

EXHIBIT C

14.01.001 PURPOSE

The several purposes of this ordinance are: To implement the Comprehensive Plan; to encourage the most appropriate use of the land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open spaces for light and air; to lessen the congestion on streets; to allow for orderly growth in the city; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and, in general, to promote public health, safety, convenience, and general welfare. The standards and conditions contained herein have been reviewed and deemed consistent with Comprehensive Plan policies.*

14.01.010 DEFINITIONS

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Accessory Structure or Use.** A structure or use incidental and subordinate to the primary use of the property and which is located on the same lot or parcel as the primary use or is on a contiguous lot or parcel under the same ownership. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

Adult Recreation Facility. A facility or that portion of a facility that may have any uses allowed in family recreation facilities. In addition, card rooms, taverns, and bars are also adult recreation facilities. Social gambling, as defined by Oregon law and city ordinance, may occur. Alcoholic beverages may be sold and consumed.

Alley. A narrow street 25 feet or less through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street. Frontage on said alley shall not be construed as satisfying the requirements of this Ordinance related to frontage on a dedicated street.

Apartment House. A residential structure having multiple residential living units where more than 50 percent of the units are rented for not less than 30 days at a time.

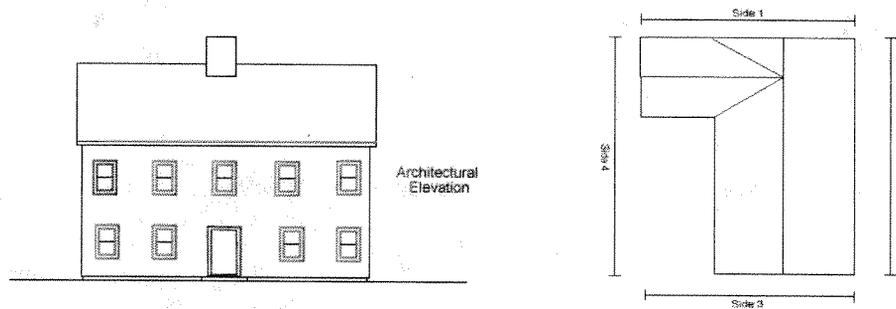
Applicant. A person who applies for a land use action or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

Architectural Elevation.*** A scale drawing of the four sides of a building, one each for the front, two sides and rear, from grade to the highest point of the building. The four sides shall show the entire perimeter of the building and shall be centered on each side. The four sides shall be at 90 degrees to each adjacent side.

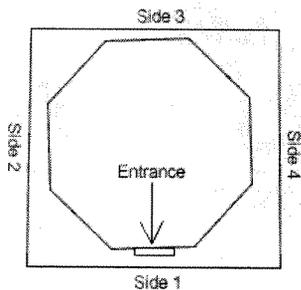
(* Last sentence added by Ordinance No. 1622 (10-7-91).

**Definition amended by Ordinance No. 2011 (2-18-11).

*** Definition added by Ordinance No. 1839 (10-1-01).



For a building with many sides or a non-rectangular shape, a rectangle shall be drawn around the outside of the building. Side 1 shall be centered on the entry to the building and each of the other three sides shall be 90 degrees to the adjacent side. Architectural elevations for use in the building height calculation shall be drawn for each side of the rectangle.



Assisted Living Facility.* A facility licensed by or under the authority of the Department of Human Resources (DHR) per Oregon Administrative Rule 411-56-000, which provides or coordinates a range of services for elderly and disabled persons in a home-like environment. An assisted living facility is required to provide each resident with a separate living unit with a lockable door to guarantee their privacy, dignity, and independence.

(* Definition added by Ordinance No. 1790 (7-6-98).

Automobile Service Station. A building or portion thereof and land used for dispensing automobile fuel, oil, and accessories. Automobile repairs may

be made that do not produce an unreasonable or excessive amount of dust, odor, smoke, fumes, or noise. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Bed and Breakfast Facility.* An owner occupied single-family dwelling containing not more than five (5) guest rooms, where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.

*(*Definition added as a part of Ordinance No. 2032, adopted on April 2, 2012, and effective on July 1, 2012.)*

Boarding, Lodging, or Rooming House.* A building or portion thereof containing a single dwelling unit where a group of four or more unrelated persons may live but not more than 20 unrelated persons. A boarding, lodging, or rooming house may be occupied and managed by a family in addition to the four to twenty unrelated persons. Where such a facility has a majority of the residents residing for 30 days or longer, it shall be considered a residential use and a boarding house. If the majority of such occupancy is for less than 30 continuous days, the facility shall be considered transient and the same as a hostel. Where such a facility is occupied by more than 20 unrelated persons, or where such a facility has more than one kitchen, it shall be considered a hotel or motel.

Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Child Care Facility.** A day care provider who regularly provides day care to 12 or fewer children under the age of 13 in the provider's home in the family living quarters.

(Definition amended by Ordinance No. 1447 (12-16-85).*

*** Definition amended by Ordinance No. 1622 (10-7-91).)*

City. The City of Newport, Oregon.

Commission. The City Planning Commission of the City of Newport, Oregon.

Conditional Use. A use that may be permitted depending upon the individual circumstances. A conditional use permit will not be issued or shall be so conditioned so that neither the public nor neighboring property owners are unduly affected in an adverse way.

Condominiums. A form of ownership where buildings are subdivided into individual units such that each owner only owns his own unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party walls, corridors, and services other than those within independent units (such as electrical, water, gas, sewer, etc.) become joint responsibilities of all the owners as tenants in common.

Court. An open, unoccupied space on the same lot with the building or buildings and which is bounded on two or more sides by such building or buildings. An open, unoccupied space bounded by one "L" shaped building, which is not a court but a yard.

Court Apartments. Multiple dwellings arranged around two or three sides of a court opening upon a street.

Day Care Facility.* Any facility that provides care, supervision, and guidance on a regular basis to more than 12 children under the age of 13 unaccompanied by a parent, guardian, or custodian during a part of the 24 hours of the day in a place other than the child's home, with or without compensation. A day care facility does not include any of the following:

- A. A facility providing care that is primarily educational, unless provided to a preschool child for more than four (4) hours a day. Such facilities shall be considered a school.
- B. A facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion. Such facilities shall be considered the same as a school.
- C. A 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. A facility operated by a school district, political subdivision of the State of Oregon, Lincoln County, the City of Newport, or another governmental agency.
- E. Day care facilities are subject to (1) the rules and regulations established by the State of Oregon Children's Services Division and (2) the following:
 1. Compliance with the requirements of Section 14.33.001.
 2. The provision of off-street parking at one (1) space per staff member.
 3. A solid fence or hedge at least six (6) feet in height around the rear yard.

Dwelling, Duplex; or Dwelling, Two-Family. A detached building containing two dwelling units.

Dwelling, Triplex; or Dwelling, Three-Family. A detached building containing three dwelling units.

Dwelling, Fourplex; or Dwelling, Four-Family. A detached building containing four dwelling units.

Dwelling, Multi-Family. A building containing five or more dwelling units.

Dwelling, Single-Family. A detached building containing one dwelling unit.

(Entire section amended by Ordinance No. 1416 (1-7-85); entire section again amended by Ordinance No. 1622 (10-7-91).)*

Dwelling Unit. One or more rooms designed for occupancy by one family and not having more than one cooking facility.

Family.* An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or not more than five persons not related by blood, marriage, or adoption living together in a dwelling unit. A family is also five or fewer physically or mentally handicapped persons living as a single housekeeping unit in a dwelling.

Family Recreation Facility. A facility designed for active indoor recreation, including a billiard parlor, dance hall, bowling alley, skating rink, teen club or youth center, arcade, indoor swimming pool, indoor tennis court, miniature golf course, and similar uses. No alcoholic beverages may be consumed or sold, nor may gambling occur in a family recreation facility. A supervisory employee must be present at all times, and public restrooms must be provided.

Garage, Private. An accessory building detached or part of the main building including a carport which is intended for and used for storing the privately owned motor vehicles, boats, and trailers of the persons resident upon the premises and in which no business, service, or industry related to motor vehicles is carried on.

Garage, Public. A "public or commercial garage" is a building or part of a building or space used for business or commercial purposes used principally for the repair, equipping, and care of motor vehicles and where such vehicles may be parked or stored.

Geologic Hazards.** A geologic condition that is a potential danger to life and property which includes but is not limited to earthquakes, landslides, erosion, expansive soils, fault displacement, and subsidence.

Grade. The average of the finished exterior ground level at the corners of each architectural elevation of the building. In case an architectural elevation is parallel to and within five feet of a sidewalk or on top of a retaining structure, the grade for that one architectural elevation shall be measured at the sidewalk or base of the retaining structure.

Height of Building. The vertical distance from the "grade" to the highest point of the roof.

Home Occupation.*** An accessory use of a dwelling unit for gainful employment involving provision or sale of goods and/or services and the

creation of handicrafts and artwork and is incidental to the primary use of the building or residence.

(Entire definition amended by Ordinance No. 1622 (10-7-91).*

*** Definition added by Ordinance No. 2017 (8-17-2011).*

****Definition amended by Ordinance No. 1627 (1-21-92.)*

Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

Hostel.* A single building containing a single dwelling unit where four or more (but not more than 20) unrelated individuals may live for not more than 30 continuous days. A hostel may be occupied and managed by a family in addition to the 4-20 persons renting facilities. If there are more than 20 persons at maximum occupancy, such a facility shall be considered a hotel or motel for the purposes of this Ordinance except for parking requirements. Hostels shall meet the requirements of the Uniform Building Code for maximum occupancy.

