the Environmental Protection Agency.

v. With regard to in-water disposal in the river, estuary and ocean:

1. Consideration shall be given to the need for the proposed disposal and the availability and desirability of alternate sites and methods of disposal that might be less damaging to the environment.

2. The physical and chemical characteristics of the dredged materials should be compared with those of the disposal site; consideration should be given to matching the dredged material to the capabilities of the site.

3. In-water disposal requires an EPA and/or DEQ water quality certification or a short-term exemption.

a. Polluted materials that cannot meet EPA and/or DEQ requirements for ocean disposal shall be disposed of on non-

aquatic sites designed to properly settle out all pollutants prior to discharge back into the aquatic system.

b. Dredged material disposal shall not be permitted in the vicinity of a public water supply intake.

vi. Flow-lane disposal of dredged materials shall be monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservative management units.

vii. Ocean disposal of dredged materials shall be conducted to ensure that U.S. Army Corps of Engineers and EPA standards are met and that:

1. The amount of materials deposited at a site will not seriously impact local ocean resources.
2. Interference with sport and commercial fishing is minimized.
3. Disposal is confined to the authorized disposal site.
4. The sediment transport of the materials after disposal will not return to the bar or the estuary.
   a. The U.S. Army Corps of Engineers and the EPA shall make this determination during their review of permit applications for ocean disposal of dredged materials.

viii. Disposal of dredged materials on ocean beaches for purposes of beach nourishment shall be conducted to ensure that:

1. The volume and frequency of dredged material disposal is controlled to avoid excessive fluctuations in beach profile.
   a. A stable beach profile shall be maintained as nearly as possible.
2. Adverse impacts on benthic productivity, native plants and wildlife within; and downstream of the disposal site shall be avoided or minimized.
   a. Particular care shall be taken to ensure that erosion or smothering of productive habitat areas does not occur.
3. The dredged material is uncontaminated, and composed predominantly of sand with a particle size compatible with material on the receiving shores.

ix. Land disposal of dredged materials shall be conducted to ensure that the integrity of estuarine water, streams, underground springs and waterways are maintained.

1. U.S. Army Corps of Engineers guidelines for design of containment areas at dredged material disposal sites shall be followed.
   a. The Corps shall be responsible for determining that these guidelines have been met.
2. All surface water runoff from disposed dredged materials shall be controlled and shall enter the waterway or estuary directly through an approved outfall.
   a. Outfalls shall be designed so that effluent is routed as directly as practicable to the main channel or deep water for dilution.
3. When necessary, dikes shall be constructed around land dredged material disposal sites.
4. Dredged material disposal settling ponds shall be designed to maintain at least one (1) foot of standing water at all times to encourage proper settling of suspended solids.
   a. Secondary dredged material disposal settling ponds may be necessary to ensure the proper treatment of overflow waters,

particularly in areas used for disposal of spoils containing toxic materials.

5. Runoff from disposed dredged materials must pass over an appropriately designed and operated weir.
    a. Weir design and size shall be dependent upon the size of the disposal site and the physical and chemical characteristics of the dredged materials.

x. The final height and slope after each use of a land dredged material site shall be such that:
    1. The site does not enlarge itself by sloughing and erosion at the expense of adjacent aquatic areas.
    2. Loss of material from the site during storms and freshets is minimized.
    3. Interference with the view from nearby residences, scenic viewpoints and parks is avoided.

xi. Re-vegetation of land disposal sites shall occur as soon as is practicable in order to retard water induced erosion and to restore agricultural or wildlife habitat value to the site.
    1. Native species or non-native species approved by the Soil Conservation Service shall be used; reference shall be made to the Inter-Agency Seeding Manual prepared by the Soil Conservation Service.

xii. Disposal of dredged material should occur on the smallest practicable land area consistent with the use of the property and the characteristics of the dredged material.
    1. Clearing of land should occur in stages on an as-needed basis.
    2. Reuse of existing disposal sites is preferred over creation of new sites in order to minimize the total land area covered by dredged material.

xiii. Before dredged materials are disposed on land areas for use as fill in approved fill projects, a determination shall be made that the structural characteristics of the material are suitable for this use.

xiv. The use of agricultural lands for dredged material disposal shall occur only when the sponsor of the dredging project can demonstrate that the soils can be restored to agricultural productivity after disposal use is completed.
    1. In cases where this demonstration cannot be made, an exception to the Agricultural Lands Goal must be taken and included as an Amendment to the *Comprehensive Plan* prior to the use of the site for dredged material disposal.

xv. Dredging project proposals shall provide at least a five (5) year program for disposal of dredging material; consistent with the standards listed above.
    1. Disposal programs shall provide a mechanism for establishing stockpile sites of fill material suitable for use in approved fill projects.

5. **Dredging in Estuarine Waters, Intertidal Areas or Tidal Wetlands**
    a. These standards shall apply only to dredging in excess of fifty cubic yards (50 c.y.) within a twelve (12) month period or dredging of fifty cubic yards (50 c.y.) or less which requires a Section 10 permit from the U.S. Army Corps of Engineers.
        i. When dredging in estuarine waters, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the County that:
            1. The dredging is necessary for navigation or other water dependent uses that require an estuarine location; or is specifically allowed by the management unit or zone;

2. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
3. If no feasible alternative upland locations exist; and,
4. If adverse impacts are minimized.

ii. Dredging projects shall meet all requirements of the State Fill and Removal Law (ORS 541.605 through .665), Section 10 of the Rivers and Harbors Act of 1899, and other applicable State and Federal laws.
   1. These requirements shall be enforced by State and Federal agencies with regulatory authority over dredging projects.

iii. Existing water quality, quantity and rate of flow shall be maintained or improved.
   1. Minimum stream flow requirements shall be maintained.
   2. Water Quality policies shall apply.

iv. Flushing capacity of estuaries shall be maintained.
   1. A hydrologic report from a professional registered hydrologist or engineer may be required by the Planning Department to ensure that this standard has been met.

v. Dredging shall be timed in order to minimize the effects of sedimentation and turbidity and to minimize impacts on fish, shellfish, and recreational and commercial fishery activities.
   1. The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODFW, 1976) shall be followed unless approval of alternative work periods has been obtained from the Oregon Department of Fish and Wildlife.

vi. Evidence shall be provided by the applicant and findings made by the County that projects requiring dredging are sited and designed so that initial and maintenance dredging are minimized.

vii. Dredging proposals shall provide at least a five (5) year program for disposal of dredged materials.
   1. Programs for disposal of dredged material shall be consistent with Dredged Material Disposal standards.

viii. Dredging proposals requiring mitigation shall include a mitigation plan consistent with Mitigation standards.

ix. New dredging projects shall not be allowed in areas where insufficient data are available to assess the relative biological value.
   1. Under these circumstances, the applicant may arrange to provide the necessary information with the technical assistance of State and Federal resource agencies.

x. When dredging for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be presented by the applicant and findings made by the County that:
   1. The dredging is necessary to maintain proper operation of the facility.
   2. The amount of dredging proposed is confined to the geographic area of the existing facility and is the minimum amount necessary to fulfill the need.
   3. In cases where dredging or ditching for the purpose of tide gate or land drainage network maintenance is proposed, this finding requirement may be met by a brief statement from the local Soil and Water Conservation Service stating that:

a. Dredging or ditching is necessary to maintain proper operation of the tide gate and/or the associated land drainage network behind the dike.
b. The amount of dredging or ditching proposed is confined to the geographic area of the tide gate or drainage network and is the minimum amount necessary to fulfill the need.

xi. Excavation to create new water surface area shall be subject to the standards listed above and to the following standards:
1. Provision shall be made for stabilization of new bank lines prior to the connection of the new water body to existing water bodies.
a. Excavation of as much as is practical of the new water body shall be completed before it is connected to existing water bodies.
2. Toxic substances or other pollutants shall not leak into the water as a result of the excavation.
3. Erosion of adjacent Shore land areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided.
4. Excavation shall occur at a time that will minimize its impact on aquatic life.
5. Excavated materials shall not be disposed of in estuarine waters, intertidal areas, or tidal wetlands; except as part of an approved fill project subject to Fill standards.

