

Lane Code
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**SAND, GRAVEL & ROCK PRODUCTS—
CONTROLLED PROCESSING DISTRICT (SG/CP)**

10.210-05 Purpose.

The provisions of the Sand, Gravel & Rock Products - Controlled Processing District (SG/CP) are intended to provide more restrictive control of processing activities than the Sand, Gravel & Rock Products District (S-G), for the purpose of encouraging the preservation and orderly extraction of sand and gravel deposits and for the protection of surrounding properties by the exercise of greater control over the location and operation of sand and gravel extraction processing activities. It is further intended by the establishment of the SG/CP District that the Comprehensive Plan for Lane County and any pertinent special studies shall be used as a basis to determine where this district would be more appropriate than the S-G District. *(Revised by Ordinance No. 13-72, Effective 7.21.72)*

10.210-20 Regulations.

The requirements of the SG/CP District shall be the same as provided in the S-G District (LC 10.205), except as expressly provided in this Section.

(1) Land Use Compatibility as Operation Standard. The Sand and Gravel Review Committee shall evaluate, in its consideration of operational plans as provided in LC 10.205-81, the location for the erection or enlargement of all processing equipment and activities, including but not limited to asphalt paving-mix and cement concrete batching plants, by the criteria set forth for conditional use permits in this chapter (LC 10.320-20). In addition to these criteria, the Review Committee shall consider compliance with the adopted Comprehensive Plan of Lane County and shall further consider special studies which have been developed for the subject area. Notwithstanding the provisions of LC 10.205-81(1)(e), the Committee shall disapprove all or a part of any portion of any operations plan involving such processing equipment or activities which, in the Committee's judgment, do not conform to the above-described criteria, plans, or studies.

(2) Administration.

(a) In addition to the same administrative procedures as provided in LC 10.205-81(1)(a) through (d), the following procedures shall apply for (1) processing equipment and activities, including, but not limited to, asphalt paving-mix and cement concrete batching plants, and for (2) operations plans which include a request to vary the minimum setback dimensions provided in LC 10.205-21(1) from an SG/CP district boundary.

(i) Review Committee Action. Within seven days after obtaining the necessary recommendations of the Oregon State Land Board or the US Corps of Engineers or other appropriate hydrologic agency, the Review Committee shall (a) approve the plans or require modification in the plans to conform with the requirements of this chapter and with a river design plan which may be adopted by the Board, or (b) disapprove the plans as authorized in LC 10.210-20(1), above.

The Review Committee shall follow LC Chapter 14 when approving, modifying or denying plans. Decisions by the Review Committee may be appealed in the same manner as provided for in LC Chapter 14 for appeals of decisions by the Director.

(ii) Approved Plans. The operator shall be allowed to proceed in accordance with the plans as finally approved by the Sand and Gravel Review Committee, or Board of Commissioners in the event of appeal. The Director of Public Works shall be charged with the duty of determining if there has been compliance with the plans through inspection of the property and examination of the aerial photographs

submitted. When an operator fails to proceed in accordance with the plans, the operation shall be treated as an unauthorized use, and the Director may proceed under the authority of LC 10.400 of this chapter or other applicable laws. The operator shall then be subject to the penalties of LC 10.990 of this chapter or other applicable law, and the continuation or the expansion of the operation may be enjoined to the extent permitted by law.

Variances to dimensional standards provided in LC 10.205-21 shall be considered by the Review Committee as a part of the consideration of operational plans and are subject to the same standards and criteria contained in LC 10.205-81(2). *(Revised by Ordinance No. 13-72, Effective 7.21.72; 16-83, 9.14.83; 20-05, 6.16.20)*

QUARRY AND MINE OPERATIONS COMBINING DISTRICT (/QM)

10.220-05 Purpose.