Hotel. A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), with or without cooking facilities, and where more than 50 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days. A bed and breakfast facility or a vacation rental conducted in a single family dwelling or individual dwelling unit is not a hotel use.*

*(*Definition added as a part of Ordinance No. 2032, adopted on April 2, 2012, and effective on July 1, 2012.)*

Junk Yard. Any property used by a business that deals in buying and selling old motor vehicles, old motor vehicle parts, abandoned automobiles, or machinery or parts thereof, or appliances or parts thereof, or iron, paper, or waste of discarded material.

Kennel. A lot or building in which four or more dogs, cats, or animals at least four months of age are kept. Any building containing more than one dwelling unit shall be considered a lot or building for the purposes of this item.

Land Use Action. The procedure by which the City of Newport makes a land use decision.

Land Use Decision. In general, a final decision or determination that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, or a land use regulation. Specifically, a city decision as defined by ORS 197.015(10).

Laundromat.* An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public for family

laundering or dry cleaning purposes.

(* Definition amended by Ordinance No. 1356 (1-3-84).)

Loading Space. An off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading

Lot. A parcel or tract of land which is occupied or may be occupied by a structure or a use, together with yards and other open space.

Lot Area. The total horizontal area within the lot lines of a lot.

Lot Corner. A lot at least two adjacent sides of which but streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

Lot, Corner, Reversed. A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear where the lot to the rear is of the prevailing yard pattern.

Lot Frontage. The front of a lot is the portion nearest the street. In no case shall the frontage (or front lot line) be less than 25 feet.

Lot, Interior. A lot other than a corner lot.

Lot, Through. A lot having frontage on two parallel or approximate parallel streets other than alleys.

Lot Line. The property line abounding a lot. Where the lot line extends below ordinary high tide, ORS 390.615 shall apply. Where the lot line extends below ordinary high water, ORS 274.025 shall apply.

Lot Line, Front. In the case of an interior lot, a straight line joining the foremost points of the side lot lines. The foremost points of the side lot, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding, and, in the case of a corner lot, all sides of a lot adjacent to streets other than alleys shall be considered frontage.

Lot Line, Rear. In the case of an interior lot, a straight line joining the rearmost points of the side lot lines, and in the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line, and in the case of through lots, there will be no rear lot line. All corner lots shall have at least a 10 foot rear yard.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot Measurements.

A. Depth of a lot is the mean horizontal distance between the front lot line and rear lot line of a lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between front lot lines and the respective lot lines opposite each other.

B. Width of a lot is the mean horizontal distance between side lot lines (of side and front lot lines for corner lots) perpendicular to the lot depth.

Lumber and Other Building Materials Dealer. Establishment engaged in selling lumber and a general line of building materials to the general public (see State Industrial Code 5211).

Lumber Yard. A place of storage in connection with the wholesaling of lumber by a manufacturer such as a planing mill, a sawmill, or a producer of mill work (see S.I.C. 2411, 2421, 2426, 2429, and 2431).

Manufactured Dwelling.* A manufactured home, mobile home, or residential trailer.

(* Definition added by Ordinance No. 1641 (8-3-92) and amended by Ordinance No. 2008 (12-2-2010).

Manufactured Dwelling Park.** Any place where four or more manufactured dwellings are located on a lot or parcel of land the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

** Definition added by Ordinance No. 2008 (12-2-2010).

Manufactured Home.*** A structure constructed after June 15, 1976, for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

***Definition added by Ordinance No. 1641 (8-3-92) and amended by Ordinance No. 2008 (12-2-2010).

Mini-Storage. Individual small warehouse units.

Ministerial Action. A decision that does not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. The review of a ministerial action requires no notice to any party other than the applicant and agencies that the Community Development Director, or designee, determines may be affected by the decision. A ministerial action does not result in a land use decision, as defined in ORS 197.015(10).

Mobile Home.**** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes;

and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law at the time of construction.

*****Definition amended by Ordinance No. 1641 (8-3-92).*

Motel. A building or group of buildings in which lodging is provided for guests for compensation, containing guest units with separate entrances from the building exterior, with or without cooking facilities, and where more than 40 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days. A bed and breakfast facility or a vacation rental conducted in a single family dwelling or individual dwelling unit is not a motel use.*

*(*Definition added as a part of Ordinance No. 2032, adopted on April 2, 2012, and effective on July 1, 2012.)*

Nonconforming Lot.**** A lot legally existing on the effective date of this Ordinance that does not meet the minimum area requirement of the district in which the lot is located.

***** Definition added by Ordinance No. 1996 (1-7-2010).)*

Nonconforming Structure or Use.* A legally established structure or use in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the regulations of the zoning district in which it is located. A use approved under criteria that have been modified or are no longer in effect is considered nonconforming.

(Definition amended by Ordinance No. 1996 (1-7-2010).*

Nursing Home. A nursing home provides 24 hour direct medical, nursing, and other health services. Registered nurses, licensed practical nurses, and nurses' aides provide services prescribed by resident(s) physician(s). A nursing home is for those persons who need health supervision but not hospitalization. The emphasis of this use is on nursing care, but convalescent, restorative physical, occupational, speech, and respiratory therapies are also provided. The level of care may also include specialized nursing services such as specialized nutrition, rehabilitation services and monitoring of unstable conditions. The term nursing home is also synonymous with the terms nursing facility and skilled nursing facility.

Open Porch. A roofed, open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

Parking Lot, Public. An open, off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge, or as an accommodation for clients and customers.

Person. Every natural person, firm partnership, association, or corporation.

Planned Development. The development of an area of land as a single

entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by the ordinance.

Primary Structure or Use. A structure or use of chief importance or function on a site. A site may have more than one primary structure or use.

Public Facilities.** Sanitary sewer, water, streets (including sidewalks), storm water, and electricity.

*** Definition added by Ordinance No. 1991 (1-1-2010)*

Recreational Vehicle (RV).*** A vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes and has a gross floor space of not more than 400 square feet in the setup mode.

**** Definition amended by Ordinance No. 1641 (8-3-92) and amended by Ordinance No. 2008 (12-2-2010).*

Recreational Vehicle Park.**** A place where two or more recreational vehicles are located on a lot or parcel of land, the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

***** Definition amended by Ordinance No. 2008 (12-2-2010).*

Recreational Vehicle Storage. Storage for more than two recreational vehicles. No occupancy allowed.

Residential Care Home. A residential facility, as defined in ORS 443.400, which provides residential care and/or treatment to five or fewer individuals, excluding caregivers, with mental or other developmental disabilities; mental, emotional, or behavioral disturbances; or alcohol or drug dependence. This definition includes the state definitions of "residential training home" and "residential treatment home."

Residential Facility.* A facility licensed by or under the authority of the Department of Human Services (DHS) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Required staff persons shall not be counted in the number of facility residents. This definition includes the state definitions of "residential care facility," "residential training facility," and "residential treatment facility."

(Definition added by Ordinance No. 1622 (10-7-91).*

Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is

intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.

*** Definition added by Ordinance No. 1641 (8-3-92) and amended by Ordinance No. 2008 (12-2-2010).)*

Residential Unit. See definition of Dwelling Unit.*

*(*Definition added by Ordinance No. 2032, adopted April 2, 2012, effective July 1, 2012.)*

Setback. The minimum distance required between a specified object, such as a building and another point. Typically, a setback refers to the minimum distance from a building to a specified property line to provide a required yard.

Street. The term is defined in Section 13.05.005(J) of the Newport Subdivision Ordinance.

Structural Alteration. Any change to the supporting members of a building including foundation, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.

Structure. That which is built or constructed. An edifice or building or any kind of any piece of work artificially built up or composed of parts joined together in some manner and which require location on the ground or which is attached to something having a location on the ground.

Temporary Structures.* Trailers, mobile homes, prefabricated buildings, or other structures that can readily be moved or which are not attached in a permanent manner to a permanent foundation and are used for residential or business purposes.

Temporary Vending Carts.** A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 14.08.050.

(Definition added by Ordinance No. 1644 (9-8-92).*

***Definition added by Ordinance No. 2001 (4-14-10).)*

Terrace. An open porch without a permanent roof and not over 30 inches in height (not requiring a railing according to the Uniform Building Code).

Town House. Buildings that are subdivided into individual units such that each owner owns his own unit and also has entitlement to the parcel of land upon which his unit is located.

Tourist. A person or group of people who are traveling for pleasure or are of a transient nature.

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

Vacation Rental. A dwelling unit containing not more than five (5) guest rooms that is rented for less than 30 consecutive days.*

**(Definition added by Ordinance No. 2032, adopted April 2, 2012, effective July 1, 2012.)*

Wetlands.* Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(Definition added by Ordinance No. 1622 (10-7-91).)*

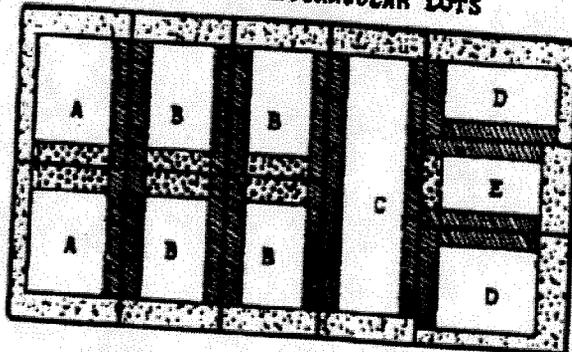
Yard. An open space on a lot which is unobstructed by any building from the ground upward, except as otherwise provided in this ordinance. Yard depth is always measured horizontally and perpendicular to the respective lot line.