xii. Dredging for the purpose of bank line or stream alteration (i.e., realignment of a stream bank or the entire stream, either within or without its normal high water boundaries) shall be subject to the standards listed above and to the following standards:
1. Alignments should make maximum use of natural or existing deepwater channels provided that pockets of stagnant water are not created.
2. Erosion of adjacent Shore land areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided.
3. Temporary stabilization (mulching or sodding), sediment basis or other performance equivalent structures may be required at the discretion of the Planning Department.
4. Provision shall be made for stabilization of new bank lines.
a. Shoreline Stabilization standards shall apply.
5. Adverse impacts on fish spawning, feeding, migration and transit routes and wildlife habitat shall be evaluated and minimized.

xiii. An impact assessment shall be conducted during local, State and Federal review of permit applications for dredging in estuarine waters, intertidal areas or tidal wetlands.
1. The impact assessment shall follow the procedures outlined in *Section 22.060.*
2. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

6. **Energy Facilities and Utilities**
a. Siting, design, construction, maintenance or expansion of energy facilities and utilities in estuary zones shall be subject to the following standards:
i. When new energy facilities and utilities are proposed within estuarine waters, intertidal areas or tidal wetlands, evidence shall be provided by the applicant and findings made by the County that:
1. A need (i.e., a substantial public benefit) exists and the use or alteration does not unreasonably interfere with public trust rights.

2. Alternative non-aquatic locations are unavailable or impractical.
3. Dredging, fill and other adverse impacts are avoided or minimized.

ii. Electrical or communication transmission lines shall be located underground or along existing rights-of-way unless economically infeasible.

iii. Above-ground utilities shall be located to have the least adverse effect on visual and other aesthetic characteristics of the area.

1. Interference with public use and public access to the estuary shall be minimized.

iv. Whenever practicable, new utility lines and crossings within estuarine waters, intertidal areas or tidal wetlands shall follow the same corridors as existing lines and crossings.

v. Water discharge into estuarine waters, intertidal areas and tidal wetlands from an energy facility or utility shall meet EPA and DEQ standards, and shall not produce increases in temperature in the receiving waters which would have adverse impacts on aquatic life.

1. Water Quality policies shall apply.

vi. When new energy facilities and utilities are proposed in "EN" zones, evidence shall be provided by the applicant and finds made by the County that the proposed use is consistent with the resource capabilities of the area and the preservation of areas needed for scientific, research or educational needs.

vii. When storm water and sewer outfalls are proposed in "EC1" and "EC2" zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.

viii. When new energy facilities and utilities are proposed in "ED" zones, evidence shall be provided by the applicant and findings made by the County that the proposed facility will not preclude the provision or maintenance of navigation and other public, commercial and industrial water dependent uses.

ix. Storm water and sewer outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tide flats or intertidal wetlands.

1. Effluent from outfalls must meet EPA and DEQ water quality standards.
2. Water Quality policies shall apply.

x. Dredge, fill, shoreline stabilization or other activities in conjunction with construction of energy facilities or utilities shall be subject to the respective standards for these activities.

xi. Energy facilities and utilities shall be sited so that they do not and will not require structural shoreline stabilization methods.

7. **Fill in Estuarine Waters, Intertidal Areas and Tidal Wetlands**

a. These standards shall apply only to dredging in excess of fifty cubic yards (50 c.y.) within a twelve (12) month period or dredging of fifty cubic yards (50 c.y.) or less which requires a Section 10 or 404 permit from the U.S. Army Corps of Engineers.

i. When fill in estuarine waters, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the County that:

1. The fill is necessary for navigation or other water-dependent uses that require an estuarine location; or is specifically allowed by the management unit or zone;

2. A need (i.e., substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
3. If no feasible alternative upland locations exist; and,
4. If adverse impacts are minimized.

ii. When fill for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be provided by the applicant and findings made by the County that:

1. There are no alternative to fill to maintain proper operation of the facility; and,
2. The amount of fill proposed is confined to the geographic area of the existing facility and is the minimum amount necessary to fulfill the need.

iii. Where existing public access is reduced, suitable access, as part of the development project, shall be provided.

iv. The fill shall be placed at a time that will minimize sedimentation and turbidity.

1. The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODFW, 1976) shall be followed unless approval of alternative work periods has been obtained from the ODFW.

v. Only non-polluted materials may be used for fill.

1. Materials that would create water quality problems are not permitted.

vi. The perimeters of the fill shall be provided with erosion prevention measures, consistent with Shoreline Stabilization standards.

vii. Fills shall be placed so that adjacent or nearby property is not adversely impacted by increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns.

1. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Department as a result of the impact assessment required in *Section 22.060.*

viii. Fill proposals requiring mitigation shall include a mitigation plan consistent with Mitigation standards.

ix. Fill in estuarine waters, intertidal areas and tidal wetlands shall be subject to the requirements of the State Fill and Removal Law (ORS 541.605 through .665), the Rivers and Harbors Act of 1899, the Clean Water Act of 1977 (PL 95-217); and other applicable State and Federal laws.

1. These requirements shall be enforced by State and Federal agencies with regulatory authority over fill projects.

x. An impact assessment shall be conducted during the local, State and Federal review of permit applications for fill in estuarine waters, intertidal areas or tidal wetlands according to the provisions outlined in *Section 22.060.*

1. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

8. **Forestry and the Forest Products Industry**

a. The following standards shall apply to forestry and to log handling, sorting and storage areas in estuary zones.

i. Log storage, sorting and processing areas in shore lands adjacent to estuaries or waterways shall be designed, constructed and operated to control leachates and prevent the loss of bark, chips, sawdust and other wood debris into public waters.

ii. Timber propagation and harvest on commercial forest lands shall be subject to the Oregon Forest Practices Act and Administration Rules for forest lands as defined in ORS 527, 610, 527.730 and 527.990.
    1. The Oregon Department of Forestry shall be responsible for determining that these standards have been met.

iii. In-water log handling, sorting and storage areas and log storage, sorting and processing areas in shore lands adjacent to estuaries or other water bodies shall be subject to the requirements of the water quality program administered by the Department of Environmental Quality under the Clean Water Act of 1977 (92-500).
    1. The DEQ, in conjunction with other affected resource agencies, shall be responsible for determining that the flushing characteristics of in-water log handling, sorting and storage areas, the number of logs and duration of storage, and the bark and debris controls for both in-water and Shore land sites are such that State and Federal Clean Water standards are met.

iv. Leasing of publicly-owned aquatic areas for the purpose of in-water log handling, sorting and storage shall be subject to the requirements of the Division of State Lands.

v. When new in-water log handling, sorting and storage areas are proposed in estuarine waters, evidence must be presented by the applicant and findings made by the County that:
    1. The proposed use is an integral part of the process of water-borne transportation of logs (i.e., is water dependent).
    2. There is a need (i.e., a substantial public benefit) for the proposed use and the use or alteration does not unreasonably interfere with public trust rights.
    3. Alternative non-aquatic locations are unavailable, impracticable or do not meet the needs.
    4. Conflicts with navigation, aquaculture and commercial and recreational fishing have been avoided or minimize.
    5. Easy let-down facilities for transfer of logs from land to water have been provided for (free-fall log dumps shall not be permitted).
    6. Sites are located to avoid shellfish beds, shallow spawning areas, or areas where grounding of logs will occur.

9. **Industrial and Commercial Uses in Estuarine Waters, Intertidal Areas and Tidal Wetlands**

a. Siting, design, construction, maintenance or expansion of industrial and commercial uses within estuary zones shall be subject to the following standards:

i. Evidence shall be provided by the applicant and findings made by the County that:
    1. The amount of estuarine surface are occupied is the minimum required to meet the need.
    2. Provision has been made for public access, viewpoints and recreational use; consistent with safety and security considerations.
    3. Multipurpose and cooperative use of piers, wharves, parking areas or handling and storage facilities has been provided for or is impracticable.
    4. Floating structures are designed so as not to rest on the bottom at low water and are protected against currents and waves.
    5. Alteration of productive intertidal areas and tidal marshes have been avoided or minimized.