The purpose of the Quarry and Mine Operations Combining District is to:

- (1) Recognize that minerals and materials within the County are an unrenovable resource, and that extraction and processing are beneficial to the economy of the County and the welfare of its people.
- (2) Protect major deposits of minerals, rock and related material resources with appropriate zoning.
- (3) Establish procedures for the protection of public health and safety on and adjacent to land where quarry and mine blasting operations are occurring.
- (4) Establish County standards in Chapter 10 of the Lane Manual to be used in reviewing referrals from State and Federal Agencies of Operation and Reclamation Plans, pollution control permits and similar permits.
- (5) Provide for cooperation between private and governmental entities in carrying out the purposes of this chapter. *(Revised by Ordinance No. 26-78, Effective 3.16.79; 7-79, 7.11.79)*

10.220-06 Intent.

The Quarry and Mine Operations Combining District shall be available for consideration and use by the County for new or existing operations when requests are received as part of an area-wide or legislative rezoning, or a specific property or quasi-judicial rezoning.

The Approved Authority for such rezonings, shall apply site review procedures as provided in LC 10.335-15(5) as part of the rezoning of a property to ensure that the purpose and requirements of this section are met. In addition to the standard site review criteria (LC 10.335-20), the Approved Authority may, at the time of such zoning, establish other specific site review considerations for a property rezoned under the Quarry and Mine Operations (/QM) Combining District.

When property under consideration for /QM zoning is in close proximity to existing and planned uses potentially incompatible with /QM uses, the application of the Quarry and Mine Operations Combining District may be limited to a specific portion of a property in order to encourage the compatibility and proper management of land uses.

The Quarry and Mine Operations Combining District is intended to be applied only to those operations which will be in operation for 10 years or more and will have an average annual extraction of 30,000 cubic yards or more. Smaller, less intense operations of short term or intermittent duration should be provided pursuant to the Conditional Use provisions of this chapter or, where appropriate, the Forest Management zone which provides for quarrying and mining under certain circumstances.

The Quarry and Mine Operations Combining District may be applied to specific operation sites when it has been determined that the establishment of this district will meet the purposes of the Lane County Comprehensive Plan when combined with the

Exclusive Farm Use 20 (EFU 20), Farm-Forestry 20 (F-F 20); Forest Management (FM); and General Rural (GR 10) zones. *(Revised by Ordinance No. 26-78, Effective 3.16.79; 16-83, 9.14.83)*

10.220-07 Definitions.

For the purposes of this section only, the following words, terms and phrases are defined and supersede definitions otherwise provided in this Code:

Director. The Director of the Lane County Department of Environmental Management.

Minerals. Includes soil, coal, clay, stone, crushed hard rock quarry products, metallic ore and any other solid material or substance excavated for commercial, industrial, or construction use from natural deposits. "Minerals" do not include loam, sand, gravel or other aggregate materials created and/or deposited by water movement.

Mining Refuse. All waste materials, soil, rock, mineral, liquid, vegetation and other materials resulting from, or displaced by quarry and mining extraction operations within the operating permit area, including all waste materials deposited in or upon lands within such operating permit area.

Operations Plan. A written proposal submitted to the State Department of Geology and Mineral Industries under the requirements of ORS 517.790.

Operator. Any individual, public or private corporation, political subdivision, agency, board or department of this State, any municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is engaged in quarry and extraction operations.

Overburden. The soil, rock and similar materials that lie above natural deposits of minerals.

Owner. The person possessing legal rights to the mineral deposit being mined.

Quarry and Mine Extraction. All or any part of the process of removing mineral deposits exposed by any method, including open-pit mining operations, auger mining operations, shaft mining, the construction of borrow pits, processing of extracted minerals and exploration activities.

Reclamation. The employment of procedures in a quarry and mining extraction operation designed to minimize as much as practicable the impact such operations have on the environment, and to provide for the rehabilitation of land affected by such operations. Reclamation includes the rehabilitation of plant cover, soil stabilization, water resource protection and other measure appropriate to the subsequent beneficial use of such mined and reclaimed lands.

Reclamation Plan. A written proposal of the reclamation of the land area affected by a quarry and mine extraction operation submitted to the State Department of Geology and Mineral Industries. *(Revised by Ordinance No. 26-78, Effective 3.16.79; 7-78, 7.11.79)*

10.220-10 Permitted Buildings and Uses.