Yard, Front. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lots. In the case of corner lots, front yards shall be required as shown in Illustration A and in Table A.

Yard, Rear. A yard extending across the width of the lot between the inner side yard lines, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the lesser depth second front yard.

Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the normal front yard and lesser depth second front yard have been established shall be considered to be side yards. The accompanying Illustration A indicates the location of yards on rectangular and non-rectangular lots.

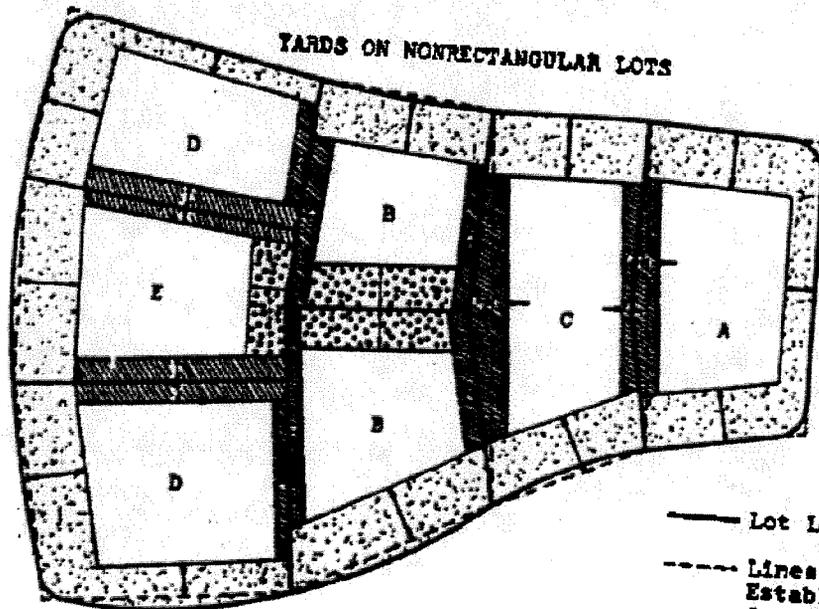
YARDS ON RECTANGULAR LOTS



- A-Corner Lot
- B-Interior Lot
- C-Through Lot
- D-Reversed Frontage Corner Lot
- E-Reversed Frontage Interior Lot

YARDS- FRONT SIDE REAR

YARDS ON NONRECTANGULAR LOTS



- Lot Lines
- - - Lines Established for Yard Measurement
- Yard Lines

YARDS- FRONT SIDE REAR

14.02.001 ESTABLISHMENT OF ZONES *(2-1-2.010 of NZO)*

In order to carry out the purpose and provisions of this Code, the following zones are hereby established:

<u>Abbreviated Zone</u>	<u>Designation</u>
Low Density Residential	(R-1)
Low Density Residential	(R-2)
High Density Residential	(R-3)
High Density Residential	(R-4)
Retail Commercial	(C-1)
Tourist Commercial	(C-2)
Highway Commercial	(C-3)
Light Industrial	(I-1)
Medium Industrial	(I-2)
Water Dependent	(W-1)
Water Related	(W-2)
Management Unit 1	(Mu-1)
Management Unit 2	(Mu-2)
Management Unit 3	(Mu-3)
Management Unit 4	(Mu-4)
Management Unit 5	(Mu-5)
Management Unit 6	(Mu-6)
Management Unit 7	(Mu-7)
Management Unit 8	(Mu-8)
Management Unit 9	(Mu-9)
Management Unit 10	(Mu-10)
Public Buildings and Structures	(P-1)
Public Recreation	(P-2)
Public Open Space	(P-3)
Mobile Homes	(M-H)

14.02.010 ESTABLISHMENT OF A ZONING MAP

- A. The location and boundaries of the zones designated in Section 14.02.010 are hereby established as shown on the map entitled: "Zoning Map of the City of Newport", which, together with all explanatory matter thereon, is hereby adopted by reference and designed to be a part of this Code.
- B. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Recorder, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 2-1-3 of Ordinance No. 1308 of the City of Newport, Oregon", together with the date of the adoption of this Ordinance.
- C. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries portrayed on the Official Zoning Map, such

changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the City Council, together with the ordinance number and date of said change.*

- D. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the City Recorder, shall be the final authority as to current zoning status of land and water areas, buildings, and other structures in the city.
- E. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.
- F. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Recorder, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. _____ of the City of Newport, Oregon".

14.02.020 ZONE BOUNDARIES (2-1-3.045 of NZO)

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules may apply:

- A. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shore lines shall be construed to follow the mean higher high water line of such shore lines, and, in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines. Areas below the

mean higher high water or the line of non-aquatic vegetation in the estuarine area shall be considered to be in the estuarine management unit rather than the adjacent shore land zone.

(Amended by Ordinance No. 1656 (1-4-93).)*

- F. Boundaries indicated as parallel to or extensions of geographic features indicated in Subsections A through E, above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.
- G. Where a zone boundary divides a lot between two zones, the entire lot shall be placed in the zone that accounts for a greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet.

14.03.001 ZONING DISTRICTS*

14.02.010. Purpose. It is the intent and purpose of this section to establish zoning districts for the City of Newport and delineate uses for each district. Each zoning district is intended to service a general land use category that has common location, development, and use characteristics. The quantity and availability of lands within each zoning district shall be based on the community's need as determined by the Comprehensive Plan. Establishing the zoning districts also implements the General Land Use Plan Map as set forth in the Comprehensive Plan.

14.03.020. Establishment of Zoning Districts. This section separates the City of Newport into four (4) basic classifications and thirteen (13) use districts as follows:

A. Residential.

1. R-1 Low Density Single-Family Residential.
2. R-2 Medium Density Single-Family Residential.
3. R-3 Medium Density Multi-Family Residential.
4. R-4 High Density Multi-Family Residential.

B. Commercial.

1. C-1 Retail and Service Commercial.
2. C-2 Tourist Commercial.
3. C-3 Heavy Commercial.

C. Industrial.

1. I-1 Light Industrial.
2. I-2 Medium Industrial.
3. I-3 Heavy Industrial.

D. Water Related.

1. W-1 Water Dependent.
2. W-2 Water Related.

E. Public.

1. P-1 Public Structures.
2. P-2 Public Parks.
3. P-3 Public Open Space.

**Section 2-2-6.010 amended by Ordinance No. 1336 (7-5-83); Section 2-2-4 amended by Ordinance No. 1344 (11-7-83); Sections 2-2-1 and 2-2-6 amended by Ordinance No. 1356 (1-3-84); Sections 2-2-3, 2-2-4, 2-2-5, 2-2-6, and 2-2-7 amended by Ordinance No. 1447 (12-16-85); Section 2-2-6.015 amended by Ordinance No. 1468 (8-19-86); Section 2-2-4 amended by Ordinance No. 1526 (11-7-88); Section 2-2-2.010 amended by Ordinance No. 1565 (14.36.0010); Section 2-2-4 amended by Ordinance No. 1567 (14.36.0010); the above became obsolete when Sections 2-2-1 through 2-2-12 were totally amended by Ordinance No. 1575 (7-2-90); and then the entire Section was repealed and replaced by Ordinance No. 2022 (10-20-11).*

14.03.030. City of Newport Zoning Map. The zoning districts established by this section are officially identified on the map entitled "City of Newport Zoning Map," by reference incorporated herein. Zoning district boundaries, as shown on the official map, shall be construed as follows:

- A. City limit lines;
- B. Platted lot lines or other property lines as shown on the Lincoln County Assessor's plat maps;
- C. The centerline of streets, railroad tracks, or other public transportation routes;
- D. The centerline of streams or other watercourses as measured at Mean Low Water. In the event of a natural change in location of the centerline of such watercourse, then the zoning district boundary shall be construed to moving with the channel centerline; and
- E. The Mean Higher High Tide Line.

14.03.040 Intent of Zoning Districts. Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

R-1/"Low Density Single-Family Residential." The intent of the R-1 district is to provide for large lot residential development. This district should also be applied where environmental constraints such as topography, soils, geology, or flooding restrict the development potential of the land.

R-2/"Medium Density Single-Family Residential." The intent of this district is to provide for low density, smaller lot size residential development. It is also the ambition of this district to serve as a transitional area between the low density residential district and higher density residential districts.

R-3/"Medium Density Multi-Family Residential." This district is intended for medium density multi-family residential development. It is planned for areas that are able to accommodate the development of apartments. New R-3 zones should be near major streets, on relatively flat land, and near community or neighborhood activity centers.

R-4/"High Density Multi-Family Residential." This district is intended to provide for high density multi-family residential and some limited commercial development. New R-4 zones should be on major streets, on relatively flat land, and near commercial centers.

C-1/"Retail and Service Commercial." The intent of the C-1 district is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose.

Manufacturing, processing, repair, storage, or warehousing is prohibited unless such activity is clearly incidental to the business and occupies less than 50% of the floor area.

C-2/"Tourist Commercial." The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents.

C-3/"Heavy Commercial." The intent of this zone is to provide for commercial uses that are frequently incompatible with retail and service commercial uses. This zone is also intended to provide uses that utilize more than 50% of the floor area for storage, repair, or compounding of products but do not constitute a nuisance because of noise, dust, vibration or fumes.

I-1/"Light Industrial." The intent of this zone is to provide for commercial and industrial uses that can be located near residential or commercial zones. Uses that are associated with excessive noise, dust, vibration, or fumes shall be prohibited.

I-2/"Medium Industrial." The intent of this zone is to provide areas suitable for industrial activities, including manufacturing, fabricating, processing, packing, storage, repairing, and wholesaling. This classification should be applied to industrial areas having good access to transportation facilities and not near residential zones.

