PLANNING COMMISSION WORK SESSION AGENDA
Monday, June 24, 2024 - 6:00 PM
Council Chambers, 169 SW Coast Hwy, Newport, Oregon 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at https://newportoregon.gov, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day.
To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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1. CALL TO ORDER

Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, Dustin Capri, and Greg Sutton.

2. UNFINISHED BUSINESS

2.A Second Review of Amendments to Implement the Updated Yaquina Bay Estuary Management Plan.

Memorandum
Updated Yaquina Bay and Estuary Section of the Comprehensive Plan
Updated Zoning Ordinance Amendments
Comments from Mark Arnold, received June 18, 2024
Mark Arnold Email 06-24-2024

3. NEW BUSINESS

3.A RFP for Water System Master Plan.

Memorandum
Water System Master Plan RFP

3.B Planning Commission Work Program Update.

PC Work Program 6-20-24

4. ADJOURNMENT

City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: June 20, 2024

Re: Second Review of Amendments to Implement the Updated Yaquina Bay Estuary Management Plan

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Attached is an updated set of amendments to the Yaquina Bay and Estuary Section of the Newport Comprehensive Plan. The changes have been developed in consultation with the Department of Land Conservation and Development, and Meg Reed, a Coastal Policy Specialist with the Department who is planning to attend the work session. I picked up several changes that Commission members requested at the initial work session. Mark Arnold provided detailed recommendations related to Management Units 9 and 10 (enclosed)

Please take a moment to review the updated Comprehensive Plan Section and its associated policies. Changes since the last work session are shown in redline. I added a few Newport specific special policies from the existing policy section that should be carried forward. With respect to Mr. Arnold's comments, I added in most of the additional descriptive language that he would like to see in the document. Some of the changes he is looking for have also been added to the classification and management objective sub-sections. As for the special policies, I did not make those changes for a couple of reasons. First, aquaculture and marine research activities are allowed subject to review and Mr. Arnold's policy suggestions would make them more permissible than the Management Plan and Goal 16 will allow. Secondly, the suggested revisions make specific reference to outside agency permitting processes. It is not the City's role to implement other Agency regulations through its policies. Outside agency permitting processes also change from time to time. Mr. Arnold is also recommending a special policy to "facilitate and encourage a balance of ecologically-beneficial organisms." It is unclear to me what that means. Mr. Arnold is planning to attend the work session, and may be able to provide some clarity on that point. DLCD staff will also need to weigh in on the changes. Lastly, I added a policy related to exempt uses, which is implemented in the updated zoning code.

The second document for your review lists the recommended zoning code revisions. Gil Sylvia provided specific comments on the initial draft. Meg Reed addressed each of them, and I updated the draft code in response to their feedback. All of this is tracked in comments, which I have included in the draft. Gil's comments are coded as "SG," Meg's are "MR," and mine are attributed to "DT." Additional definitions have been added, new exempt uses are listed for the E-D zone, some of the general standards have been clarified, and the conditional use standards have been broken up by zone district. I also added in a conditional use that was inadvertently left off of the initial draft. I'll be prepared to cover each of the changes at the meeting. If, at the close of the work session, you are comfortable initiating the legislative process, then a motion to that effect will be needed at the regular session.

Attachments: Updated Yaquina Bay and Estuary Section of the Comprehensive Plan, updated Zoning Ordinance Amendments, Comments from Mark Arnold, received June 18, 2024.