In the Quarry and Mine Operations Combining District, the following types of buildings and uses are permitted as hereafter specifically provided for by this section, subject to the provisions of the Quarry and Mining Operations Reclamation Permit and exceptions set forth in this chapter.

- (1) Uses permitted in the parent zone with which the /QM zone is combined.
- (2) Extracting and storing of minerals, including equipment and materials necessary to carry out these functions.

- (3) Plants for the processing of minerals from quarry and mine extraction operations.
- (4) Sale of products generated from the quarrying and mining operation.
- (5) Activities permitted as part of the reclamation process provided for in the Reclamation Plan.
- (6) Structures and buildings used in conjunction with the extracting and storing of minerals. *(Revised by Ordinance No. 26-78, Effective 3.16.79)*

10.220-50 Permits for Quarry and Mine Extraction.

(1) General. No quarry or mining extraction or related operations may be initiated on land zoned as Quarry and mine Operations Combining District (/QM) until a surface mining permit has been issued by the Oregon Department of Geology and Mineral Industries.

(a) Each permit application, Operation and Reclamation plan referred to the Director shall be reviewed following the Operation Standards and Reclamation Standards set forth in LM 10.040 through 10-045. *(Revised by Ordinance No. 26-78, Effective 3.16.79; 7-79, 7.11.79)*

10.220-60 Blasting Notice and Records.

Operators using explosives for quarry and mine extraction shall follow explosive regulations and use commonly acceptable engineering standards based on physical conditions and atmospheric conditions of the site so as to prevent injury to persons and damage to public and private property. Except for small blasts in underground mining in remote mining districts [FM Zoning], the following conditions apply.

(1) Notice of Blasting. When blasting is to be done within 500 feet of an occupied building, the operator, or an authorized agent, shall notify all occupants that a blast is to be initiated. Such notice shall be given not more than six hours nor less than 30 minutes prior to detonation and shall include the approximate time of the blast.

(2) Blasting Records. Each operator shall maintain a record of each blast for at least two years. These records shall be available to the County, the State Department of Geology and Mineral Industries and other governmental agencies with appropriate jurisdiction upon request. Such records shall show the following for each blast:

- (a) Name of quarry or mine.
- (b) Date, time and location of blast.
- (c) Description of type of explosives and accessories used.
- (d) Time interval of delay in milliseconds.
- (e) Number of different delays.
- (f) Number of holes per delay.
- (g) Nominal explosive weight per hole.
- (h) Total explosive weight per delay.
- (i) Total weight of explosives per blast.
- (j) Blast hole diameter, depth, spacing and stemming height. *(Revised by Ordinance No. 26-78, Effective 3.16.79)*

10.220-75 Severability.

The provisions of this section are severable. If any subsection, sentence, clause or phrase of this section is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this section. *(Revised by Ordinance No. 26-78, Effective 3.16.79; 7-79; 7.11.79)*

ESTUARY DISTRICT ADMINISTRATION (FCP)

10.225-05 Applicability.

(1) The following two Estuary Zones apply to the Siuslaw River Estuary within the Florence Urban Growth Boundary outside of the city limits: Natural Estuary (NE-FCP) and Conservation Estuary (CE-FCP). These zoning districts implement the requirements of Statewide Planning Goal 16 and policies in the Florence Comprehensive Plan and corresponding “management units.”

(2) Estuary Zoning Districts are applied to portions of the estuary within the Florence Urban Growth Boundary as classified on the Lane County Zoning Map. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.225-10 Resource Capability Assessment.

(1) Purpose: Uses Requiring a Special Use Permit or Conditional Use Permit in the Natural Estuary (NE-FCP) and Conservation Estuary (CE-FCP) Zones are allowed only if determined to be consistent with the Resource Capabilities of the area and the purpose of the management unit in which the use or activity occurs. The purpose of this subsection is to establish a procedure for making a Resource Capabilities Assessment. Major activities or uses in the estuary may require an Estuarine Impact Assessment. Those uses do not also require this Resource Capability Assessment.