I-3/"Heavy Industrial." The intent of this zone is to provide for industrial uses that involve production and processing activities generating noise, vibration, dust, and fumes. Typically, this zone requires good access to transportation, large lots, and segregation from other uses due to nuisances.

W-1/"Water-Dependent." The intent of the W-1 district is to protect areas of the Yaquina Bay Shorelands, as identified in the Newport Comprehensive Plan, for water-dependent uses. For purposes of this section, a water-dependent use is one which needs contact with or use of the water for water-borne transportation, recreation, energy production, or water supply. All uses in a W-1 district shall comply with the following standards:

- A. Existing water-dependent uses or future water-dependent uses anticipated by the Comprehensive Plan shall not be preempted or restricted by non-water-dependent uses. In determining whether or not a use preempts or restricts a water-dependent use, the following shall be considered:
 1. Water-related uses accessory to and in conjunction with water-dependent uses.
 2. Temporary or mobile uses such as parking lots or temporary storage areas.

- 3. Incidental and accessory non-water-dependent uses sharing an existing structure with a water-dependent use.
- B. Applicable policies in the Yaquina Bay Estuary and Yaquina Bay Shoreland sections of the Comprehensive Plan shall be followed.
- C. In determining whether a conditional use should be allowed, consideration shall be given to whether the site or portion thereof is within an area designated as especially suited for water-dependent or water-related uses in the Comprehensive Plan. If the property is within that area, then the site shall be protected for water-dependent and water-related recreational, commercial, and industrial uses.

W-2/"Water-Related." The intent of the W-2 district is to provide areas within and adjacent to the Yaquina Bay Shorelands for water-dependent, water-related, and other uses that are compatible or in conjunction with water-dependent and water-related uses. In determining whether or not a use is water-related, the following shall be uses:

- A. The proposed use is directly associated with a water-dependent use by supplying materials or services, or by using projects of water-dependent uses; and
- B. Location away from the water would result in a public loss in the quality of goods or services after considering economic, social, environmental, and energy effects.

All conditional uses in a W-2 district shall also comply with the following standard:

In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.

14.03.050 Residential Uses. The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed.

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

R-1	R-2	R-3	R-4

A. Residential

1. Single-family

P	P	P	P
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2. Two-family	X	P	P	P
3. Multi-family	X	X	P	P
4. Manufactured Homes*	P	P	P	P
5. Mobile Home Park	X	P	P	P
B. Accessory Uses	P	P	P	P
C. Home Occupations	P	P	P	P
D. Community Services				
1. Parks	P	P	P	P
2. Publicly Owned Recreation Facilities	C	C	C	C
3. Libraries	C	C	C	C
4. Utility Substations	C	C	C	C
5. Public or Private Schools	C	C	C	P
6. Child Care Facilities	P	P	P	P
7. Day Care Facilities	C	C	C	C
8. Churches	C	C	C	C
9. Residential Care Homes	P	P	P	P
10. Nursing Homes	X	X	C	P
11. Bed and Breakfast Inns	X	X	C	C
12. Motels and Hotels	X	X	X	C
13. Professional Offices	X	X	X	C
14. Rooming and Boarding Houses	X	X	C	P
15. Beauty and Barber Shops	X	X	X	C
16. Colleges and Universities	C	C	C	C
17. Hospitals	X	X	X	P

18. Membership Organizations	X	X	X	P
19. Museums	X	X	X	P
20. Condominiums	X	P	P	P
21. Hostels	X	X	X	C
22. Golf Courses	C	C	C	X
23. Recreational Vehicle Parks	X	X	X	C
24. Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
25. Residential Facility*	X	X	P	P
26. Movie Theaters**	X	X	X	C
27. Assisted Living Facilities***	X	C	P	P
28. Bicycle Shop****	X	X	X	C
29. Bed and Breakfast Facility (Subject to endorsement requirements of 14.25.001)	P	P	P	P
30. Vacation Rental (Subject to endorsement requirements of 14.25.001)	P	P	P	P

14.03.060 Commercial and Industrial Districts. The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

* Added by Ordinance No. 1622 (10-7-91).

** Added by Ordinance No. 1680 (8-2-93).

*** Added by Ordinance No. 1759 (1-21-97).

**** Added by Ordinance No. 1861 (10-6-03).

***** Amended by Ordinance No. 1989 (1-1-10).

A. Application of Use Categories. Uses are to be assigned to the category whose "Characteristics" most closely describe the nature of the primary use. Developments may have more than one primary use. "Use Examples" are provided for each use category. The names of uses on the list are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because

the actual activity on the site matches the description on the Retail Sales and Service category.

B. Interpretation. When a use's category is not clearly identifiable, the Community Development Director shall determine the applicable use category under a Type I decision-making process as provided by Section 14.43.001. The following factors are to be considered to determine what use category the use is in, and whether or not the activities constitute a primary use.

1. The description of the activity(ies) in relationship the characteristics of each use category;
2. The relative amount of site or floor space and equipment devoted to the activity;
3. Relative amount of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees for each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would function independently of other activities on the site;

C. Commercial Use Categories

1. Office

a. Characteristics. Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services. Traffic is primarily from employees with limited customer interactions.

b. Examples. Examples include financial businesses such as lenders, brokerage houses, bank headquarters; data processing; headquarters for professional service firms (lawyers, accountants, engineers, architects, etc.), sales offices;

government offices; public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.

c. Exceptions.

- i. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
- ii. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.

2. Retail Sales and Service

- a. Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- b. Examples. Examples include uses from the four subgroups listed below:
 - i. Sales-oriented, general retail: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, fuel, gifts, groceries, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales. Sales oriented general retail includes the service but not repair of vehicles.
 - ii. Sales-oriented, bulk retail: Stores selling large consumer home and business goods, including appliances, furniture, hardware, home improvements, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
 - iii. Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels limited to

boarding and training with no breeding; and animal grooming.

- iv. Entertainment-oriented: Restaurants (sit-down and drive through); cafes; delicatessens; taverns and bars; hotels, motels, recreational vehicles, and other temporary lodging with an average length of stay less than 30 days; athletic, exercise and health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios, and schools; theaters; indoor firing ranges, miniature golf facilities, golf courses, and driving ranges.
 - v. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.
- c. Exceptions.
- i. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
 - ii. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use, is classified as Industrial Service.
 - iii. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.
 - iv. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
 - v. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales and Service.
 - vi. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as a Recreational Vehicle Park

3. Major Event Entertainment

- a. Characteristics. Major Event Entertainment uses are characterized by spectator or participatory entertainment and recreational activities, either indoors or outdoors, that draw large numbers of people to specific events or shows.

- b. Examples. Examples include fairgrounds, sports complexes, ball fields, exhibition and meeting areas, coliseums or stadiums, equestrian centers and animal arenas, outdoor amphitheaters and theme or water parks.
- c. Exceptions.
 - i. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Sales Oriented Retail Sales or Service.
 - ii. Banquet halls that are part of hotels or restaurants are accessory to those uses.

4. Self-Service Storage

- a. Characteristics. Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- b. Examples. Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini warehouses.
- c. Exceptions. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

5. Vehicle Repair

- a. Characteristics. Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- b. Examples. Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- c. Exceptions.
 - i. Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

6. Parking Facility

- a. Characteristics. Parking facilities provide parking for vehicles as the primary use. The Parking Facility use category does not include parking that is required for a primary use. A fee may or may not be charged to park at a facility.
- b. Examples. Short and long term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and park-and-ride lots.
- c. Exceptions.
 - i. Required parking that is accessory to a use is not considered a Parking Facility.

D. Industrial Use Categories

1. Contractors and Industrial Service

- a. Characteristics. Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- b. Examples. Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.
- c. Exceptions.
 - i. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication or similar work is not carried on at the site.
 - ii. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

2. Manufacturing and Production

- a. Characteristics. Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Manufacturing and production activities within heavy commercial or light industrial areas are those that do not produce excessive noise, dust, vibration, or fumes.
- b. Examples. Examples include uses from the two subgroups listed below:
 - i. Light Manufacturing: Industrial uses that do not generate excessive noise, dust, vibration or fumes, such that they can be located near residential and commercial zones without creating nuisance impacts. Uses include processing of food and related products where the materials and processing activities are wholly contained within a structure, such as bakery products, canned and preserved fruits and vegetables, sugar and confectionary products, and beverages; catering establishments; breweries, distilleries, and wineries; manufacture of apparel or other fabricated products made from textiles, leather or similar materials; woodworking, including furniture and cabinet making; fabrication of metal products and fixtures; manufacture or assembly of machinery, equipment, or instruments, including industrial, commercial, and transportation equipment, household items, precision items, photographic, medical and optical goods, artwork, jewelry, and toys; manufacture of glass, glassware, and pressed or blown glass; pottery and related products; printing, publishing and lithography production; sign making; and movie production facilities.
 - ii. Heavy Manufacturing: Industrial uses that should not be located near residential areas due to noise, dust, vibration or fumes that may be generated by the activities. Uses include processing of food and related products where some portion of the materials are stored or processed outdoors, such as dairies, slaughter houses, or feed lots; leather tanning and finishing; weaving or production of textiles; lumber mills, pulp and paper mills, and other wood products manufacturing; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting, and rolling and finishing of metal products; production and refinement of fossil fuels; concrete batching; and asphalt

mixing; and manufacturing of prefabricated structures, including mobile homes.

c. Exceptions.