6. Adverse impacts on the following have been avoided or minimized to be consistent with the resource capabilities and purposes of the area:
    a. Water quality.
    b. Hydrographic characteristics.
    c. Aquatic life and habitat.
    d. Bird and wildlife habitat.
    e. Fish transit and migration routes.

ii. Removal of riparian vegetation shall be permitted only if direct access to water is required in conjunction with a water dependent use.
    1. Replacement of riparian vegetation or enhancement of existing riparian vegetation shall be required where consistent with water-dependent use to enhance attractiveness or assist in bank stabilization.

iii. Visual access to the water shall not be impaired by the placement of signs.
    1. When feasible, signs shall be constructed on or against buildings to minimize visual obstruction of the shoreline and water bodies.
    2. Off-premise outdoor advertising signs shall not be allowed within estuarine waters, intertidal areas or tidal wetlands.

iv. The design and construction of new industrial and commercial facilities should consider reclamation and reuse of wastewater.

v. Provision for the prevention and control of contaminants from entering the water shall be made.
    1. A contingency plan to provide for containment and clean up of spills of contaminants shall be provided.

vi. Industrial outfalls, sewer outfalls and storm water outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tide flats or salt marshes.
    1. Effluent from outfalls must meet EPA and DEQ Water Quality standards.
    2. Water Quality policies shall apply.

vii. When water-dependent industrial and commercial uses are proposed in "EC2" zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources and would not cause a major alteration of the estuary.

viii. When water-related or non-dependent, non-related industrial or commercial uses are proposed in "ED" zones, evidence must be presented that:
    1. The use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
    2. The use will not preempt the use of shore lands especially suited for water-dependent development.
    3. Non-water dependent and non-water-related uses which permanently alter estuarine resources and values shall include evidence of the public benefits derived from the project, which shall include:
        a. The beneficial economic impacts to local communities derived from the increases in employment; and/or
        b. Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.

ix. All State and Federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, waste water and organic wastes

and other State and Federal laws governing environmental quality, resource protection or public health and safety shall be met.

1. This determination shall be made by appropriate State or Federal agencies with regulatory authority.

x. Dredging, fill, piling/dolphin installation, shoreline stabilization, disposal of dredged material or other activities in conjunction with industrial and commercial uses shall be subject to the respective standards for these activities.

10. **Land Transportation Facilities**

a. Siting, design, construction and maintenance of bridges, roads or railroads in estuary zones shall be subject to the following standards:

i. Proposals for new County or State Highways, or for railroads, shall provide an evaluation of the proposed project on the following:

1. Land-use patterns.
2. Energy use.
3. Air and water quality.
4. Estuarine habitat, functions and processes.
5. Existing transportation facilities.
6. Physical and visual access to estuaries and shore lands.

ii. Evidence shall be provided by the applicant and findings made by the County that the siting, design, construction and maintenance of land transportation facilities would be conducted to avoid mass soil wasting or excessive surface erosion.

iii. Land transportation facility proposals shall include a rehabilitation plan specifying the method and timing of necessary site rehabilitation.

1. Site rehabilitation plans shall provide for replacement of riparian vegetation.

iv. Vegetated buffer strips shall be maintained, whenever practicable, along roadways to manage storm drainage runoff.

v. When culverts are used in association with bridge crossing, spring line natural bottom culverts preferred over box culverts.

vi. All bridge crossings and culverts shall be positioned and maintained to allow fish passage, avoid interference with anadromous fish runs and to prevent any constriction of natural streams which would result in increases in flood or erosion potential.

1. When culverts are used, no fill shall be allowed in streams, rivers and estuaries.

vii. When new bridge crossing support structures are proposed in “EN” zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities and purposes of the area.

viii. When land transportation facilities are proposed in “ED” zones, evidence shall be presented by the applicant and findings made by the County that the proposed use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.

ix. Dredging, fill, piling/dolphin installation, shoreline stabilization, dredged material disposal or other activities in conjunction with land transportation facilities shall be subject to the respective standards for these activities.

11. **Mining and Mineral Extraction**

a. Mining and mineral extraction in estuary zones shall be subject to the following standards:

i. Mining and mineral extraction policy requirements in the *Tillamook County Comprehensive Plan* shall be met.
ii. Mining and mineral extraction proposals shall include a mining plan and a rehabilitation plan specifying the method and timing of necessary site rehabilitation.
    1. Any necessary rehabilitation of mining and/or mineral extraction sites shall be completed within two (2) years of the completion of the mining or mineral extraction operation.
iii. Evidence shall be provided by the applicant and findings made by the County that mining and mineral extraction projects are sited, designed, operated and maintained to ensure that adverse impacts on the following are minimized:
    1. Aquatic life and habitat, including but not limited to the spawning, rearing and passage requirements of anadromous fish.
    2. Bird and wildlife habitat.
    3. Hydrographic characteristics, including but not limited to the alteration of local currents that may affect adjacent properties by causing erosion, accretion or increased flooding.
    4. Water quality.
        a. Water Quality policies shall apply.
iv. Temporary removal of riparian vegetation shall be permitted in cases where direct water access is required as part of a mining or mineral extraction operation.
    1. Site rehabilitation plans shall provide for replacement of riparian vegetation.
v. Spoils and stockpiles shall not be placed within estuarine waters, intertidal areas or tidal wetlands; unless as part of an approved fill project; subject to Fill standards.
vi. When mining and mineral extraction projects are proposed in “EC1” and “EC2” zones, evidence shall be provided by the applicant and findings made by the County that the proposed project is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
vii. When mining and mineral extraction projects are proposed in “ED” zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
viii. Dredging, fill or other activities in conjunction with mining and mineral extraction shall be subject to the respective standards for these activities.
ix. The location and operation of mining and mineral extraction projects shall be in conformance with the requirements of the Division of State Lands (ORS 541.605 through .665; 273.551; 273.775 through .780), the Department of Geology and Mineral Industries (ORS 520.005 through .095) and other applicable State and Federal laws governing environmental quality, resource protection and public health and safety.
    1. These requirements shall be enforced by State and Federal agencies with regulatory authority over mining and mineral extraction projects.

12. **Mitigation**
    a. Mitigation projects in estuary zones, Water-Dependent Development (WDD) Shore land Zones or other areas within the Shore land Overlay Zone shall be subject to the following standards:

i. Mitigation for dredge or fill within intertidal areas or tidal wetlands shall be required by the Director of the Division of State Lands (under the Provisions of ORS 541.605 through .665).
   1. The suitability of a mitigation proposal for a given proposed project shall be determined by the Director of the Division of State Lands, according to the procedure established in Administrative Rule 85-245 (Chapter 141).

ii. Mitigation projects shall go into effect prior to or at the same time as the development project.

iii. Mitigation projects in Water-Dependent Development (WDD) Shore land Zones or other areas within the Shore land Overlay Zone shall be subject to Shore land Development Standards.

13. **Navigational Structures and Navigational Aids**

a. Navigational structures and aids in estuary zones shall be subject to the following standards:

i. When navigational structures are proposed, evidence shall be provided by the applicant and findings made by the County that:
   1. The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use.
   2. The project will not interfere with the normal public use of fishery, recreation, or water resources.
   3. The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns.
      a. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Department as a result of the impact assessment required in *Section 22.060*.
   4. Non-structural solutions are unavailable, impractical or do not meet the need.

ii. When floating breakwaters are proposed in “EC1” and/or “EC2” zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.

iii. Navigational structures shall meet all applicable U.S. Army Corps of Engineers engineering standards.
   1. The Corps shall be responsible for determining that these engineering standards have been met.

iv. An impact assessment shall be conducted during local, State and Federal review of permit applications for navigational structures.
   1. The impact assessment shall follow the procedures outlined in *Section 22.060.*
   2. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purpose of the area.

v. Dredging, fill or other activities in conjunction with navigational structures and navigational aids shall be subject to the respective standards for these activities.