(2) Definition of Resource Capability Assessment: An assessment used to determine if a use or activity is consistent with the resource capabilities of an area. Definitions specific to Estuary Management Units (MUs) are as follows:

(a) In the Natural Estuary Zone, a use or activity is consistent with the resource capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

(b) In the Conservation Estuary Zone, a use or activity is consistent with the resource capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

(3) Identification of Resources and Impacts: The required assessment need not be lengthy or complex, but it should enable reviewers to gain a clear understanding of the impacts to be expected. The application for a proposed use or activity in which a resource capability determination must be made must include information on the following. The Planning Director may waive inapplicable items for any particular use or project.

(a) The type and extent of alterations expected.

(b) The type of resources affected. The type of resources likely to be affected by the proposed action must be inventoried. The County must assist the applicant in locating sources of information. Sources which can be used include: Lane County Coastal Resources Inventory, environmental impact statements for the Siuslaw River, or other published information concerning the Siuslaw estuary, or more current resource information from federal or state agencies, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians or other public sources.

(c) 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.

(d) The methods which could be employed to avoid or minimize adverse impacts. Where adverse impacts have been or can be identified, information must be provided on reasonable methods which could be employed to avoid or minimize adverse impacts.

(4) **Resource Capability Assessment:** Information on resources present and impacts to be expected will be evaluated as part of the Special Use Permit or Conditional Use Permit procedure, based on the requirement that the estuary can still function to achieve the purpose of the zone in which the activity will be located. Information developed by resource agencies and information submitted by the applicant may be used in the determination, and will be used whenever possible to reduce duplication of effort between agencies.

(5) **Resource Capability Findings:** Unless fully addressed during the development and adoption of the Florence Comprehensive Plan, actions which would potentially alter the estuarine ecosystem must be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings must be made in approving the use permit, otherwise the permit must be denied:

(a) The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or

(b) The impacts of the use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or

(c) In the Natural Estuary Zone, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education; or

(d) In the Conservation Estuary Zone, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

(6) **Notification of Agencies:** Any application that is subject to the provisions of this section must, at a minimum, be referred to the following:

(a) U.S. Fish and Wildlife Service

(b) U.S. Environmental Protection Agency

(c) U.S. Army Corps of Engineers

(d) National Marine Fisheries

(e) Oregon Dept. of Fish and Wildlife

(f) Oregon Dept. of Land Conservation and Development

(g) Oregon Department of State Lands

(h) Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

(Revised by Ordinance No. 16-11, Effective 2.9.17)

10.225-15 Estuarine Impact Assessment.

(1) **Purpose:** The purpose of this subsection is to provide a procedure for evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. Activities which require an Estuarine Impact Assessment do not also require a Resource Capability Assessment. Uses which are permitted outright do not require an Estuarine Impact Assessment. Uses in Estuary Zones requiring a Special Use Permit or a Conditional Use Permit will require an Estuarine Impact Assessment only when an Environmental Impact Statement (EIS) is required through the Corps of Engineers Section 10/404 permit process.

(2) Information to be presented in the Estuarine Impact Assessment: Information contained in an Estuarine Impact Assessment must be used in the evaluation

of a use or activity during a Special Use Permit or Conditional Use Permit procedure. As part of the permit review, information developed by resource agencies may be requested and used in the determination. Any possibilities of reducing duplication of effort by the County and other agencies will be utilized so long as necessary information is adequately analyzed. Information contained in the Estuarine Impact Assessment may be drawn from available data and analysis contained in the Lane County Coastal Resources Inventory, environmental impact statements and assessments for projects in the Siuslaw River estuary, other published studies pertaining to the Siuslaw River estuary or more current information provided by applicant.

The Estuarine Impact Assessment must apply available information to the following general areas of analysis: the type and extent of alterations expected; the type of resources affected; the expected extent of the impact 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; and the methods which could be employed to avoid or minimize adverse impacts, and as specifically detailed below. The Planning Director may waive inapplicable items for any particular use or project.

(a) Aquatic life forms and habitat, including information on: habitat type and use (e.g., rearing, spawning, feeding/resting, migration), species present, seasonal abundance, sediment type and characteristics and vegetation present. The type of alteration, including information detailing the extent of alteration (e.g., area measurement, depths to which alteration will extend, volumes of materials removed and/or placed as fill), impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.