- i. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.
- ii. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

3. Warehouse, Freight Movement, and Distribution

- a. Characteristics. Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.
- b. Examples. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.
- c. Exceptions.
 - i. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.
 - ii. Mini-warehouses are classified as Self-Service Storage uses.

5. Waste and Recycling Related

- a. Characteristics. Uses that receive solid or liquid wastes from others for disposal on the site or transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the decomposition of organic material. Waste related uses also include uses that receive hazardous wastes from others.
- b. Examples. Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.
- c. Exceptions.

- i. Disposal of clean fill, as defined in OAR 340-093-0030, is considered fill, not a Waste and Recycling Related use.
- ii. Sewer pipes that serve a development are considered a Basic Utility.

6. Wholesale Sales

- a. Characteristics. Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
- b. Examples. Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.
- c. Exceptions.
 - i. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
 - ii. Firms that engage in sales on a membership basis are classified as consideration of characteristics of the use.
 - iii. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

7. Mining

- a. Characteristics. Include mining or extraction of mineral or aggregate resources from the ground for off-site use.
- b. Examples. Examples include sand and gravel extraction, excavation of rock, and mining of non-metallic minerals.
- c. Exceptions.
 - i. All other forms of mining or extraction of earth materials are prohibited.

E. Institutional and Civic Use Categories

1. Basic Utilities and Roads

- a. Characteristics. Basic utilities and Roads are infrastructure services which need to be located in or near the area where the service is provided. Basic Utility and Road uses generally do not have regular employees at the site. Services may be public or privately provided.
- b. Examples. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control devices. Water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector and arterial roadways; and highway maintenance.
- c. Exceptions.
 - i. Services where people are generally present, other than bus stops or turnarounds, are classified as Community Services or Offices.
 - ii. Utility offices where employees or customers are generally present are classified as Offices.
 - iii. Bus barns are classified as Warehouse and freight movement.
 - iv. Public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Utility Corridors.

2. Utility, Road and Transit Corridors

- a. Characteristics. Utility, Road and Transit Corridors include public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or similar services on a regional level. This category includes new or expanded regional roadways, and tracks and lines for the movement of trains.
- b. Examples. Examples include highways, rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.
- c. Exceptions.

- i. Highways, rail lines and utility corridors that are located within motor vehicle rights-of-way are not included.

3. Community Services

- a. Characteristics. Public, non-profit or charitable organizations that provide local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. Services are ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join. Uses may include shelter or housing for periods of less than one month when operated by a public or non-profit agency. Uses may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- b. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, police stations, fire and ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, soup kitchens, and surplus food distribution centers.
- c. Exceptions.
 - i. Private lodges, clubs, and private commercial athletic or health clubs are classified as Entertainment and Recreation. Commercial museums (such as a wax museum) are in Retail Sales and Service.

4. Daycare

- a. Characteristics. Daycare use includes day or evening care of more than 12 children under the age of 13 outside of the children's homes, with or without compensation. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision.
- b. Examples. Pre-schools, nursery schools, latch key programs, and adult daycare programs.
- c. Exceptions.
 - i. Daycare use does not include care given by a "Child Care Facility" as defined by ORS 657A.250 if the care is given to 12 or fewer children at any one time including the children of the provider. Child care facilities are located in the provider's home and are permitted as a home occupation in non-residential districts.

5. Educational Institutions

- a. Characteristics. Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior, high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills.
- b. Examples. Types of uses include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools.
- c. Exceptions.
 - i. Preschools are classified as Daycare facilities.

6. Hospitals

- a. Characteristics. Hospitals provide medical and surgical diagnosis and care to patients and offer overnight care. Hospitals tend to be on multiple blocks or in campus settings.
- b. Examples. Examples include hospitals and medical complexes that include hospitals or emergency care facilities.
- c. Exceptions.
 - i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are "Residential Facilities" and permitted in R-3 and R-4 zoning districts.
 - ii. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.

7. Courts, Jails, and Detention Facilities

- a. Characteristics. Includes facilities designed to try, detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates or detainees are under 24-hour supervision by sworn officers.
- b. Examples. Examples include courts, prisons, jails, probation centers, juvenile detention homes.

c. Exceptions.

- i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are "Residential Facilities" and permitted in R-3 and R-4 zoning districts.
- ii. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also "Residential Facilities" and permitted in R-3 and R-4 zoning districts.

8. Communication Facilities

- a. Characteristics. Includes facilities designed to provide signals or messages through the use of electronic and telephone devices. Includes all equipment, machinery, structures (e.g. towers) or supporting elements necessary to produce signals.
- b. Examples. Examples include broadcast towers, communication/cell towers, and point to point microwave towers.
- c. Exceptions.
 - i. Receive only antennae are not included in this category.
 - ii. Radio and television studios are classified in the Office category
 - iii. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

14.04.060 Commercial and Industrial Uses. The following list sets forth the uses allowed within the commercial and industrial land use categories.

"P" = Permitted uses.

"C" = Conditional uses; allowed only after the issuance of a conditional use permit.

"X" = Not allowed.

	C-1	C-2*	C-3	I-1	I-2	I-3
1. Office	P	X	P	P	P	X
2. Retail Sales and Service						
a. Sales-oriented, general retail	P	P	P	P	P	C

b. Sales-oriented, bulk retail	C	X	P	P	P	C
c. Personal Services	P	C	P	P	C	X
d. Entertainment	P	P**	P	P	C	X
e. Repair-oriented	P	X	P	P	P	X
3. Major Event Entertainment	C	C	P	P	C	X
4. Vehicle Repair	X	X	P	P	P	X
5. Self-Service Storage	X	X	P	P	P	X
6. Parking Facility	P	P	P	P	P	P
7. Contractors and Industrial Service	X	X	P	P	P	P
8. Manufacturing and Production						
a. Light Manufacturing	X	X	C	P	P	P
b. Heavy Manufacturing	X	X	X	X	C	P
9. Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10. Wholesale Sales	X	X	P	P	P	P
11. Waste and Recycling Related	C	C	C	C	C	C
12. Basic Utilities and Roads	P	P	P	P	P	P
13. Utility, Road and Transit Corridors	C	C	C	C	C	C
14. Community Service	P	C	P	P	C	X
15. Daycare Facility	P	C	P	P	P	X
16. Educational Institutions						
a. Elementary & Secondary Schools	C	C	C	X	X	X
b. College & Universities	P	X	P	X	X	X
c. Trade/Vocational Schools/Other	P	X	P	P	P	P

17. Hospitals	C	C	C	X	X	X
18. Courts, Jails, and Detention Facilities	X	X	P	C	X	X
19. Mining						
a. Sand & Gravel	X	X	X	X	C	P
b. Crushed Rock	X	X	X	X	X	P
c. Non-Metallic Minerals	X	X	X	X	C	P
d. All Others	X	X	X	X	X	X
20. Communication Facilities	P	X	P	P	P	P

**Uses in excess of 2,000 square feet of gross floor area are Conditional Uses within the Historic Nye Beach Design Review District.*

Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

14.04.090 Water-dependent and Water-related Uses. The following list sets forth the uses allowed with the water-dependent and water-related land use classifications. Uses not identified herein are not allowed.

"P" = Permitted uses.

"C" = Conditional uses permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

	W-1	W-2
1. Aquaculture	P	P
2. Boat Rentals, Sport Fishing and Charter Boat Services	P	P
3. Docks, Wharves, Piers	P	P
4. Dry Dock, Boat Repair, Marine Service, and Marine Railway Facilities	P	P
5. Fuel Facilities for Boats or Ships	P	P
6. Marinas and Port Facilities	P	P
7. Seafood Processing and Packaging Plants	P	P

8. Terminal Facilities for Loading and Unloading Ships and Barges	P	P
9. Marine Research and Education Facilities of Observation, Sampling, Recording, or Experimentation on or Near the Water	P	P
10. Ice Production and Sales, Refrigeration Repair, and Cold Storage to Serve the Seafood Industry	C	P
11. Boat Building and Marine Equipment Manufacture	C	P
12. Parking Lots	C	P
13. Warehouses	C	P
14. Uses Allowed in the Adjacent Estuarine Management Unit	C	P
15. Water-dependent Uses That Meet the Intent of the W-1 District	C	P
16. Bait, Tackle, and Sporting Goods Stores Specializing in Water-related Merchandise	X	P
17. Seafood Markets	X	P
18. Uses Permitted Outright in a C-2 District	X	C
19. Offices Not On the Ground Floor of an Existing Building	X	C
20. Residences Not On the Ground Floor of an Existing Building	X	C

14.04.100 Uses in State Park Master Plans.* Where the W-1 and/or W-2 zones are applied to properties that are owned or managed by the Oregon Parks and Recreation Department within a state park with a master plan that has been approved by the City of Newport, only those uses that are consistent with the city's approval of the master plan are permitted. Such uses are permitted through the applicable development review procedures set forth in this ordinance provided that the uses comply with the design standards in the master plan and with other applicable standards.

14.04.110 Public Uses. The following list sets forth the uses allowed within the public land use classification. Uses not identified herein are not allowed.