14. **Piling/Dolphin Installation**

a. Piling, dolphin installation in estuary zones shall be subject to the following standards:

i. When piling or dolphin installation is proposed, evidence shall be provided by the applicant and findings made by the County that:

1. The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use.
2. The project will not unduly interfere with the normal public use of fishery, recreation or water resources.
3. The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns.
    a. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Department as a result of the impact assessment required in *Section 22.060*.

ii. When new piling or dolphin installation is proposed in "EN", "EC1" and/or "EC2" zones, evidence shall be provided by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the purposes of the management area.

iii. When proposals for new piling or dolphin installation in conjunction with a non-water-dependent or non-water-related use within "ED" zones are made, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and/or industrial water-dependent uses.

iv. Piling/dolphin replacement and new installation shall meet all applicable U.S. Army Corps of Engineers engineering standards and permit requirements.
    1. The Corps shall be responsible for determining that these engineering standards and permit requirements have been met.

v. An impact assessment shall be conducted during local, State and Federal review of permit applications for piling/dolphin installation.
    1. The impact assessment shall follow the procedure outlined in *Section 22.060.*
    2. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

15. **Restoration and Enhancement**

a. Restoration and enhancement projects in estuary zones, Water-Dependent Development Shore land zones or other areas within the Shore land Overlay zone shall be subject to the following standards:

i. Restoration and enhancement policy requirements in the *Tillamook County Comprehensive Plan* shall be met.

ii. Proposals for restoration projects shall present evidence that:
    1. The restored area is a shallow subtidal, intertidal of tidal marsh area after alteration work is performed;
    2. The restored area may not have been a functioning part of the estuarine system when alteration work begins; and,
    3. The restored area is revitalizing, returning or replacing original attributes and amenities that have been diminished or lost by past alterations, activities or catastrophic events.

iii. Estuarine enhancement project proposals shall identify:
    1. The original conditions to be enhanced.
    2. The cause of the loss or degradation.
    3. The location and extent of actions necessary to achieve the enhancement objective.

iv. Estuarine enhancement project proposals shall present evidence that the project will result in an overall improvement in the cultural, historic,

economic or navigational features of an estuary; which will outweigh any adverse impacts.

v. When active restoration and enhancement projects are proposed in "EN" or "ECA" zones, evidence shall be provided by the applicant and finings made by the County that the project is consistent with the protection of significant fish and wildlife habitats, biological productivity, and scientific research and educational needs.

vi. When active restoration or enhancement projects are proposed in "EC1" or "EC2" zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.

vii. When passive or active restoration or enhancement projects are proposed in "ED" zones, evidence shall be provided by the applicant and findings made by the County that the project will not interfere with the provision or maintenance of navigation and other public, commercial and industrial water-dependent uses; and will not interfere with the use of adjacent shore lands especially suited for water-dependent development.

viii. When active restoration projects are proposed in Water-Dependent Development (WDD) Shore land zones, evidence shall be provided by the applicant and findings made by the County that the proposed project does not preclude or conflict with existing or reasonable potential water-dependent use on the site or in the vicinity.

1. Shore land Development standards shall apply.

ix. Dredge, fill, shoreline stabilization, shore land development, installation of energy facilities or utilities, dredged material disposal and other uses and activities proposed as part of a restoration or enhancement project shall be subject to their respective standards for these uses and activities.

x. Restoration and enhancement projects in Water-Dependent Development (WDD) Shore land zones or other areas within the Shore land Overlay Zone shall be subject to Shore land Development Standards.

16. **Shallow Draft Port Facilities and Marinas**

a. Siting, design, construction and maintenance of shallow draft port facilities and marinas in estuary zones shall be subject to the following standards:

i. Evidence shall be provided by the applicant and findings mad by the County that:

1. Facilities have been sited and designed to minimize initial and maintenance dredging.
2. Dry land boat storage has been provided for, or is impracticable.
3. Provision has been made for public access, viewpoints and recreational use, consistent with safety and security considerations.
4. Multipurpose and cooperative use of piers, wharves, parking areas and cargo handling and storage has been provided for, or is impracticable.
5. Floating structures are designed so as not to rest on the bottom at low water and are protected against currents and waves.
6. The amount of water surface occupied is the minimum required to meet the need.
7. Provision has been made for maintenance of riparian vegetation except where direct access to water is required.
8. Natural or man-made protection from wind, waves, storm or tidal currents or ship wakes has been provided for.

9. Adverse impacts on the following have been avoided or minimized to be consistent with the resource capabilities and purposes of the area:
    a. Navigation.
    b. Water quality.
    c. Hydrographic characteristics.
    d. Natural processes of erosion and sedimentation.
    e. Aquatic life and habitat.

ii. Marina access channels shall be designed to maximize water circulation and avoid dead spots.
    1. Dead-end channels or confined basins should be avoided.
    2. Demonstration shall be made that State and Federal Clean Water standards can be maintained.
    3. A field study of water circulation patterns may be required by the Planning Department as a result of the impact assessment required in *Section 22.060*.

iii. Safe navigation access to port facilities and marinas shall be provided and maintained.

iv. Covered or enclosed moorages shall be limited to not more than fifty percent (50%) (in number) of the total moorage spaces of a given port facility or marina.

v. The following provisions for the prevention and control of contaminants from entering the water shall be made:
    1. Enclosed shore land facilities for public dumping of oil and emptying of holding tanks shall be provided.
    2. A contingency plan to provide for containment and clean up of spills of contaminants shall be provided.

vi. Proposals for expansion or creation of port or marina facilities shall be accomplished by a demonstration of the public benefits derived from the project which shall include:
    1. Information on why the capacity of existing facilities is inadequate;
    2. The beneficial economic impacts to local communities derived from increases in employment; and/or
    3. Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.

vii. All State and Federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, wastewater and organic wastes and other State and Federal laws governing environment quality, resource protection or public health and safety shall be met.
    1. This determination shall be made by appropriate State or Federal agencies with regulatory authority.

viii. When marina expansion or development is proposed in “EC2” zones, evidence shall be provided by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the long-term use of renewable resources and does not cause a major alteration of the estuary.

ix. Dredge, fill, piling/dolphin installation, navigational structures, shoreline stabilization or other activities in conjunction with expansion or creation of new port facilities and marinas shall be subject to the respective standards for these activities.

17. **Shoreline Stabilization**
    a. Shoreline stabilization projects in estuary zones, Water-Dependent Development (WDD) Shore land zones or other areas within the Shore land Overlay Zone shall be subject to the following standards:
        i. Within estuarine waters, intertidal areas and tidal wetlands and along Water-Dependent Development zones and other shore land areas; general priorities for shoreline stabilization for erosion control are, from highest to lowest:
            1. Proper maintenance of existing riparian vegetation;
            2. Vegetated riprap;
            3. Non-vegetated riprap;
            4. Groins, bulkheads or other structural methods.
                a. Shoreline protection proposals shall include justification for the use of a lower priority method over a higher priority method.
        ii. Vegetative shoreline stabilization shall utilize native species or non-native species approved by the Soil Conservation Service.
            1. Reference shall be made to the Interagency Seeding Manual prepared by the Soil Conservation Service.
        iii. When structural shoreline stabilization methods are proposed, evidence shall be presented by the applicant and findings made by the County that:
            1. Flooding or erosion is threatening an established use on a subject property or a need (i.e., a substantial public benefit) is demonstrated in conjunction with navigation or a water dependent use;
            2. Land-use management practices or nonstructural solutions are inappropriate or will not meet the need;
            3. The proposed structural stabilization method is the minimum size needed to accomplish the desired stabilization;
            4. The proposed project will not restrict existing public access to publicly-owned lands or interfere with navigation or the normal public use of fishery, recreation or water resources; and,
            5. The proposed project will not adversely impact adjacent aquatic areas or nearby property through increased erosion, sedimentation, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns.
                a. An affidavit from a professional registered engineer, hydrologist or geologist may be required by the Planning Department as a result of the impact assessment required in *Section 22.060.*
                b. A brief statement from the local Soil and Water Conservation Service may serve as evidence that standards *(2)* and *(3)* above have been met.
        iv. Shoreline stabilization projects shall be timed to minimize impacts on aquatic life.
        v. Proposals for riprap shall include evidence that the rock to be used will be effective and provide justification for use of a slope steeper than one and one-half feet (1½ ') horizontal to one foot (1') vertical.
        vi. When bulkheads are proposed, evidence shall be provided by the applicant and finings made by the County that the other forms of structural stabilization are inappropriate or will not meet the need.
            1. Bulkheads should be designed to be permeable to ground water and runoff.