(b) Shoreland life forms and habitat, including information on: habitat type and use (e.g., feeding, resting or watering areas, flyways), species present, seasonal abundance, soil types and characteristics, and vegetation present. Impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.

(c) Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of naturally occurring water temperatures, changes due to reduction, diversion or impoundment of water.

(d) Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential of erosion or accretion in adjacent areas, changes in the floodplain, decreases in flushing capacity or decreases in rate of water flow from reduction, diversion or impoundment of water resources.

(e) Air quality, including information on: quantities of emissions of particulates, expected inorganic and organic airborne pollutants.

(f) Impact of the proposed project on navigation and public access to the shoreline and aquatic areas.

(g) Demonstration of public need to warrant such a modification to the estuary.

(h) Demonstration that non-water-dependent uses will not preempt existing or future water-dependent use of the area.

(i) Determination of the potential cumulative impact of the proposed development, including alteration of adjacent significant fish and wildlife habitat and essential properties of the estuary.

(j) Presentation of upland alternatives and methods to minimize preventable adverse impacts.

(k) Determination of need for mitigation.

(3) Estuarine Impact Assessment Findings: Unless fully addressed during the development and adoption of the Florence Comprehensive Plan, actions which would potentially alter the estuarine ecosystem must be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings must be made in approving the use permit, otherwise the permit must be denied:

(a) The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or

(b) The use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or

(c) In the Natural Estuary Zone, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education; or

(d) In the Conservation Estuary Zone, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

(4) Notification of Agencies: Any application that is subject to the provisions of this section must, at a minimum, be referred to the following:

(a) U.S. Fish and Wildlife Service

(b) U.S. Environmental Protection Agency

(c) U.S. Army Corps of Engineers

(d) National Marine Fisheries

(e) Oregon Dept. of Fish and Wildlife

(f) Oregon Dept. of Land Conservation and Development

(g) Oregon Department of State Lands

(h) Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.225-20 Consultant's Reports.

Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein; the applicant may be required to submit a supplementary report containing findings prepared by an environmental scientist, hydrologist, engineer, geologist, biologist, or other qualified consultant. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.225-25 Uses Subject to State and Federal Permits.

(1) When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(2) Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to

the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary.

(3) Any authorization for a use allowed within this District must also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.225-30 Emergencies.

Estuarine alterations performed under emergency conditions for which the Department of State Lands or other agency with such authority has issued an emergency permit, does not violate this Chapter. The party performing work must submit a copy of written confirmation of such an emergency permit to the County. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

NATURAL ESTUARY ZONE (NE-FCP)

10.230-05 Purpose.

The purpose of the Natural Estuary Zone (NE-FCP) is to assure the protection of significant fish and wildlife habitats and the continued biological productivity of the estuary and to accommodate the uses which are consistent with these objectives. The boundaries of the NE-FCP zone are determined by the natural estuarine features. The NE-FCP Zone includes all major tracts of salt marsh, tidflats, eelgrass and algae beds. These are as identified on the official Lane County Coastal Zoning Maps. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 16-11, 2.9.17)*

10.230-10 Permitted Uses.

The following uses and no others are permitted outright, provided that no such use involves dredge or fill:

- (1) Undeveloped low-intensity water-dependent recreation.
- (2) Research and educational observations.
- (3) Navigational aids, such as beacons and buoys.
- (4) Protection of habitat, nutrient, fish, wildlife and aesthetic resources.
- (5) Passive restoration measures.
- (6) Maintenance of riprap for protection of uses existing as of October 7, 1977,

unique natural resources, historical and archeological values, and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits; and such maintenance must not increase the size, extent, or scope of the riprap or otherwise alter the estuary.

- (7) Bridge crossings.

(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 13-82, 7.9.82; 7-91, 6.5.91; 10-04, 6.4.04; 16-11, 2.9.17)

10.230-15 Special Uses Approved by Planning Director.