"P" = Permitted Uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

	P-1	P-2	P-3
1. Public Parks	P	P	P
2. Public Open Space	P	P	P
3. Public Schools, Colleges, or Universities	P	X	X
4. Any Building or Structure Erected by a Governmental Entity	P	X	X
5. Community Buildings	P	X	X
6. Fairgrounds	P	X	X
7. Public Cemeteries	P	P	X
8. Water & Wastewater Treatment Plants	P	X	X
9. Performing Arts Centers	P	X	X
10. Visual Arts Centers	P	X	X
11. Senior Centers	P	X	X
12. Airport and Accessory Structures	P	X	X
13. Public Golf Courses	P	P	X
14. City Halls	P	X	X
15. County Courthouses	P	X	X
16. Jails and Juvenile Detention Facilities	P	X	X
17. City or County Maintenance Facilities	P	X	X
18. Publicly Owned Recreational Vehicle Parks	C	C	X
19. Public Museums	P	X	X
20. Public Restrooms	P	P	X

21. Recreation Equipment	P	P	X
22. Post Office	P	X	X
23. Parking Lots	P	P	X
24. Public Hospitals	P	X	X
25. Trails, paths, bike paths, walkways, etc.	P	P	P
26. Water Storage Facilities	P	X	X
27. Public Libraries	P	X	X
28. Fire Stations	P	X	X
29. Police Stations	P	X	X
30. Accessory Structures for Any of the Above	P	P	P

**Added by Ordinance No. 1858 (9-2-03).*

14.04.110 Uses in State Park Master Plans. * Where the P-1, P-2, and/or P-3 zones are applied to properties that are owned or managed by the Oregon Parks and Recreation Department within a state park with a master plan that has been approved by the City of Newport, only those uses that are consistent with the city's approval of the master plan are permitted. Such uses are permitted through the applicable development review procedures set forth in this ordinance provided that the uses comply with the design standards in the master plan and with other applicable standards.

**Added by Ordinance No. 1858 (9-2-03).*

14.05.001 MANAGEMENT UNIT DISTRICTS* *(2-2-13 of the NZO)*

14.04.010 PURPOSE. The purpose of the Management Unit Districts is to provide estuary area development guidance, to identify development, conservation, and natural management units, and to describe appropriate uses, activities, and structures.

14.04.020 DEFINITIONS**

Estuarine Enhancement. An action which results in a long term improvement of existing estuarine functional characteristics of processes that is not the result of a creation of restoration action.

Mitigation. The 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, species diversity, unique features, and water quality.

14.04.030 USES PERMITTED***

Consistent with the requirements of State Planning Goal 16, within each management unit certain uses and activities are permitted with standards, other are permitted conditionally, and some uses are not allowed. All uses which involve dredging, fill, structures, shoreline stabilization (except vegetative) or other alteration waterward of Mean Higher High Water (MHHW) or the line of non-aquatic vegetation are also subject to regulations at either the state level (State Removal/Fill Law, ORS 196.800196.990), federal level (Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act), or both. Certain other uses such as energy facility siting, aquaculture, and exploration for oil, gas, or geothermal energy are further regulated by additional state and federal agencies. Uses and activities are categorized as follows:

Permitted With Standards (P).**** Permitted only after a case-by-case review of the proposed use and issuance of an estuarine use permit in accordance with 14.04.060 of this section and a Type I Land Use Action decision process consistent with Section 14.43.001, Procedural Requirements. A use which is permitted with standards shall require the following findings:

- A. It complies with the applicable estuarine use standards of Sections 14.04.080 through 14.04.230.
- B. It complies with all policies specific to the individual management unit set forth in the Comprehensive Plan and Section 14.05.001.
- C. It is consistent with the resource capabilities of the area as defined by Section 14.04.090.

(* Entire section largely amended by Ordinance No. 1344 (11-7-83); Amended to correct scrivener's errors by Ordinance No. 1790 (7-6-98).

** Added by Ordinance No. 1622 (10-7-91).

*** Amended by Ordinance No. 1622 (10-7-91).

**** Amended by Ordinance No. 1989 (1-1-10).)

Newport Zoning Ordinance (No. 1308, as amended) Conditional (C).*

Permitted only after a case-by-case review of the proposed use and issuance of a conditional use permit in accordance with the provisions of Section 14.33.001, Conditional Uses, and a Type III Land Use Action decision process consistent with Section 14.43.001, Procedural Requirements. A conditional use shall require the following findings:

- A. It is compatible with the management objective and policies of the management classification.
- B. It complies with the applicable estuarine use standards of Sections 14.04.080 through 14.04.230.
- C. It complies with all policies specific to the individual management unit set forth in the Comprehensive Plan and Section 14.5.001.
- D. It complies with any other special condition which may be attached during the review process.
- E. It is consistent with the resource capabilities of the area as defined by Section 14.04.090.
- F. The cumulative impacts of the proposed use have been considered.

Not Allowed (N). Not permitted. Activity or uses can only be allowed upon adoption of a plan amendment by the governing body.

14.04.040 APPLICATION OF STANDARDS**

The Estuarine Use Standards of Section 14.04.080 through 14.04.230 are to be applied to developments on a case-by-case basis through the Estuarine Use Review Procedure specified in Section 14.04.060. In all cases the specific nature and circumstances of the proposal will be reviewed against each applicable standard or criterion. Findings of fact will be developed relative to compliance with each applicable standard or criterion, based on an analysis of the proposal. An impact assessment shall be prepared for activities which could affect the estuary's physical processes or biological resources such as dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, and flow-lane disposal of dredged material. The impact assessment need not be lengthy or complex, but it should enable reviewers to gain a clear understanding of the impacts to be expected. The assessment shall include information on:

(* Amended by Ordinance No. 1989 (1-1-10).

** Amended by Ordinance No. 1622 (10-7-91).)

- A. The type and extent of alterations expected;
- B. The type of resource(s) affected;
- 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; and Newport Zoning Ordinance (No. 1308, as amended).
- D. The methods which could be employed to avoid or minimize adverse impacts.

In the process of gathering necessary factual information for the application of standards and the preparation of the impact assessment, the Planning Department may consult with any agency or individual able to provide relevant technical expertise. Federal impact statements or assessments may be utilized to comply with this requirement if such statements are available.

14.04.050 APPLICATION INFORMATION*

The Planning Department may require an applicant to provide such information and technical analysis as may be needed to determine compliance with any and all applicable standards, including but not limited to the following:

- A. Effects on physical characteristics such as: flushing and circulation; erosion and accretion patterns; and salinity, temperature, and dissolved oxygen characteristics.
- B. Effects on biological characteristics such as: benthic habitats and communities; anadromous fish migration routes; fish and shellfish spawning and rearing areas; primary productivity; resting; feeding and nesting areas for migrating and residence shorebirds; wading birds and other wildfowl; riparian vegetation; and wildlife habitat.
- C. Effects on other established uses in the area.
- D. Alternative project designs and/or locations which have been considered.
- E. Steps which have been taken to minimize or avoid adverse impacts.

14.04.060 REVIEW NOTICE**

The City of Newport shall notify the following agencies of use applications which may require their review: Oregon Department of Fish and Wildlife; Oregon Division of State Lands; Oregon Department of Land Conservation

and Development; U.S. Fish and Wildlife Service; National Marine Fisheries Service; Environmental Protection Agency; and the U.S. Army Corps of Engineers. This notice will include a description of the use applied for, references to applicable policies and standards, and notification of comment and appeal period.

14.04.060 ESTUARINE USE REVIEW PROCEDURE***

The subsequent review procedure shall be followed for uses permitted with standards and conditional uses:

- A. Upon receipt of an application or a public notice from a state or federal agency for a regulated activity, the Community Development Director shall review the proposed use or activity for consistency with applicable Estuarine Use Standards set forth in this Section and apply the appropriate Land Use decision process consistent with Section 14.43.001, Procedural Requirements. In cases where all applicable Estuarine Use Standards of Sections 14.04.080 through 14.04.230 have been met for a proposed.

Permitted (P) activity, a Type I Land Use Action decision process shall be applied. In cases of a proposed Conditional (C) activity, a Type III Land Use Action decision process will apply in addition to the requirements for Conditional Uses provided by Section 14.33.001.

- B. If the Planning Department or Commission finds that the proposed use or activity is consistent with all applicable Estuarine Use Standards, the Department shall notify the Division of State Lands to that effect prior to expiration of the public notice.

As a part of this review process, the Planning Department shall impose any conditions or restrictions necessary to insure compliance with applicable Estuarine Use Standards.

- C. If the Planning Department or Commission finds that the proposed use or activity is inconsistent with any applicable Estuarine Use Standard, the Department shall notify both the Division of State Lands and the applicant prior to the expiration date of the public notice. This notification shall cite the standard(s) which has not been met and state with particularity the reasons for the inconsistency.
- D. If the information contained in the public notice is not sufficient for the city to reach a decision on the consistency of the proposed use or activity, the department shall notify the applicant to that effect prior to the expiration date of the public notice. This notification shall cite the standard(s) needing to be addressed and state with particularity the information needed to arrive at a decision.
- E. Any finding of consistency made through this review process may be subject to revocation by the city if it is ascertained that the application included any false information or if any conditions of approval have not

been complied with or are not being maintained.

- F. Any decision by the Planning Department or Planning Commission through this review process may be appealed in accordance with the provisions of Section 14.43.001 of the Zoning Ordinance of the City of Newport.

(* Amended by Ordinance No. 1622 (10-7-91).

** Amended by Ordinance No. 1622 (10-7-91).

*** Amended by Ordinance No. 1622 (10-7-91); Amended by Ordinance No. 1989 (1-1-10).)

14.04.080 ESTUARINE USE STANDARDS*

The following standards will be applied to all new uses, expansion of existing uses, and activities within Yaquina Bay. In addition to the standards set forth in this ordinance and the Comprehensive Plan, all uses and activities must further comply with all applicable state and federal regulations governing water quality, resource protection, and public health and safety.

14.04.090 RESOURCE CAPABILITY DETERMINATIONS**

Within the Natural and Conservation Management Units certain uses are allowed only if they are found to be consistent with the resource capabilities of the area and the purposes of the management unit. Those uses requiring a resource capability determination are so identified in the Permitted Use Matrix.