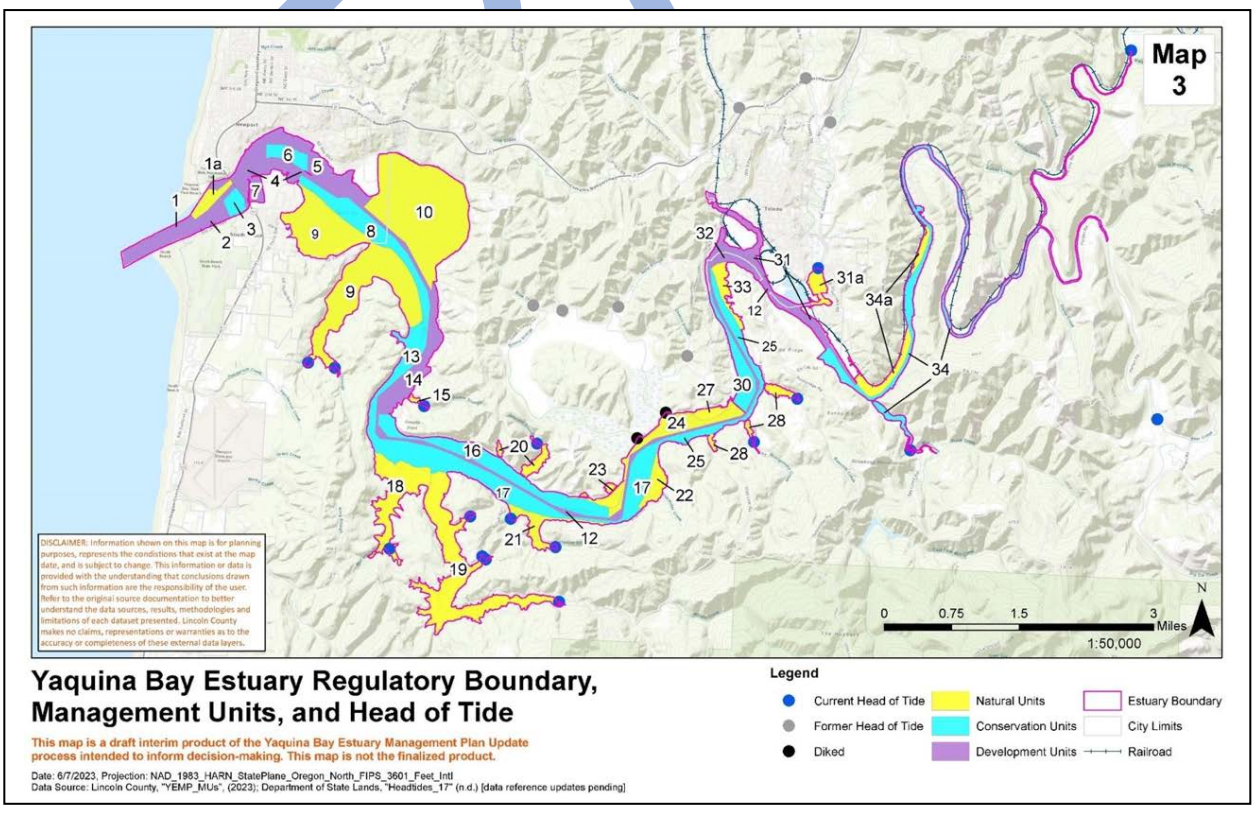
YAQUINA BAY
AND ESTUARY SECTION

Introduction:

The purpose of Statewide Planning Goal 16: Estuarine Resources and all estuary management plans is "to recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries." Yaquina Bay is one of three estuaries on the Oregon coast designated a deep-draft development estuary with a deep-water navigation channel and turning basin federally authorized by the United States Army Corps of Engineers.

The Lincoln County Estuary Management Plan is a special area management plan that governs estuarine resource conservation and development decisions in all the estuaries within Lincoln County, including Yaquina Bay. The City of Newport incorporates the relevant policy provisions of that plan here in its Comprehensive Plan and the applicable implementing measures are placed in its Municipal Code. Alterations and uses within estuarine areas are regulated. The boundary of the estuary is estuarine waters, tidelands, tidal marshes and submerged lands up to the line of Mean Higher High Water (MHHW) or the line of non-aquatic vegetation, whichever is further landward. The jurisdictional extent of the estuary extends upstream to the head of tide. (See Figure 1. Yaquina Bay Regulatory Extent and Head of Tide Map). Adjoining shorelands are subject to separate, coordinated land use regulations.

Figure 1. Regulatory Boundary, Estuary Management Unit Classifications, & Head of Tide



Yaquina Bay provides habitat and ecosystem services that benefit and support the local economy and community. Ecosystem services are positive benefits that ecological systems, habitats, or wildlife provide to humans. Yaquina Bay's estuary provides ecosystem services to nearby residents and the City of Newport that include mitigation of the impacts of flooding due to storm surges, improvements in water quality through vegetation and substrate filtration, and improvements in air quality through plant photosynthesis and respiration. The cultural significance of this area as well as opportunities for recreation are also considered important ecosystem services. In addition, much of the local economy is built upon productive seafood and fish harvesting and processing such as Dungeness crab which require eelgrass and other estuarine habitats for their lifecycle. The sequestration and storage of carbon by the estuary's subtidal and intertidal plants benefits residents of the State of Oregon and beyond by helping attenuate carbon dioxide contributions to climate change and its projected impacts. There are many ecosystem services Yaquina Bay provides to people in addition to the examples provided here.

Resource Inventories:

Inventories have been conducted to provide information necessary for designating estuary management units and their associated uses and policies. These inventories provide information on the nature, location, and extent of physical, biological, social, and economic resources in sufficient detail to establish a sound basis for estuarine management and to enable the identification of areas for preservation and areas of development potential.