The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to Type II limited land use procedures set forth in LC Chapter 14 upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in LC 230-25, and the purpose of the NE-FCP Zone; and upon satisfaction of the applicable criteria in LC 10.230-30. A Resource Capability Assessment is required as set forth in LC 10.225-10 except for major projects requiring an Estuarine Impact Assessment as set forth in LC 10.225-15.

(1) Bridge crossing support structures and dredging necessary for their installation; and dredging necessary for on-site maintenance of existing functional tidelgates and associated drainage channels.

(2) Expansion of existing riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 5-81, 4.8.81; 6-83, 4.15.83; 7-91, 6.5.91; 16-11, 2.9.17; 20-05, 6.16.20)*

10.230-20 Conditional Uses.

The Hearings Official, subject to Type III procedures of LC Chapter 14, may grant a Conditional Use Permit for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in LC 10.230-25, and the purpose of the NE-FCP Zone, and upon satisfaction of the all of the applicable criteria in LC 10.230-30 and below. A Resource Capability Assessment is required as set forth in LC 10.225-10, except for major projects requiring an Estuarine Impact Assessment as set forth in LC 10.225-15.

(1) Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.

(2) Communication facilities.

(3) Active restoration of fish and wildlife habitat or water quality and estuarine management.

(4) Boat ramps for public use where no dredging or fill for navigational access is needed.

(5) Pipelines, cables and utility crossings, including incidental dredging necessary for their installation.

(6) Temporary alterations, subject to the requirements in the introduction to Conditional Uses and the following additional criteria: the alteration must support a use expressly allowed in this Management Unit in the Florence Comprehensive Plan; it must be for a specified short period of time, not to exceed three years, and the area and affected resources can be restored to their original condition.

(7) Short-term fills for temporary alterations provided the estuarine areas impacted must be restored following removal of the fill. All other fills, regardless of volume, are prohibited in this Management Unit.

(8) Installation of new riprap for protection of uses existing as of October 7, 1977, unique natural resource, historical and archaeological values; and public facilities. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 5-81, 4-8-81; 6-83, 4.15.83; 16-83; 9.14.83; 7-91, 6.5.91; 16-11, 2.9.17; 20-05, 6.16.20)*

10.230-25 Consistency with Resource Capabilities.

A use or activity is consistent with the resource capabilities of the Natural Estuary Zone when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.230-30 Alterations to Estuary.

Dredging and fill and other activities which could potentially alter the estuary are prohibited in this Zone except as expressly permitted through a Special Use Permit or

Conditional Use Permit in LC 10.230-15 or -20. When allowed in LC 10.230-15 or -20, these uses or activities must meet all of the following criteria:

- (1) No feasible alternative upland locations exist;
- (2) The activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in LC 10.230-10, -15 and -20;
- (3) Land use management practices and non-structural solutions to problems of erosion and flooding are preferred to structural solutions. Where shown to be necessary and as allowed in LC 10.230-15 or -20, dredging and fill (whether located in the waterways or on shorelands above ordinary high water mark) must be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
- (4) Dredge or fill activities, found to be subject to state mitigation requirements, must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and
- (5) All federal and state requirements, including mitigation requirements, are met as a condition of approval. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

CONSERVATION ESTUARY ZONE (CE-FCP)

10.235-05 Purpose.

The purpose of the Conservation Estuary Zone (CE-FCP) is to provide for the long-term use of the estuary's renewable resources in ways which do not require major alteration of the estuary. Providing for recreational and aesthetic uses of the estuarine resources as well as maintenance and restoration of biological productivity are primary objectives in this District. The boundaries of the CE-FCP Zone are defined by natural features. The CE-FCP Zone includes minor tracts of salt marsh, tidflats, eelgrass and algae beds; and those not included in the Natural Estuary Zone (NE-FCP). This Zone also includes oyster and clam beds and areas immediately adjacent to developed estuarine areas. These are as identified on the official Lane County Coastal Zoning Maps. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 16-11, 2.9.17)*

10.235-10 Permitted Uses.