2. Fill policies and standards shall apply to bulkhead projects that involve fill within estuarine waters, intertidal areas or tidal wetlands.

vii. When riprap is proposed in ”EN” zones, a resource capability determination shall be required for purposes other than the protection of unique natural resources, historical and archaeological values public facilities and uses existing as of October 7, 1977.

viii. When structural shoreline stabilization is proposed in “ECA”, “EC1” and/or “EC2” zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the long-term use of renewable resources and does not cause a major alteration of the estuary.

ix. When structural shoreline stabilization is proposed in “ED” zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.

x. Structural stabilization along ocean shore lands west of the Beach Zone line shall be subject to the requirements of the Oregon Department of Transportation Ocean Shore permit and regulatory program.

xi. An impact assessment shall be conducted during local, State and Federal review of permit applications for structural shoreline stabilization seaward of the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line.

1. The impact assessment shall follow the procedure outlined in *Section 22.060.*
2. Identified adverse impacts shall be avoided or minimized to be consistent with the resource capabilities and purposes of the area.

(Adopted: 83-9)
(Amended: 91-01)

Article XXIII. Utilities Facilities Overlay Zone (UFO)

Section 23.010 Purpose

1. The purpose of this zone is to accommodate the foreseeable demand for facilities to meet the residential, commercial, industrial and other utility service needs of the City of Nehalem and its surrounding Urban Growth Boundary.
2. Sites included in this zone should be of sufficient size and quality to provide the needed service, minimize adverse off-site impacts and preserve existing natural resource values in the area.
3. This zone is applied as an overlay zone in combination with an existing use zone in order to permit installation of utility facilities in a variety of appropriate locations.
4. The zone may be applied to utility easements as well as to other types of utility property ownerships.
5. The allowance of utility facilities in these diverse locations is based on adherence to development standards as contained in this *Section* and referenced by other *Sections* of this *Ordinance.*
6. This *Section* is enabling only.
    a. Application of the "UFO" zone to any specific property can only be made by a *Zoning Map* Amendment adopted pursuant to all Public Hearing and other *Map* Amendment procedures as required by this *Ordinance*.

(Adopted: 84-3)

Section 23.020 Uses Permitted Outright

1. In a "UFO" zone, in addition to the uses permitted outright in the underlying basic zone, the following uses and their accessory uses are permitted outright:
    a. Utility service facilities, including:
        i. Structures for storage of supplies and equipment.
        ii. Repair of equipment.
        iii. Utility offices.
        iv. Switching facility and other utility service requirements.
    b. Outdoor storage of utility supplies and equipment.
    c. Electric substation, electric transmission line and line support structures.

(Adopted: 84-3)

Section 23.030 Standards

1. In a "UFO" zone, the existing standards shall apply to utility uses permitted outright as listed in *Section 23.020* above as well as the following:
    a. Small utility structures no greater than thirty-six (36) square feet in area and no higher than two (2) feet above ground level are exempt from these setbacks.
        i. Electric utility transmission lines and structures are exempt from setbacks but are subject to all requirements of the right-of-way and/or easements or City Franchises for such facilities.
    b. Outdoor storage abutting or facing a residential use or zone and within two hundred (200) feet there-from shall be screened with a sight-obscuring fence or landscaping or combination thereof.
    c. Off-street parking and loading shall be provided in accordance with the standards set forth in *Section 14.080.*
    d. Utility signs needed for safety purposes or to meet other utility operating requirements not exceeding sixteen (16) square feet in area.

e. Utility facilities shall utilize equipment, baffling structures, site excavation and earthen berms or landscaped screening as necessary to limit objectionable noise impacts to any adjacent residential use or zone.

f. State and County sanitary requirements shall be met for sewage disposal from any building having human occupancy as a place of employment.

g. If applicable, the standards and requirements of *Section 14.020* and *Section 14.100* shall be met.

h. If applicable, the standards and requirements of *Article XI* shall be met.

i. Any freshwater wetland identified by the Oregon Department of Fish and Wildlife and adopted by the City or County as critical wildlife habitat shall be protected according to site specific recommendations provided by O.D.F.W.

j. Requirements of the City or County Public Works Departments shall be met for any utility structure placed in a road or street right-of-way by a utility not having a Franchise for such location.

    i. For those utilities having a City or County Franchise, requirements of the Franchise for such location shall be met.

(Adopted: 84-3)

Article XXIV. Light-Industrial – LM Zone

Section 24.010 Intent

1. The intent of the "LM" zone is to accommodate commercial activities requiring large sites and industrial activities that have impacts of such a nature that do not preclude the use of surrounding properties for legal purposes.
2. In the "LM" zone, the size of the site, site location and the nature of nearby uses are especially important.

(Adopted: 90-1)

Section 24.020 Permitted Principal Uses

1. In the "LM" zone, the following uses and their accessory uses are permitted outright; subject to all applicable supplementary regulations contained in the *Ordinance:*
   a. Light industries such as printing; research and testing; plastics molding; fabrication and assembly of instruments, light equipment, electronics, appliances and specialty wood products; and other similar industrial uses; provided that such industrial uses:
      i. Shall not allow emission of, nor impact on adjacent properties from radioactive or other toxic materials.
   b. Commercial service activities requiring large outdoor storage space including the sale and repair of cars, trucks, farm equipment, heavy machinery and marine craft; the storage of construction, plumbing, heating, paving, dredging equipment, electrical and painting materials; and parking for trucks as part of a construction or shipping operation.
   c. Warehousing, wholesaling and product distribution centers.
   d. Mobile homes or recreational vehicles used during the construction of a use for which a Building Permit has been issued.
   e. Interim uses prior to industrial or commercial development, including: 1.) Farm uses, including aquaculture; 2.) Forest uses, including log and equipment storage and the primary processing of forest products; and 3.) Outdoor recreation uses.
   f. Forest uses and farm uses, including aquaculture.
   g. One two-sided, on-site business identification sign not to exceed twenty-four (24) square foot in size on one side.

(Adopted: 90-1)

Section 24.030 Conditional Uses & Activities

1. In the "LM" zone, the following uses and their accessory uses are permitted subject to the provisions of *Article XVIII* and the requirements of all applicable supplementary regulations contained in this *Ordinance:*
   a. Fire and ambulance stations.
   b. Utility substation and power transmission lines.
   c. Towers for communications, wind energy conversion systems or structures having similar impacts.
   d. Energy generation systems.
   e. Water supply and treatment facilities and sewage treatment plants.
   f. Mobile home manufacturing, recreational vehicle manufacturing or boat manufacturing facilities.

(Adopted: 90-1)

Section 24.040 Development Standards

1. Land development in the "LM" zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

a. The minimum yard adjacent to a residential use or zone shall be twenty (20) feet.
    i. For structures exceeding twenty (20) feet in height, one (1) foot of additional setback shall be required for each one (1) foot of structure over 20 feet in height.
b. The maximum building height shall be forty (40) feet.
    i. Higher structures may be permitted according to the provision of *Article XVII*.
c. Outdoor storage abutting or facing a residential use or zone shall be screened with a sight-obscuring fence, shrubbery, berm or otherwise by topography or other natural buffer.
d. Off-street parking and loading areas shall be provided as specified in *Article XXV.*
e. For any parcel five (5) acres or larger in size, an overall development plan shall be submitted to the Planning Commission at the time an application for a Building Permit is filed.
    i. The site development shall be reviewed for compatibility with surrounding land uses and approved at the time of issuance of the Building Permit.
    ii. The Planning Commission may attach conditions to the approval of such permits in order to assure compatibility with surrounding uses.