Inventories include maps and sourced spatial data on the following resources and information: ecological estuarine data using the Coastal Marine and Ecological Classification Standard (CMECS), port facilities and tide gates, current estuary planning extent, historical estuarine boundaries and vegetation, head of tide, sea level rise projections, landward migration zone projections, and restoration sites. The information contained in the management unit descriptions and resource capability assessments is based on factual base material drawn from these comprehensive resource inventories. The rationale for permitted use decisions and management classifications is contained in these brief factual base summaries; for detailed resource information and a bibliography of documents included in the inventory, the XYZ section/document should be consulted.

Climate Change Vulnerabilities:

Climate change considerations were assessed and integrated into the estuary management plan for Yaquina Bay. As proposed alterations in the estuary have the potential to be in place for decades, impacts from climate change can jeopardize their continued use and potentially lead to negative outcomes that could threaten the unique environmental, economic, and social values of Yaquina Bay. The following are projected climate change impacts for the Yaquina Bay:

- Sea Level Rise: Global sea level rise is projected to increase Yaquina Bay's Mean Higher High Water mark by a range of 0.8 to 6.1ft by 2100.[1] There is a lot of uncertainty due to the unknowns around greenhouse gas emissions into the future. After 2000 years of relative stability, average global sea levels have risen about 8 inches in the last 100 years.[2]

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[1] Sweet, W.V., et al. 2022. Global and Regional Sea Level Rise Scenarios for the United States: Updated Mean Projections and Extreme Water Level Probabilities Along U.S. Coastlines. NOAA Technical Report. National Oceanic and Atmospheric Administration, National Ocean Service, Silver Spring, MD.

[2] U.S. Global Change Research Program. 2009. Global climate change impacts in the United States: a state of knowledge report. New York: Cambridge University Press.

- Estuary Acidification: More acidic estuary waters are likely, as open ocean waters are projected to be acidic enough to dissolve the biogenic carbonate shells of shellfish by 2100.[3] As the ocean absorbs CO2, its pH is lowered and becomes more acidic. “Since 1750, the pH of seawater has dropped significantly (about 0.1 globally). That means water is about 1 ¼ times more acidic today.”[4]
- Heat and Drought: Warmer summers with more extreme heat days and periods of drought are anticipated. The average annual temperature in Oregon increased by 2.2 degrees Fahrenheit from 1895 to 2019.[1] Projected average daily temperatures for the City of Newport and the broader Yaquina Bay region are expected to be 3-4 degrees higher by 2050 (NOAA Climate Explorer 2022).
- Precipitation: More rain in fewer and bigger storms instead of snow during winter months at higher elevations are anticipated. Despite an expected overall increase in winter precipitation, the past 50 years have documented a 60% or greater reduction in snow water recorded annually on April 1st for Columbia River tributaries.[5]

These climate change impacts are expected to create secondary effects such as increased risk to and prevalence of forest fires, bay and riverine flooding, loss of protected habitats and species, loss and landward migration of coastal habitats, loss of fisheries habitat relied upon by the local fishing economy, loss of eelgrass and other macrophytes due to heat waves , stress on endangered fish, destabilizing infrastructure in and on the Bay, erosion and accretion changes, sediment and nutrient loading, and many more. Potential cumulative impacts of alterations and development activities were considered and integrated into the policies and requirements of the Estuary Management Plan for Yaquina Bay.

Estuary Management Sub-Areas:

Due to the size and complexity of the Yaquina Bay estuary system, an additional tier of policy has been established at the sub-area level. The sub-area policies are intended to provide general planning guidance at a geographic scale between the overall management policies and the individual management unit level.

For this purpose, the estuary has been divided into seven sub-areas, each representing a common set of natural and anthropogenic features. (See Figure 2. Yaquina Bay Sub-Areas) These sub-areas provide a basis for describing in broad terms how different reaches of the estuary presently function and are used, and to identify considerations in planning for future use and conservation. Each sub-area is described in terms of its existing character, its major committed uses, and its existing and potential conflicts. Policies are established for each sub-area for the purpose of guiding the establishment of management unit designations and specific implementation measures.