(** Amended by Ordinance No. 1622 (10-7-91).

*** Amended by Ordinance No. 1622 (10-7-91).)

Natural Management Units: Within Natural Management Units, a use or activity is consistent with the resource capabilities of the area 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. In this context, "protect" means to save or shield from loss, destruction, or injury or for future intended use.

Conservation Management Units: Within Conservation Management Units, a use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biologic 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 which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values, and aquaculture. In this context, "conserve" means to manage in a manner which avoids wasteful or destructive uses and provides for future availability.

14.04.100 Structures.* By definition, "structures" include all constructed, manmade facilities that extend into the estuary, whether fixed or floating. Not included are log rafts or new land created from submerged or submersible lands (see "fill"). Structural types include:

Breakwater: An offshore barrier, sometimes connected to the shore at one or both ends to break the force of the waves. Used to protect harbors and marinas, breakwaters may be constructed of rock, concrete, or piling, or may be floating structures.

Bridge Crossing: A portion of a bridge spanning a waterway. Bridge crossings do not include support structures or fill located in the waterway or adjacent wetlands.

Bridge Crossing Support Structures: Piers, piling, and similar structures necessary to support a bridge span but not including fill for causeways or approaches.

Docks: A fixed or floating decked structure against which a boat may be berthed temporarily or indefinitely.

Dolphin: A group of piles driven together and tied together so that the group is capable of withstanding lateral forces from vessels or other floating objects.

Groin: A shore protection structure (usually perpendicular to the shoreline) constructed to reap littoral drift or retard erosion of the shoreline. Generally made of rock or other solid material.

Jetty: An artificial barrier used to change littoral drift to protect inlet entrances from excessive sedimentation or direct and confine the stream of tidal flow. Jetties are usually constructed at the mouth of a river or estuary to help deepen and stabilize a channel.

Minor Navigational Improvements: Alteration necessary to provide water access to existing or permitted uses in conservation management units, including dredging for access channels and for maintaining existing navigation but excluding fill and in water navigational structures other than floating breakwaters or similar permeable wave barriers.

Pier: A structure extending into the water from solid land generally to afford passage for persons or goods to and from vessels, but sometimes to provide recreational access to the estuary.

Pile Dike: Flow control structures analogous to groins but constructed from closely spaced pilings connected by timbers.

Piling: A long, slender stake or structural element of steel, concrete, or timber which is driven, jetted, or otherwise embedded into the bed of the estuary for the purpose of supporting a load.

Wharf: A structure built alongside a waterway for the purpose of receipt, discharge, and storage of goods and merchandise from vessels.

- A. It is recognized that development of structures may have some adverse impacts that are unavoidable; however, the siting and design of all structures shall be chosen to minimize these adverse impacts on aquatic life and habitats, flushing and circulation characteristics, and patterns of erosion and accretion.
- B. Materials to be used for structures shall be clean and durable so as to allow long-term stability and minimize maintenance. Materials which could create water quality problems or which rapidly deteriorate are not permitted.
- C. The development of structures shall be evaluated to determine potential conflicts with established water uses (e.g., navigation, recreation, aquaculture, etc.). Such conflicts shall be minimized.
- D. Occupation of estuarine surface areas by structures shall be limited to the minimum area practical to accomplish the proposed purpose.
- E. Where feasible, breakwaters of the floating type shall be preferred over those of solid construction.
- F. Floating structures shall not be permitted in areas where they would regularly contact the bottom at low water (i.e., shall be located waterward of mean lower low water). Exceptions may be granted for structures of limited areas that are necessary as part of an overall approved project where grounding would not have significant adverse impacts.
- G. Individual single purpose docks and piers for recreational and residential uses shall be permitted only when it has been demonstrated that there are no practical alternatives (e.g., mooring buoys, dry land storage, etc.). Community facilities or other structures common to several uses are encouraged at appropriate locations.
- H. The size, shape, and orientation of a dock or pier shall be limited to that required for the intended uses.
- I. Structures associated with the docking of water craft must comply with Section 14.03.140/"Marina and Port Facilities."

(* Amended by Ordinance No. 1622 (10-7-91).)

14.04.110 Dredging.* By definition, "dredging" involves the removal of sediment or other material from the estuary for the purpose of deepening a channel, mooring basin, or other navigation area. (This does not apply to dredging for clams.)

- A. All dredging in the estuary shall be conducted in such a manner so as to minimize:
1. Adverse short-term effects such as pollutant release, dissolved oxygen depletion, and disturbance of important biological communities.
 2. Adverse long-term effects such as loss of fishing habitat and tidelands, loss of flushing capacity, destabilization of bottom sediments, and biologically harmful changes in circulation patterns.
 3. Removal of material in wetlands and productive shallow submerged lands.
- B. Dredging shall be permitted only:
1. For navigation or navigational access;
 2. In conjunction with a permitted or conditionally permitted water-dependent use;
 3. If a need (i.e., a substantial public benefit) is demonstrated, and the use or alteration does not unreasonably interfere with public trust rights; and
 4. If no feasible alternative upland locations exist.
- C. The effects of dredge activities in intertidal or tidal marsh areas shall be mitigated by creation, restoration, or enhancement of another area to insure that the integrity of the estuarine ecosystem is maintained. Dredging projects shall meet all requirements of ORS 196.800 through 196.990 (the State Removal Fill Law), Section 10 of the Rivers and Harbors Act of 1899, and other applicable state and federal laws. These requirements shall be enforced by state and federal agencies with regulatory authority over dredging projects.

(* Amended by Ordinance No. 1622 (10-7-91).)

14.04.120 Shoreline Stabilization.* By definition, "shoreline stabilization" is the stabilization or protection from erosion of the banks of the estuary by vegetative or structural (riprap or bulkhead) means.

- A. Shoreline stabilization procedures shall be confined to those areas where:
1. Active erosion is occurring that threatens existing uses or structures; or
 2. New development or redevelopment, or water-dependent or water-related uses requires protection for maintaining the integrity of upland structures or facilities.

B. The following, in order, are the preferred methods of shoreline stabilization:

1. Vegetative or other nonstructural.
2. Vegetated riprap.
3. Unvegetated riprap.
4. Bulkheads (except that the use of bulkheads shall be limited to "development" and "conservation" management units).

Structural shoreline stabilization methods shall be permitted only where the shoreline protection proposal demonstrates that a higher priority method is unreasonable.

- C. Materials to be used must be cleaned and of a nonerosive quality that will allow long-term stability and minimize maintenance. Materials that could create water quality problems or which will rapidly deteriorate are not permitted.
- D. Minor modifications of the bankline profile may be permitted on a case-by-case basis. These alterations shall be for the purpose of stabilizing the shoreline, not for the purpose of gaining additional upland area.
- E. Shoreline stabilization structures shall be designed and located so as to minimize adverse impacts on aquatic life and habitat, circulation and flushing characteristics, and patterns of erosion and accretion.
- F. In addition to requirements identified in C-E above, cobble/pebble dynamic revetments permitted in Management Units 8 and 9-A may be permitted if:**
1. There is a demonstrated need to protect public facility uses; and
 2. Land use management practices and nonstructural solutions are inadequate; and
 3. The proposal is consistent with the applicable management unit as required by Goal 16.
- G.*For the purposes of shoreline stabilization, a "cobble/pebble dynamic revetment" is defined as: "The use of naturally rounded pebbles or cobbles placed in front of property to be protected and designed to move under force of wave, currents, and tides. A cobble/pebble dynamic revetment represents a transitional strategy between conventional rip rap revetment of large stones and a beach nourishment project."

(* Amended by Ordinance No. 1622 (10-7-91).

14.04.130 Fill.** By definition, "fill" is the placement of material in the estuary to create new shoreland area.

- A. Fill shall be permitted only if required for navigation, a water-dependent use, or for a public improvement project for which there is a demonstrated need and for which no practical alternatives (e.g., construction on piling, an upland location, etc.) exist, and if the fill does not unreasonably interfere with public trust rights.
- B. As far as possible, all fill projects shall be designed and placed so as to minimize adverse impacts on aquatic life and habitats, flushing and circulation characteristics, erosion and accretion patterns, navigation, and recreation.
- C. Fill materials that would create water quality problems or that will rapidly deteriorate are not permitted.
- D. When available from an authorized dredgeline project, dredged materials shall be preferred over upland materials for approved fill projects.
- E. As an integral part of the fill process, new fills placed in the estuary shall be protected by approved methods of bank stabilization to prevent erosion.
- F. The effects of fill activities in intertidal or tidal marsh areas shall be mitigated by creation, restoration, or enhancement of another area to insure that the integrity of the estuarine ecosystem is maintained. Fill projects shall meet all requirements of ORS 196.800 through 196.990 (the State Removal Fill Law), Section 10 of the Rivers and Harbors Act of 1899, and other applicable state and federal laws. These requirements shall be enforced by state and federal agencies with regulatory authority over fill projects.

*** Amended by Ordinance No. 1622 (10-7-91).*

14.04.140 Marina and Port Facilities.***

Definitions:

Marina. A small harbor, boat basin, or moorage facility providing dockage for recreational craft.

****Amended by Ordinance No. 1622 (10-7-91).*

Port Facilities. Facilities which accommodate and support commercial fishery and navigation activities, including terminal and boat basins and moorage for commercial vessels, barges, and ocean-going ships.

- A. All structures, fills, dredging, or shoreline stabilization measures

undertaken in conjunction with marina or port facility development must comply with applicable standards set forth in this Ordinance. Structures shall comply with Section 14.04.100; fills shall comply with Section 14.04.130; dredging shall comply with Section 14.04.110; and shoreline stabilization shall comply with Section 14.04.120.