(Adopted: 90-1)

Article XXV. Off-Street Vehicle Parking

Section 25.010 Purpose & Applicability

1. The purpose of this *Article* is to provide basic and flexible standards for development of vehicle parking. This *Article* recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., "minimum" and "performance-based" standards).
2. All developments, including development of parking facilities, shall comply with the provisions of this *Article.*

(Adopted: 80-2)
(Amended: 2004-01)

Section 25.020 Off-Street Vehicle Parking & Loading, Generally

1. Required off-street parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons and employees only.
    a. Off-street parking spaces shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting business or use.
2. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all-weather use and be drained so as to avoid flow of water across public right-of-ways or adjacent properties.
3. Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or uses shall be designed to minimize disturbances of residents by the erection between the uses of a sight-obscuring fence or wall of not less than five (5) or more than six (6) feet in height except where vision clearance is required.
4. Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four (4) inches high and set back a minimum of four and one-half (4½) feet from the property line.
5. Artificial lighting, which may be provided, shall not create or reflect glare in a residential zone or on any adjacent parcel, lot or tract.
6. Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.
7. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.
    a. Off-street parking areas used to fulfill the requirements of this *Ordinance* may be used for loading and unloading operations during a period of the day when not required to meet the intent of this *Article.*
8. All parking lots designed to accommodate five (5) or more vehicles shall be developed with at least ten percent (10%) of the area in plantings or other landscaping.
    a. Such landscaping shall be located in defined planting areas evenly distributed throughout the parking area.
    b. Required planting areas shall have a width of not less than three (3) feet.
    c. Required landscaping shall be maintained at all times.

(Adopted: 80-2)
(Amended: 2004-01)

Section 25.030 Vehicle Parking Standards

1. The minimum number of required off-street vehicle parking spaces shall be determined based solely on the standards contained within this *Section.* Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not

parked in a vehicle travel lane (including emergency access lanes), public right-of-ways, pathways or landscaped areas.

2. All commercial, industrial and public/institutional uses shall, in addition to any other requirement contained herein, provide for employee parking at one space per each two (2) employees, unless otherwise provided for below.
3. All Minimum Parking requirements that result in a fractional number shall be rounded up to the next whole number for a fractional space of "0.5" or greater; and rounded down for a fractional space of less than "0.5":
    a. **Residential Uses**
        i. Single-family Detached Dwelling.
            1. Two (2) spaces for each dwelling unit, plus one space for each additional dwelling unit.
        ii. Two & Three-family Dwelling.
            1. One-and-a-half (1½) spaces per dwelling unit.
        iii. Multi-family & Single-family Attached Housing.
            1. Studio units or one bedroom units less than five hundred (500) square feet – One space per unit.
            2. One bedroom units five hundred (500) square feet or larger – One-and-a-half (1½) spaces per unit.
            3. Two (2) bedroom units – One-and-three-quarters (1¾) spaces per unit.
            4. Three (3) bedroom or greater units – Two (2) spaces per unit.
    b. **Commercial Uses**
        i. Auto, Boat or Trailer Sales, Retail Nurseries & Similar Bulk Retail Uses.
            1. One space per one thousand (1,000) square feet of the first ten thousand (10,000) square feet of gross land area; plus one space per five thousand (5,000) square feet over the first ten thousand (10,000) square feet of gross land area.
        ii. General Business, Retail & Personal Services.
            1. General – One space per three hundred-fifty (350) square feet of gross floor area.
            2. Furniture & Appliances – One space per seven hundred-fifty (750) square feet of gross floor area.
        iii. Chapels & Mortuaries.
            1. One space per four (4) seats.
        iv. Hotels & Motels.
            1. One space per guest room.
        v. Offices.
            1. General – One space per four hundred-fifty (450) square feet of gross floor area.
            2. Medical & Dental – One space per three hundred-fifty (350) square feet of gross floor area.
        vi. Restaurants, Bars & Similar Uses.
            1. One space per four (4) seats or one space per one hundred (100) square feet of gross leasable floor area, whichever is less.
        vii. Theaters, Auditoriums, Gymnasiums & Similar Uses.
            1. One space per four (4) seats.
    c. **Industrial Uses**
        i. Industrial Uses (except warehousing).
            1. One space per two (2) employees on the largest shift or for each seven hundred (700) square feet of gross floor area, whichever is less; plus one space per company vehicle.

ii. Warehousing.
   1. One space per one thousand (1,000) square feet of gross floor area or for each two (2) employees, whichever is greater; plus one space per company vehicle.

iii. Public Utilities (not including business offices).
   1. One space per two (2) employees on the largest shift with a minimum of two (2) spaces required; plus one space per company vehicle.

d. **Public & Institutional**

i. Child Care Center & Similar Uses.
   1. One space per two (2) employees with a minimum of two (2) spaces required.

ii. Churches & Similar Places of Worship.
   1. One space per four (4) seats.

iii. Golf Courses.
   1. Eight (8) spaces per hole; plus additional spaces for auxiliary uses set forth in this *Article*.
   2. Miniature Golf – Four (4) spaces per hole.

iv. Hospitals.
   1. Two (2) spaces per patient bed.

v. Nursing & Convalescent Homes.
   1. One space per three (3) patient beds.

vi. Rest Homes, Homes for the Aged, or Assisted Living.
   1. One space per two (2) patient beds or one space per apartment unit, whichever is greater.

vii. Schools.
   1. *Elementary & Junior High*
      a. One-and-a-half (1½) spaces per classroom, or the requirements for auditoriums as set forth herein, whichever is greater.
   2. *High Schools*
      a. One-and-a-half (1½) spaces per classroom, plus one space per ten (10) students the school is designed to accommodate, or the requirements for auditoriums as set forth herein, whichever is greater.

viii. Colleges, Universities & Trade Schools.
   1. One-and-a-half (1½) spaces per classroom, plus one space per five (5) students the school is designed to accommodate, plus the requirements for on-campus student housing (if applicable).

e. **Unspecified Uses**

i. Where a use is not specifically listed herein, parking requirements shall be determined by finding that a use is similar to those listed in terms of parking needs.

(Adopted: 80-2)
(Amended: 2002-01, 2004-01)

Section 25.040 Parking Location & Shared Parking

1. **Location**
   a. Vehicle parking is allowed only on approved parking shoulders (streets for transient parking), within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this *Ordinance.*

b. Vehicle parking shall be located on the same lot, parcel or tract that the use (residential, commercial, etc.) occupies, unless otherwise provided for within this *Ordinance.*

2. **Off-site Parking**
   a. Except for residential dwellings (not including apartments, etc., with five (5) or more units), the vehicle parking spaces required by this *Article* may be located on another parcel of land provided that the parcel is within a reasonable walking distance of the use it serves and is located within the same Land-Use Zone as the primary use.
      i. A rezoning of a parcel to comply with this *subsection* will not be permitted.
   b. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route.
   c. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement or other similar written instrument.
   d. At no time will off-site parking include parking on a right-of-way or on/within a publicly owned parking lot.
3. **Mixed-Uses**
   a. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
4. **Shared Parking**
   a. Required parking facilities for two (2) or more uses, structures or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract or similar written instrument establishing the joint use.
5. **Availability of Facilities**
   a. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees, as applicable. Signs shall conform to the standards of *Section 14.130.*

(Adopted: 80-2)
(Amended: 2004-01)

Section 25.050 Maximum Number of Parking Spaces

1. The number of parking spaces provided by any particular use in ground surface parking lots shall not exceed the required minimum number of spaces provided by this *Article* by more than fifty percent (50%).
2. Spaces provided on-street, or within the building footprint of structures, such as in rooftop or under-structure parking, or in multi-level parking above or below surface lots, may not apply towards the maximum number of allowable spaces.
3. Parking Spaces provided through “shared parking” also do not apply toward the maximum number.