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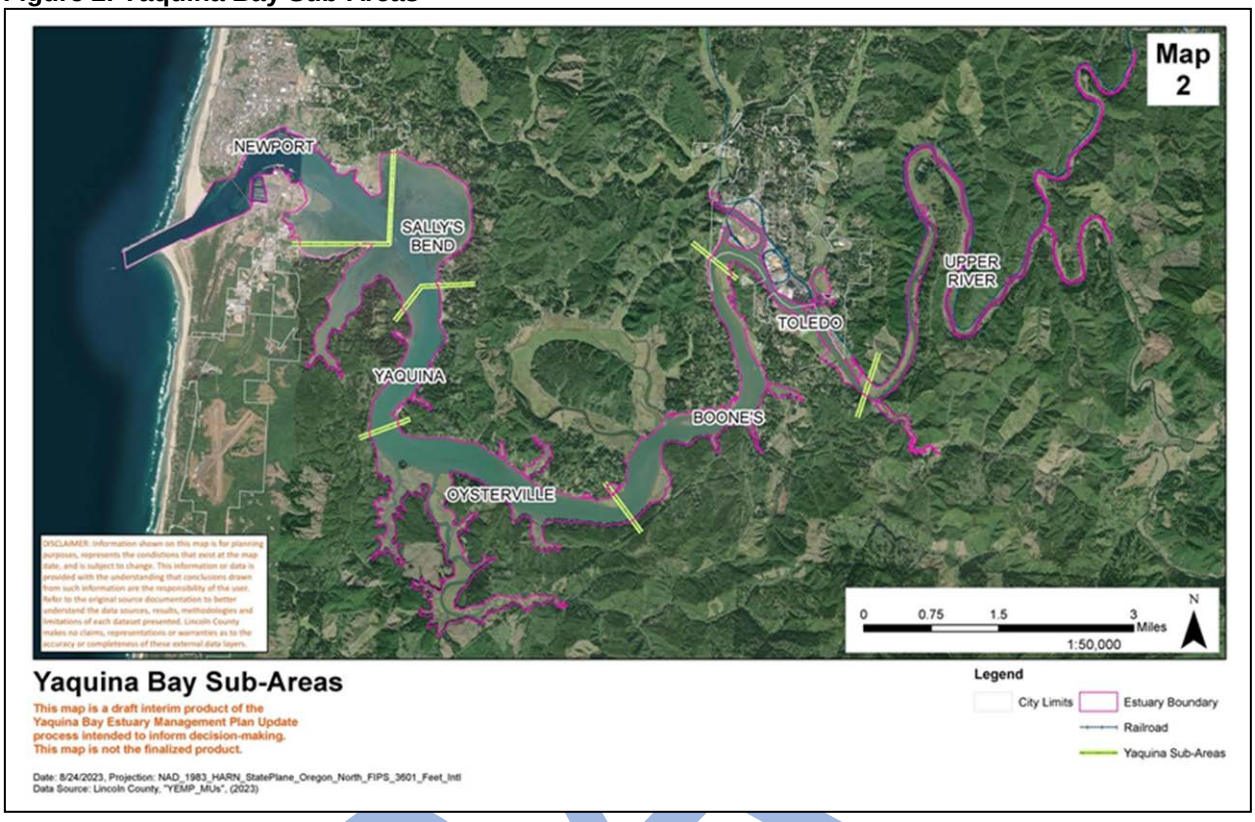
[3] Feely et al. 2008. Barton, A, B. Hales, G. G. Waldbusser, C. Langdon, R.A. Feely. 2012. The Pacific oyster, Crassostrea gigas, shows negative correlation to naturally elevated carbon dioxide levels: Implications for near-term ocean acidification effects. Limnology and Oceanography, 57(3): 698-710.

[4] Feely, R. A, C. L Sabine, J. M Hernandez-Ayon, D. Ianson, and B. Hales. 2008. Evidence for upwelling of corrosive “acidified” water onto the continental shelf. Science 320, no. 5882: 1490.

[5] Oregon Department of Fish and Wildlife: The Oregon Conservation Strategy Fact Sheet Climate Change and Oregon’s Estuaries (YEAR)

[6] Front. Mar. Sci., 01 April 2022. Differential Responses of Eelgrass and Macroalgae in Pacific Northwest Estuaries Following an Unprecedented NE Pacific Ocean Marine Heatwave. Sec. Coastal Ocean Processes Volume 9 - 2022. https://doi.org/10.3389/fmars.2022.838967

Figure 2. Yaquina Bay Sub-Areas



Sub-area policies are intended to serve as general guidance for overall spatial planning; they are not applicable approval criteria for individual project or permit reviews. The criteria applicable to individual land use decisions for estuarine development proposals are as set forth in pertinent implementing land use regulations. The Newport sub-area is the only sub-area that is within the Newport Urban Growth Boundary.