The following uses and no others are permitted outright, provided that no such use involves dredge or fill:

- (1) All uses permitted outright in the Natural Estuary Zone, LC 10.230-10.
- (2) Maintenance of existing riprap which is currently serviceable and was previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance must not increase the size, extent, or scope of the riprap, or otherwise alter the estuary.
- (3) Maintenance and repair of existing, functional, public and private docks and piers, provided that the activity: does not require dredging or fill of the estuary; minimizes adverse impacts on estuarine resources; and does not alter the size, shape, or design of the existing structure, or otherwise alter the estuary. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 17-80, 8.6.80; 7-91, 6.5.91; 10-04, 6.4.04; 16-11, 2.9.17)*

10.235-15 Special Uses Approved by the Planning Director.

The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to Type II limited land use procedures set forth in LC Chapter 14 upon affirmative findings that the use is consistent with the

resource capabilities of the area, as defined in LC 10.235-25, and the purpose of the CE-FCP Zone; and upon satisfaction of the applicable criteria in LC 10.235-30. A Resource Capability Assessment is required as set forth in LC 10.225-10 except for major projects requiring an Estuarine Impact Assessment as set forth in LC 10.225-15.

(1) All uses permitted through a Special Use Permit in the Natural Estuary Zone in LC 10.230-15.

(2) Expansion of existing riprap, provided the riprap is necessary to protect an existing use or a use that is permitted outright or with Special Use Permit approval. The existing riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits. *(Revised by Ordinance No. 12-80, Effective 7.24.80; 6-83, 4.15.83; 16-83, 9.14.83; 16-11, 2.9.17; 20-05, 6.16.20)*

10.235-20 Conditional Uses.

The Hearings Official, subject to the Type III procedures of LC Chapter 14, may grant a Conditional Use Permit for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in 10.235-25, and the purpose of the CE-FCP Zone, and upon satisfaction of all of the applicable criteria in LC 10.235-30 and -35. A Resource Capability Assessment is required as set forth in 10.225-10, except for major projects requiring an Estuarine Impact Assessment as set forth in 10.225-15.

(1) All Conditional Uses in the Natural Estuary Zone in LC 10-230-20.

(2) Water-dependent uses requiring occupation of water surface area by means other than dredge or fill (e.g., on pilings or floating), including mooring buoys which are permanently anchored to estuary floor, dolphins, docks and piers, and other such uses.

(3) High-intensity water-dependent recreation, including public beaches, boat ramps, marinas and new dredging for boat ramps and marinas.

(4) Minor navigational improvements.

(5) Aquaculture requiring dredge or fill or other alteration of the estuary.

(6) Active restoration for purposes other than those listed above.

(7) Installation of new riprap, provided the riprap is necessary to protect an existing use or a use that is permitted outright or with Special Use Permit or Conditional Use Permit approval. *(Revised by Ordinance No. 16-11, Effective 2.9.17; 20-05, 6.16.20)*

10.235-25 Consistency with Resource Capabilities.

A use or activity is consistent with the resource capabilities of the Conservation Estuary Zone when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or the resources of the area are able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.235-30 Alterations to Estuary.

Dredging and fill and other activities which could potentially alter the estuary are prohibited in this Zone except as expressly permitted through a Special Use Permit or Conditional Use Permit in LC 10.235-15 or -20. When allowed in LC 10-235.15 or -20, these uses or activities must meet all of the following criteria:

(1) No feasible alternative upland locations exist;

(2) The activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in LC 10.235-10, -15, and -20;

(3) Land use management practices and non-structural solutions to problems of erosion and flooding are preferred to structural solutions. Where shown to be necessary and as allowed in LC 10.235-15 or -20, dredge and fill, whether located in the waterways or on shorelands above ordinary high water mark, must be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

(4) Dredge or fill activities must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and

(5) All federal and state permit requirements, including mitigation requirements, are met as a condition of approval. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

10.235-35 Public and private piers and docks.

Public and private piers and docks must meet the following additional criteria:

(1) The size and shape is limited to that required for the intended use.

(2) The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.

(3) For private, individual, single-purpose docks and piers, the applicant must attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility. *(Revised by Ordinance No. 16-11, Effective 2.9.17)*

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