(Adopted: 2004-01)

Section 25.060 Parking Stall Standard Dimensions & Compact Car Parking

1. All off-street parking stalls shall conform to City standards for surfacing, stormwater management and striping (where applicable). Standard parking spaces shall conform to the following table:

Minimum Parking Space & Aisle Dimensions

Angle	Type	Width	Curb Length	1 Way Aisle Width	2 Way Aisle Width	Stall Depth
Parallel	Standard	8'	22' 6"	12'	24'	8'
	Compact	7' 6"	19' 6"	12'	24'	7' 6"
30°	Standard	9'	18'	12'	24'	17'
	Compact	7' 6"	15'	12'	24'	14'
45°	Standard	9'	12' 6"	12'	24'	19'
	Compact	7' 6"	10' 6"	12'	24'	16'
60°	Standard	9'	10' 6"	18'	24'	20'
	Compact	7' 6"	8' 6"	15'	24'	16' 6"
90°	Standard	9'	9'	24'	24'	19'
	Compact	7' 6"	7' 6"	22'	24'	15'

(Adopted: 80-2)
(Amended: 2004-01)

Section 25.070 Disabled Person Parking Spaces

1. The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act. All required striping, displays and/or signs shall be in conformance with ADA standards. Disabled parking is included in the minimum number of required parking spaces in *Section 25.030* (this requirement does not apply to single-family detached dwellings):

Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2 (5)

Total # of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van Accessible Parking Spaces with Minimum 96" Wide Access Aisle	Accessible Parking Spaces with Minimum 60" Wide Access Aisle
	Column A		
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**
* One out of every 8 accessible parking spaces ** 7 out of every 8 accessible parking spaces			

(Adopted: 2004-01)

Article XXVI. Signs

Section 26.010 Purpose

1. The purpose of this *Article* is to:
    a. Protect the health, safety, property and welfare of the public; Provide a neat, clean, orderly and attractive appearance of the community; Improve the effectiveness of signs generally; Provide for the safe construction, location, erection and maintenance of signs; Prevent proliferation of signs and sign clutter; Minimize adverse visual safety factors to travelers on public rights-of-way and on private areas open to public travel; and Achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

(Adopted: 2010-01)

Section 26.020 Definitions

1. The following definitions shall apply throughout this *Article*:
    a. **Grade.** The curb line or in the absence of a curb line, the edges of the street pavement of the primary access street frontage for all freestanding signs. For signs mounted on a building, grade shall be the sidewalk, street or ground directly below said sign.
    b. **Height of Sign.** The vertical distance of a sign, including any supporting structure, measured from grade to the highest point of the sign or sign structure.
    c. **Off-Premise Sign.** A sign which advertises a business or activity other than that which is conducted or takes place on the premises or property upon which the sign is located.
    d. **Sign.** Any object, structure, symbol, display, banner, streamer or other like thing, with or without lettering, which is intended to or does identify or attract attention to any privately owned property or premises, is intended to or does inform the public of sales, retails, leases or other activities or facts or is intended to or does express a belief or opinion.
    e. **Sign, A-Frame.** A sign not supported by a structure in the ground nor attached to or erected against a structure; capable of being moved.
    f. **Sign, Incidental.** Signs displayed strictly for the direction and safety of the public, such as to identify restrooms, public telephones, parking areas, entrances or exits.
    g. **Sign, Informational.** Signs whose purpose is to give pertinent information concerning services afforded by the business, such as menus, business hours, sales, OLCC regulations, credit cards accepted, etc.
    h. **Sign, Principal.** A sign identifying the principal name or use of a business or property.

(Adopted: 2010-01)

Section 26.030 General Provisions

1. It shall be unlawful for any person to place, erect or maintain any sign within the Nehalem Urban Growth Boundary, except as specifically provided for within this *Article.*
    a. If any aspect of the sign is not clearly provided for within this *Ordinance,* application must be made to the City Manager (or Tillamook County for those properties outside the City) in order for any person to obtain authorization of that aspect.
2. All signs on any single parcel of land must directly pertain to a permitted use on that property, excepting for Open House signs and signs for temporary purposes as contained within *Section 26.050*, or Off-Premise Signs contained within *Section 26.060*.
3. No sign shall be placed, installed or otherwise located in such a manner that could pose a threat to the public's health, safety or welfare; or be materially injurious to properties, facilities, utilities or persons in the area.
4. No sign or supporting structure shall be placed, installed or maintained within any public or private right-of-way, alley or driveway, City-owned or leased property, public or private

sidewalks or walkways open to public use. This subsection doesn't apply to signs owned, installed and/or maintained by the City, County, State or federal government.

5. The maximum aggregate area of all signs shall not exceed thirty-two (32) square feet per side for exterior signs and sixteen (16) square feet for interior signs visible from the exterior, except where a lesser amount is the maximum permitted by some other provision of this *Ordinance*, in which case that lesser amount shall prevail.
   a. In calculating the area of signs, the following shall apply:
      i. All faces of multi-faced signs shall be included; not to exceed sixty-four (64) square feet in aggregate.
      ii. For irregular shaped signs, the area shall be that of the smallest rectangle that will wholly contain the sign.
6. Lettering on all signs shall not exceed twelve (12) inches in height.
7. A-Frame signs shall only be allowed within the Commercial (C), Light Manufacturing (LM) and Marine Residential (MR) Zones. Only one A-Frame is allowed per parcel of land.
   a. The use of an A-Frame must be directly related to the use contained on the property itself and shall only be placed on the same private property. At no time shall A-Frame signs be used as Off-Premise Signs.
      i. EXCEPTION: Public-service and/or non-profit organizations may utilize A-Frame signs as a Temporary Community Event Sign and place such signs on property other than the event's location as long as placement and removal of said sign is on the same day as the event and placement is not within a right-of-way, sidewalk, driveway or public parking space.
   b. A-Frame signs shall only be displayed during normal business hours or while the event, if applicable, is open to the public.
   c. A-Frame signs shall be secured against susceptibility to flooding, wind or other weather events.
   d. A-Frame signs owned or used by the City to advertise a community event, emergency or traffic information, or such other information that the City determines is in the public interest shall be exempt from this subsection.

(Adopted: 2010-01)

Section 26.040 Construction & Maintenance; Enforcement

1. All signs to be located outside of a building that are 16 sq. ft. or larger that will be mounted to and project out from a building or be self-supported (i.e., mounted on a pole or other self-supportive structure, etc.) shall be subject to a Building Permit prior to its construction and/or installation.
   a. For signs located outside of the Incorporated City Limits of Nehalem, Tillamook County shall proscribe which signs and/or supporting structures shall be subject to a Building Permit.
2. All signs and supporting structures, as may be applicable, shall be constructed and maintained in compliance with the current Building and/or Electrical Code in effect and used by Tillamook County Community Development, as well as any other applicable rule or regulation including Flood Zone regulations, at the time of sign construction and/or installation regardless of whether a Building Permit is specifically required or not.
   a. Approval by the City (or Tillamook County as may be applicable) for any sign, whether explicitly approved or implied, shall not constitute a waiver of any other applicable regulation or rule which may exist relating to the construction and/or placement of signs.
3. Every sign and any supporting structure shall be maintained at all times in good structural and physical condition.
4. The City Manager (or Tillamook County for properties outside the City) may inspect and shall have authority to order the repair, alteration or removal of any sign which may constitute a hazard to the public's health, safety or welfare by reason of inadequate

maintenance, dilapidations or obsolescence; or was installed or is being maintained in violation of this *Ordinance* or any other applicable regulation or law.