Newport Sub-Area:

The size and complexity of the Yaquina Bay estuary required the bay to be divided into seven sub-areas, each representing a common set of natural and human-related features. Sub-areas provide a basis for describing how different areas of the estuary presently function and how they should be planned to function in the future. Each sub-area is described in terms of its existing character; its major committed uses; its existing and potential conflicts; and its climate vulnerabilities. The City of Newport contains the Newport sub-area of Yaquina Bay, which is a high intensity use area. It is the hub of commercial fishing, deep water shipping and research, and tourist related commercial activities on Yaquina Bay. Adjacent shorelands are urban in character and the shoreline is mostly continuously altered throughout the sub-area. Aquatic area alterations within the sub-area are extensive. Major alterations include dredging, jetties and other navigation improvements, intertidal fills, and numerous in-water structures, including docks, piers, wharfs, and breakwaters. As a fully serviced urban area near the harbor entrance and with shoreland access to the deep-water navigation channel, the Newport sub-area represents the most important portion of the estuary for water dependent development.

Important natural resources within the sub-area include eel grass and algal beds, shellfish beds and fish spawning and nursery areas.

> Major Committed Uses. The sub-area contains a mix of water dependent, water related, and non-water related uses. Industrial uses are concentrated at McLean Point (Northwest Natural's liquid natural gas tank and the Port of Newport's International Terminal) and along the Newport bayfront. A recreational marina and a number of non-water related, tourist-oriented commercial uses also occur along the Newport bayfront. Major uses in the South Beach area include the Oregon State University (OSU) Hatfield Marine Science Center, the South Beach Marina recreational complex, the NOAA Marine Operations Center - Pacific facility and the Oregon Coast Aquarium. Many entities residing in the South Beach area provide experiential educational opportunities for tens of thousands of students and families every year. The sub-area takes in the major components of the authorized Corps of Engineers navigation project, including the jetties, the main navigation channel and turning basin, the boat basins, and related navigation improvements. Recreational use in the sub-area, including sport fishing, crabbing, clamming, diving, and boating, is heavy. In some years, a limited commercial herring fishery occurs within the sub-area.

> Existing and Potential Conflicts. Several conflicts exist within the sub-area. Conflicts have developed between tourist-oriented commercial uses and water dependent commercial and industrial uses along the Newport bayfront. These conflicts involve both competition for available space as well as use conflicts (e.g., traffic, parking, etc.) between established users. As demand accelerates for both types of uses, conflicts may worsen. In the past, competition between recreational and commercial vessels for moorage has been a problem; however, the opening in 1980 of approximately 500 moorage spaces designed to accommodate recreational vessels at the South Beach Marina has largely alleviated this conflict. The maintenance and redevelopment of water dependent uses in the sub-area will necessitate development in aquatic areas, posing a potential conflict with the protection of natural resources in some portions of the sub-area.

> Climate Vulnerabilities. The following list contains potential vulnerabilities to climate change that this sub-area of the estuary may experience over the coming years. These vulnerabilities shall be considered during reviews of proposed activities or uses in this sub-area as applicable:

- Increased shoreline erosion due to changes in sediment transport or deposition patterns or increased intensity of storm surges;
- Increased frequency and extent of storm surge flooding due to sea level rise risking the integrity and hindering the use of critical infrastructure;
- Increased risk of jetty or breakwater failures due to sea level rise and storm surge;
- Increased risk of loss of structural integrity to underground or submerged infrastructure due to higher water tables from sea level rise;

- Increased risk of sea level rise submerging port, marina, and other moorage infrastructure;
- Increased risk of structural failure of boat ramp and recreation facilities due to sea level rise and storm surge;
- Increased frequency and extent of storm surge flooding due to sea level rise of bay-adjacent industrial and waste treatment sites increasing risk of structural damage and pollution events;
- Increased risk of toxic leaks from erosion and destabilization of submerged sewer, natural gas and other pipes and utility lines due to changes in sediment transport and deposition patterns;
- Aquaculture and recreational shellfish losses due to ocean acidification and dissolution of oyster shells;
- Loss of suitable habitat conditions for eelgrass, Sitka spruce swamps, or other critical species and habitats due to sea level rise, warming waters, or increased downstream sedimentation;
- Extended use of salt marshes, eelgrass beds, tidal channels and other cool water refugia habitats for juvenile salmonids and forage fish such as herring, anchovies, and smelt due to warmer upriver temperatures in the mid-summer to early fall;
- Increased use of productive estuary habitats by marine birds during periods of low food abundance in the ocean, which are associated with marine heat waves and climate-driven changes in ocean processes;
- Increased use of Yaquina Bay habitats by migratory birds as other regional habitats become unsuitable for climate-related reasons (i.e. climate-related shifts in breeding, migration, and overwintering ranges);
- Increased risk to current dredging regime or location of navigation channels as erosion and accretion patterns change due to sea level rise and storm surge.