- B. Provisions must be made in the design of the marina or port facilities to insure adequate flushing for maintenance of water quality.
- C. Open moorage shall be preferred over covered or enclosed moorage except for repair or construction facilities.
- D. Multi-purpose and cooperative use of moorage parking, cargo handling, and storage facilities shall be encouraged.
- E. In the development of new port or marina facilities, maximum feasible public access shall be encouraged, consistent with security and safety requirements.

14.04.150 Aquaculture.* By definition, "aquaculture" is the raising, feeding, planting, and harvesting of fish, shellfish, or marine plants, including facilities necessary to engage in the use.

- A. All structures located in conjunction with aquaculture operations shall be subject to the standards set forth in this ordinance for structures. All dredge and fill, shoreline stabilization, or other activities in conjunction with aquaculture activities shall be subject to the respective standards for those activities.
- B. Water diversion structures or manmade spawning channels shall be constructed so as to maintain minimum required stream flows for aquatic life in the adjacent streams.
- C. The potential impacts of introducing a new fish or shellfish species (or a race within a species) shall be carefully evaluated in light of existing aquatic life and potential fish and shellfish production in the stream, estuary, and ocean.
- D. Aquaculture facilities shall be located far enough from any sanitary sewer outfalls to prevent any potential health hazard.

14.04.160 Mineral and Aggregate Extraction.** By definition, this extraction is the removal for economic use of minerals, petroleum resources, sand, gravel, or other materials from the estuary.

- A. All mineral and aggregate removal projects shall be conducted in such a manner so as to minimize:
 - 1. Adverse short-term effects such as pollutant release, dissolved oxygen depletion, excessive turbidity, and disturbance of important

biological communities.

2. Adverse long-term effects such as loss of fish habitat and tidelands, loss of flushing capacity, destabilization of bottom sediments, and biographically harmful changes in circulation patterns.
- B. Removal of aggregate materials from the estuary shall be allowed only after a clear demonstration that comparable materials are not available from local upland sources.
 - C. Unless part of an approved fill project, spoils and stockpiles shall be placed beyond the reach of high water and in such a manner that sediment will not enter or return to the waterway.
 - D. Riparian vegetation shall be retained to the optimum degree possible. Disturbed shoreline areas shall be revegetated.

(*Amended by Ordinance No. 1622 (10-7-91).

**Amended by Ordinance No. 1622 (10-7-91).)

14.04.170 Dikes.* By definition, a "dike" is an earthen embankment or ridge constructed to restrain high water. New diking is the placement of dikes on an area that (1) has never been previously diked; or (2) has previously been diked but all of a substantial part of the area is presently subject to tidal inundation and tidal marsh has been established.

- A. Existing functional dikes and tide gates may be maintained and repaired as necessary to fulfill their purpose as flood control structures.
- B. New dikes in estuarine areas shall be allowed only:
 1. As part of an approved fill project, subject to the standards for fill; and
 2. If appropriate mitigation is undertaken in accordance with all relevant state and federal standards.
- C. Dikes constructed to retain fill materials shall be considered fill and subject to standards for fill.
- D. The outside face of new dikes shall be protected by approved shoreline stabilization procedures.

14.04.180 Outfalls.** By definition, an "outfall" is an outlet through which materials are discharged into the estuary. Outfalls include sanitary (sewer) discharges, storm drainage facilities, waste seawater discharges, and industrial waste discharges.

- A. As applicable, the standards for dredging, shoreline stabilization, and placement of structures as set forth in this ordinance must be complied within the installation of outfalls.

- B. Sanitary outfalls shall not be allowed in poorly flushed areas of the estuary.

*(*Amended by Ordinance No. 1622 (10-7-91).*

***Amended by Ordinance No. 1564 (1-16-90); amended by Ordinance No. 1622 (10-7-91).)*

14.04.190 Submerged Crossings.* By definition, "submerged crossings" are power, telephone, water, sewer, gas, or other transmission lines that are constructed across the estuary, usually by embedding into the bottom of the estuary.

- A. Trenching or other bottom disturbance undertaken in conjunction with installation of a submerged crossing shall conform to the standards for dredging as set forth in this ordinance.
- B. Submerged crossings shall be designed and located so as to eliminate interference with present or future navigational activities.
- C. Submerged crossings shall be designed and located so as to ensure sufficient burial or water depth to avoid damage to the crossing.

14.04.200 Restoration.** By definition, "restoration" is revitalizing, returning, or replacing original attributes and amenities such as natural biological productivity or cultural and aesthetic resources that have been diminished or lost by past alterations, activities, or catastrophic events. Estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alteration, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work began. Active restoration involves the use of specific remedial actions such as removing dikes, installing water treatment facilities, etc. Passive restoration is the use of natural processes, sequences, or timing to bring about restoration after the removal or reduction of adverse stresses.

- A. Restoration in areas designated for development shall be undertaken only if it is likely that the project will not conflict with or be destroyed by existing or subsequent development.
- B. All restoration projects shall be designed so as to minimize adverse impacts on aquatic life and habitats, flushing and circulation characteristics, erosion and accretion patterns, navigation, and recreation.

14.04.210 Excavation.*** By definition as used here, "excavation" is the process of digging out shorelands to create new estuarine surface area directly connected to other estuarine waters.

- A. Creation of new estuarine surface area shall be allowed only for

navigation, other water-dependent use, or restoration.

- B. All excavation projects shall be designed and located so as to minimize adverse impacts on aquatic life and habitats, flushing and circulation characteristics, erosion and accretion patterns, navigation, and recreation.
- C. Excavation of as much as is practical of the new water body shall be completed before it is connected to the estuary.
- D. In the design of excavation projects, provision of public access to the estuary shall be encouraged to the extent compatible with the proposed use.

*(*Amended by Ordinance No. 1622 (10-7-91).*

***Amended by Ordinance No. 1622 (10-7-91).*

****Amended by Ordinance No. 1622 (10-7-91).)*

14.04.220 Dredged Material Disposal.* By definition, "dredged material disposal" is the deposition of dredged material in estuarine areas or shorelands.

- A. Disposal of dredged materials should occur on the smallest possible land area in order to minimize the quantity of land that is disturbed. Clearing of land should occur in stages on an "as needed" basis.
- B. Dikes surrounding disposal sites shall be well constructed and large enough to encourage proper "ponding" and to prevent the return of suspended sediments into the estuary.
- C. The timing of disposal activities shall be coordinated with the Department of Environmental Quality and the Department of Fish and Wildlife to insure adequate protection of biologically important elements such as fish runs, spawning activity, etc. In general, disposal should occur during periods of adequate river flow to aid flushing of suspended sediments.
- D. Disposal sites that will receive materials with toxic characteristics shall be designed to include secondary cells in order to achieve good quality effluent. Discharge from the sites should be monitored to insure that adequate cell structures have been constructed and are functioning properly.
- E. Revegetation of disposal sites shall occur as soon as is practical in order to stabilize the site and retard wind erosion.
- F. Outfalls from dredged material disposal sites shall be located and designed so as to minimize adverse impacts on aquatic life and habitats and water quality.
- G. General priorities for dredged material disposal sites shall be (in order

of preference):

1. Upland or approved fill project sites.
2. Approved offshore disposal sites.
3. Aquatic areas.

(*Amended by Ordinance No. 1622 (10-7-91).)

- H. Where flow lane disposal of dredged material is allowed, monitoring of the disposal is required to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units.

The Yaquina Bay section of the Newport Comprehensive Plan (as amended) and the Yaquina Bay Dredged Material Disposal Plan (as amended) shall be referred to for specific disposal sites and policy requirements.

14.04.230 Water Handling of Logs.* By definition, water handling of logs is the combined process of log dumping, storage, transportation, millside handling, and take-out as logs are placed into the water and moved to a final processing site.

- A. Water handling of logs shall be conducted in such a manner as to insure that violations of water quality standards do not result from such activities.
- B. New free fall log dumps shall not be permitted. All new log dumps and shipside unloading shall employ easy letdown devices.
- C. The inventory of logs in the estuary for any purpose shall be the lowest practical number for the shortest practical time considering log availability and market conditions.
- D. The inventory of logs in areas where grounding will occur shall be the lowest practical number for the shortest practical time considering log availability and market conditions.
- E. The best practical bark and wood debris control, collection, and disposal methods shall be employed at log dumps, ship side unloading areas, raft building areas, and millside handling and takeout areas.

14.04.240 Temporary Alteration.** By definition, "temporary alteration" is dredging, filling, or another estuarine alteration occurring over a specified short period of time that is needed to facilitate a use allowed by the Comprehensive Plan and the Permitted Use Matrices. The provision for temporary alterations is intended to allow alterations to areas and resources that would otherwise be required to be preserved or conserved.

*(*Amended by Ordinance No. 1622 (10-7-91).*

***Amended by Ordinance No. 1622 (10-7-91).)*

A. Temporary alterations include:

1. Alterations necessary for federally authorized navigation projects (e.g., access to dredged material disposal sites by barge or pipeline and staging areas or dredging for jetting maintenance);
2. Alterations to establish mitigation sites, alterations for bridge construction or repair, and for drilling or other exploratory operations; and
3. Minor structures (such as blinds) necessary for research and educational observation.

B. Temporary alterations may not be for more than three (3) years.

C. Temporary alterations to require a resource capability determination to insure that:

1. The short-term damage to resources is consistent with resource capabilities of the area; and
2. The area and affected resources can be restored to their original condition.