(Adopted: 2010-01)

Section 26.050 Signs Allowed; Maximum Size

1. The signs listed within this *Section* are conditionally permitted outright, subject to the requirements of *Section 26.060*. Each sign type is restricted to the maximum size listed, in addition to any other applicable provision of this *Ordinance* or other applicable regulation or law.
2. All signs shall be limited to a horizontal and/or vertical maximum length of eight (8) linear feet.
3. The installation, placement or maintenance of any of the following signs shall not constitute a waiver nor imply consent by the City, County, State or federal government to that sign's installation, placement or maintenance:
   a. **Maximum of thirty-two (32) square feet:**
      i. One Principal sign per individual property which identifies the business or use contained within or upon that property.
         1. If a single property contains more than one separate identifiable business or use that are not interrelated, each separate business or use may each have one Principal sign identifying their business or use.
         2. An A-Frame sign shall not be considered nor used as a Principal sign.
         3. If a banner is used, it shall be securely attached at all four corners to the principal business structure.
      ii. Political signs advertising a candidate or an issue.
      iii. Construction and/or contractor signs for new construction, while said construction is occurring.
      iv. Signs containing the name of a subdivision or planned development containing the name of the development.
   b. **Maximum of sixteen (16) square feet each:**
      i. Informational Signs.
      ii. Temporary Community Event signs.
         1. All such signs must be placed on the same premises as the event.
            a. However, such signs may be placed on other private property as long as they are put up and taken down on the same day as the event and are not placed within a right-of-way, sidewalk, driveway or public parking space.
         2. Signs shall not be placed more than thirty (30) days prior to the event, and must be removed within one day after the event.
         3. This subsection shall not apply to signs owned/used by the City or to other signs mounted on the City's Gateway Signs as approved and installed by the City itself.
      iii. Bulletin boards or window space allowing free public access to advertise community events and/or the non-commercial sale of items.
      iv. Real Estate, Open House or off-premise Open House (maximum of 2) signs displayed while the property is for sale.
      v. Home Occupation sign placed on the premises.
      vi. Public memorial tablets, cornerstones or plaques.
      vii. Garage and/or yard sales.
         1. Related off-premise directional signs are limited to two (2) square feet.
         2. All such signs shall not be placed more than one day prior to the sale and must be removed within one day after the sale.
   c. **Maximum of eight (8) square feet each:**
      i. Incidental Signs.

ii. Nameplate for a single-family residence.
iii. Signs identifying individual motel units by name, other than the name of the motel.

d. **Other Signs (No Size Limitation):**
i. Interior signs not readily visible from the exterior of a building.
ii. Flower baskets located on private property.
iii. Flags of national, state or local government, POW/MIA and/or Service Branch.
iv. Holiday decorations or lighting, whether publicly or privately owned, that is common and appropriate for the time of year in which it occurs, and doesn't threaten the public's health, safety or welfare. Properties, along with the City whether within a right-of-way or on its own property, may maintain a string of lights year-round as long as the lights do not exceed five (5) watts per bulb and do not flash or blink.
v. Signs on athletic fields and scoreboards intended for on-premises viewing.
vi. All publicly owned and maintained street, traffic, informational, warning, directional, emergency and regulatory signs including electronic message or speed signs owned, installed or maintained by the City, County, State or federal government.

(Adopted: 2010-01)

Section 26.060 Off-Premise (Billboard) Signs

1. The approval of off-premise signs shall be by the City Planning Commission (or Tillamook County if outside of City Limits).
2. In addition to any other applicable provision of this *Ordinance* or other rule or law, off-premise signs will be allowed only by demonstration of all of the following:
   a. Necessity of the sign to identify the business, use or event; or to provide directions;
   b. Determination (solely made by the Planning Commission or if the issue is appealed, the City Council) that the sign is aesthetically appropriate to its surroundings and does not constitute a safety hazard or detracts from neighboring properties;
   c. It is located only within the Commercial (C) Zone and is no closer than fifteen (15) feet to a public or private right-of-way or street;
   d. That the permitting of the sign will not be detrimental to the public's health, safety or welfare or be materially injurious to properties or facilities in the near vicinity;
   e. Does not exceed thirty-two (32) square feet in size or contain lettering exceeding twelve (12) inches in size; and
   f. If the sign is proposed to be located along State Highway 101, evidence of an approved sign permit issued by the Oregon Department of Transportation as required.
      i. Applications for off-premise signs will not be processed until evidence is provided that ODOT has either approved the applicant's off-premise placement along Highway 101 or that a sign permit isn't required by them. Approval by ODOT for the placement of an off-premise sign shall not be in lieu of nor constitute approval by the City or County for such signs.
3. Applications must be made in writing and in addition to the above, must also include:
   a. The name, address and telephone number of the owner of the property and the owner of the proposed sign (if different);
   b. A signed and dated letter of the property owner approving of the proposed placement of the off-premise sign, if the property owner will not be the owner of the proposed sign;
   c. A non-refundable fee as contained in Ordinance 2001-06, Attachment A;
      i. For applications for off-premise signs outside of City Limits, the fee shall be that set by Tillamook County;
   d. A drawing, to scale, of the proposed sign indicating dimensions, colors, materials, letter size, lighting and proposed location on a property or building as well as the supporting structure;

i. A-Frame signs shall not be allowed nor used as off-premise signs;

e. The size and dimensions of any other sign located on the subject property and/or building.

4. The application process shall be a Quasi-Judicial Land Use Hearing and follow the procedures established in *Article XIX* of this *Ordinance*, including all notification requirements of the applicant(s) and City. If the proposed location of an off-premise sign is outside of City Limits but within the City's UGB, Tillamook County shall proscribe the application process to be used.

(Adopted: 2010-01)

Section 26.070 Specific Prohibitions

1. No sign shall be permitted that:
   a. Is larger than the size allowed for that particular sign or use, as listed within this *Article.*
   b. If attached or unattached to any structure, projects or extends above twenty-four (24) feet from adjacent grade, including the framing or structure used to support or display the sign itself.
   c. Is placed, installed or maintained within any public or private right-of-way, alley or driveway, City-owned or leased property, public or private sidewalks or walkways open to public use. This subsection shall not apply to signs owned, installed and/or maintained by the City, County, State or federal government.
   d. Overhangs in any manner public or private right-of-ways or walkways, whether it be a sidewalk, street, alley or other place where the public has access when the same:
      i. Would project closer than twelve (12) inches to a curb edge; or
      ii. Would be less than eight (8) feet at its lowest point above a walkway surface; or
      iii. Would be less than sixteen (16) feet at its lowest point above a public or private street.
   e. Is located so as to substantially detract from a motorist's view of vehicular or pedestrian traffic, or would otherwise constitute a threat to the public's health, safety or welfare, or imitates or intends to imitate a legal traffic control device or light.
   f. Directs light towards the ground, adjacent properties or a public or private right-of-way or street.
   g. Uses luminescent, fluorescent or phosphorescent paints or materials.
   h. Is flashing, moving, animated, or reflective, or is used as an electronic message or electronic reader board sign where messages can be modified, scrolled, flashed or otherwise changed electronically; or is a fixed light source like neon or is operated as a spotlight or searchlight.
      i. EXCEPTION: Interior neon signs which are visible from the outside of a business within the Commercial (C), Light-Manufacturing (LM) or Marine-Residential (MR) Zones and are no greater than sixteen (16) square feet in size are allowed, and may flash or otherwise move as long as same doesn't use strobe lights or other lights or flashing that imitate strobe lights.
      ii. EXCEPTION: Time, date and/or temperature signs or parts of signs containing the same.
      iii. EXCEPTION: Those signs contained specifically in *Section 26.050 (1)(d)(iv)*.
   i. Contains obscene, indecent or immoral subject matter.
   j. Is attached to, placed or painted upon any vehicle or trailer placed on or adjacent to any public or private right-of-way, unless the vehicle or trailer is used for transport in the normal day-to-day operation of the business or for other incidental travel.

(Adopted: 2010-01)

Section 26.080 Nonconforming Signs

1. If the use of a property and/or the nature of a business upon a property substantially changes, the property owner may maintain all existing nonconforming signs for no more than twelve (12) months. Afterwards, all signs shall conform to the requirements of this *Ordinance.*

2. If an existing nonconforming sign is damaged, modified in any way or replaced, the subsequent sign shall conform to the requirements of this *Ordinance.*
    a. "Modified" as used herein shall not include routine items such as normal maintenance or repair where the dimensions, colors, lettering or other like characteristics of the existing nonconforming sign is not changed in any way.

(Adopted: 2010-01)

Section 26.090 Appeals

1. An applicant may appeal a decision of the City Manager to the Nehalem Planning Commission at a Regular Meeting, or if the decision is rendered by the Planning Commission, to the City Council.
    a. For signs outside City Limits, Tillamook County shall proscribe the manner and method of appeals, including any applicable fees.

(Adopted: 2010-01)