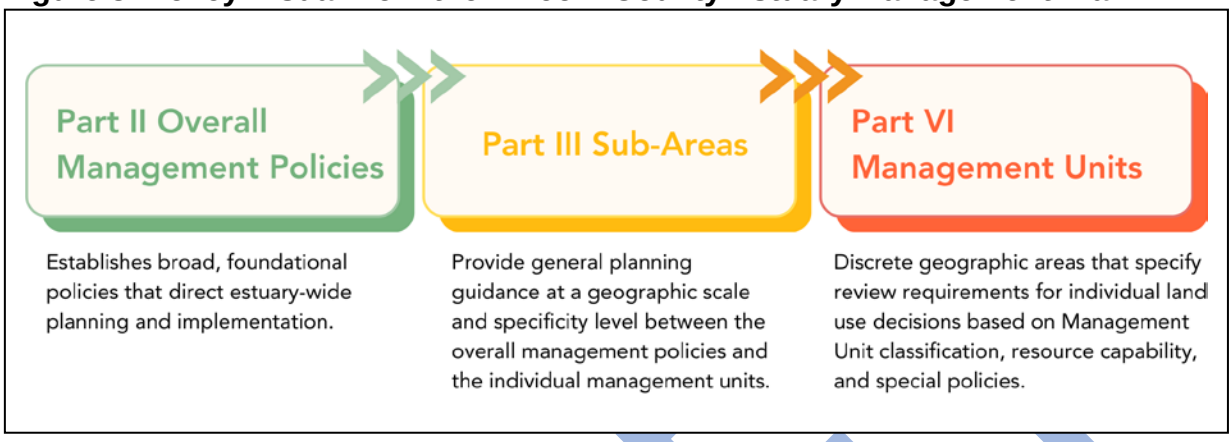
Estuary Policy Framework and Coordination:

The Lincoln County Estuary Management Plan provides an overall, integrated management scheme for Yaquina Bay. Elements of the Estuary Management Plan that the City of Newport incorporates into its Comprehensive Plan are those that apply inside the Newport Urban Growth Boundary. Proposed amendments to this section and its implementing provisions should be coordinated with Lincoln County to promote a common understanding and consistent application of the Estuary Management Plan.

This section contains comprehensive provisions for guiding estuarine development and conservation activities, from broad overall policies to site specific implementing measures. The planning and decision-making framework for Yaquina Bay within the City of Newport is contained within a concept of descending levels of policies: Overall Management Policies to Sub-Area Policies to individual Management Units. Each level of policy and the size of

the area to which those provisions apply is smaller and more specific than the preceding level, ending with site specific guidelines at the management unit scale.

Figure 3. Policy Visual from the Lincoln County Estuary Management Plan.



Individuals or entities seeking to alter or use the estuary should consult the specific management unit(s) encompassing the site and the applicable estuary zoning requirements in the Newport Municipal Code.

Newport Sub-Area Estuary Management Units:

A management unit is a discrete geographic area defined by biophysical characteristics and features within which particular uses and activities are promoted, encouraged, protected, or enhanced, and others are discouraged, restricted, or prohibited. This is the most specific policy level and is designed to provide specific implementing provisions for individual project proposals. Each unit is given a management classification of Natural, Conservation, or Development (defined below). These classifications are based on the resource characteristics of the units as determined through an analysis of resource inventory information. The classification carries with it a general description of intent and a Management Objective. Each management unit objective is implemented by its applicable Estuary Zoning District in the Municipal Code, which specifies uses and activities that are permitted or conditionally permitted within the unit. Many management units also contain a set of Special Policies that relate specifically to that individual unit.

The management unit classification system consists of three management classifications: Natural, Conservation and Development. The classifications are defined below in terms of the general attributes and characteristics of geographic areas falling into each category. The management objective and permissible uses and alterations for each classification are also specified.

Natural Management Units

Natural Management Units are those areas that are needed to ensure the protection of significant fish and wildlife habitats; of continued biological productivity within the estuary; and of scientific, research, and educational needs. These shall be managed to preserve

the natural resources in recognition of dynamic, natural, geological, and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tideflats, tidal swamps, and seagrass and algal beds.

Management Objective: To preserve, protect and where appropriate enhance these areas for the resource and support values and functions they provide.

The following uses are permitted in Natural Management Units:

a. undeveloped low-intensity water-dependent recreation;
b. research and educational observation;
c. navigational aids, such as beacons and buoys;
d. protection of habitat, nutrient, fish, wildlife and aesthetic resources;
e. passive restoration measures;
f. dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;
g. riprap for protection of uses existing as of October 7, 1977;
h. unique natural resources, historical and archeological values; and public facilities; and
i. bridge crossings.

Where consistent with the resource capabilities of the area and the purpose of this management unit, the following uses may be allowed:

a. aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
b. communication facilities;
c. active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
d. boat ramps for public use where no dredging or fill for navigational access is needed;
e. pipelines, cables and utility crossings, including incidental dredging necessary for their installation;
f. installation of tidegates in existing functional dikes;
g. temporary alterations;
h. bridge crossing support structures and dredging necessary for their installation.

In 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.

Conservation Management Units

Conservation Management Units shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary except for the purpose of

restoration. These areas shall be managed to conserve their natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, water quality, and aquaculture. They shall include tracts of significant habitat smaller or of less biological importance than those in Natural Units above, and recreational or commercial oyster and clam beds not included in Natural Units above. Areas that are partially altered and adjacent to existing development of moderate intensity that do not possess the resource characteristics of natural or development units shall also be included in this classification.

While the general purpose and intent of the conservation classification are as described above, uses permitted in specific areas subject to this classification may be adjusted by special policies applicable to individual management units to accommodate needs for natural resource preservation.

Management Objective: To conserve, protect and where appropriate enhance renewable estuarine resources for long term uses and to manage for uses that do not substantially degrade the natural or recreational resources or require major alterations of the estuary.

Permissible uses in conservation areas shall be all those allowed in Natural Units above except temporary alterations. Where consistent with the resource capabilities of the area and the purposes of this management unit, the following additional uses may be allowed:

a. high-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas;
b. minor navigational improvements;
c. mining and mineral extraction, including dredging necessary for mineral extraction;
d. other water-dependent uses requiring occupation of water surface area by means other than dredge or fill;
e. aquaculture requiring dredge or fill or other alteration of the estuary;
f. active restoration for purposes other than those listed in 1(d);
g. temporary alterations.

In a Conservation Management Unit, 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 that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner that conserves long-term renewable resources, natural biologic productivity and aesthetic values and aquaculture.

Development Management Units

Development Management Units shall be designated to provide for navigation and other identified needs for public, commercial, or industrial water dependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alteration of the estuary.

While the general purpose and intent of the development classification are as described above, uses permitted in specific areas subject to this clarification may be adjusted by special policies applicable to individual management units to accommodate needs for natural resource preservation.

Management Objective: To provide for water dependent and water related development. Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.

The following uses may also be permissible in development management units:

a. dredge or fill, as allowed elsewhere in the plan;
b. navigation and water-dependent commercial enterprises and activities;
c. water transport channels where dredging may be necessary;
d. flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
e. water storage areas where needed for products used in or resulting from industry, commerce and recreation;
f. marinas.
g. Where consistent with the purposes of this management unit and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and non-dependent, non-related uses not requiring dredge or fill; mining and mineral extraction; and activities identified in Natural and Conservation above, shall also be appropriate.

The overall classification scheme for management units is described above. Each individual management unit within the Newport Sub-Area is given a number and a more detailed and specific description. Each management unit description includes:

- the management classification (natural, conservation or development) of the unit and a summary rationale for the classification;
- a description of the spatial boundaries of the unit;
- a summary of the natural resource characteristics of the unit;
- a description of major uses and alterations present in the unit;
- a management objective which provides an overall statement of priorities for management of the unit;
- permitted uses within the unit, both those that are deemed consistent with the resource capability of the unit, and those uses that will require case-by-case resource capability determinations;
- special policies specific to the unit which serve to clarify, or in some cases further limit, the nature and extent of permitted uses.

It is important to note that the text descriptions are the regulating boundary of the management units. Maps and GIS data layers used by the City are a representation of those boundaries. In case of any doubt, the text descriptions should be used to resolve any boundary confusion. Each individual management unit within the City of Newport is described below.

Management Unit 1

> Description: Management Unit 1 consists of the area between the navigation channel and the north jetty, west of the west boundary of the Highway 101 right-of-way, excepting the area described as Management Unit 1A (see description for Management Unit 1A). Natural resources of importance include shellfish beds, fish spawning and nursery areas, and wildlife habitat. Of special importance are areas used by ling cod for spawning. Primary uses in the area are medium and shallow draft navigation and recreation (angling, boating, diving and surfing). Alterations include the north jetty, riprapped shoreline east of the jetty, navigation aids, and piling dolphins at the base of the bridge columns. (See maps for location of resources and uses)

> Classification: Development. This unit has been classified as Development in order to provide for maintenance and repair of the north jetty, a navigation improvement that may require periodic major alterations. Other than providing for alterations necessary to maintain navigation, management of Unit 1 should conserve the natural resources of the unit while allowing minor alterations similar to those now existing in the unit.

> Resource Capability: As a development management unit, permissible uses in Management Unit 1 are not subject to the resource capability test.

> Management Objective: Management Unit 1 shall be managed to provide for maintenance and repair of the north jetty as necessary to maintain the functionality of the deep-water channel. Otherwise, this unit shall be managed to conserve shellfish beds, fish spawning and nursery areas, and other natural resources.

> Special Policies: Major alterations in Management Unit 1 shall be limited to jetty and other navigation improvements necessary to maintain the authorized federal navigation channel. However, uses should minimize disturbance of important natural resources identified in this unit.

Management Unit 1a

> Description: Management Unit 1A consists of the intertidal and subtidal area west of the west boundary of the Highway 101 right-of-way (Yaquina Bay Bridge), lying between the navigation channel and the north shore. Along the north jetty, Unit 1A extends up to 50 lineal feet waterward from the base of the north jetty. Unit 1A is bounded on the west by MLLW, and on the east by the Highway 101 right-of-way. Natural resources of importance include shellfish beds, fish spawning and nursery areas, and wildlife habitat. Of special importance is a major algal bed. Primary uses in the area are medium and shallow draft navigation and recreation (angling, boating, diving and surfing). Alterations include the riprapped shoreline east of the jetty, navigation aids, and piling dolphins at the base of the bridge column.

> Classification: Natural. This unit has been classified as Natural in order to protect the natural resources of the unit and limit alterations to low intensity activities similar to those now existing in the unit.

> Resource Capability: The major algal bed in this unit is a sensitive habitat area of special value. Other habitats, while of major importance, are less susceptible to disturbance from minor alterations. Low intensity alterations such as pilings, dolphins and riprap have occurred in this area in the past without significant damage to resource values. Similar activities of this nature in conjunction with the uses contemplated in Unit 1a will constitute minor alterations consistent with the resource capabilities of the area.

> Management Objective: Management Unit 1a shall be managed to preserve natural resources.

> Special Policies: The algal bed within Management Unit 1A as defined by the Oregon Department of Fish and Wildlife Habitat Classification Map shall be preserved.

Management Unit 2

> Description: Management Unit 2 contains the area between the south jetty and the navigation channel, extending from the channel entrance east to the spur jetty. From the spur jetty east to the Yaquina Bay Bridge, Unit 2 includes the aquatic area between the south jetty and Mean Low Water (MLW). Natural resources of importance include shellfish beds, algal beds, eel grass beds, fish spawning and nursery areas and waterfowl habitat. Major uses in the unit are shallow draft navigation and recreational activities, including fishing, diving and boating. Alterations in the area include the south jetty, the spur jetty and groins, and navigation aids.

> Classification: Development: This unit has been classified as Development in order to provide for the maintenance and reconstruction of navigation improvements, including the south jetty and the spur jetty and groins, which may require major alterations.

> Resource Capability: As a development management unit, permissible uses in Management Unit 2 are not subject to the resource capability test. However, uses should minimize disturbance of important natural resources identified in this unit.

> Management Objective: Management Unit 2 shall be managed to provide for the maintenance and repair of the south jetty and associated navigation improvements. Major alterations shall be limited to those necessary to provide for these uses. Otherwise, this unit shall be managed to conserve shellfish beds, algal beds, fish spawning and nursery areas and other natural resources.

> Special Policies: Major alterations in Management Unit 2 shall be limited to jetty, groin and other navigation improvements necessary to maintain the functionality of the authorized federal navigation channel. However, uses should minimize disturbance of important natural resources identified in this unit.

Management Unit 3

> Description: Management Unit 3 consists of the area between the navigation channel and MLW along the south shore, from the spur jetty east to the west boundary of

the Highway 101 right-of-way. The area has several important natural resources, including tideflats, eelgrass beds, significant shellfish beds, important fish spawning and nursery areas, and important waterfowl habitat. Major uses within the unit are shallow draft navigation and recreation (clam digging, fishing, boating). Some minor commercial shellfish harvest takes place in the unit. Alterations include navigation aids, dolphins, and riprapped shorelines.

> Classification: Conservation: This unit has been classified as conservation in order to conserve the natural resources of the unit while allowing minor alterations similar to those now existing in the unit.

> Resource Capability: Management Unit 3 has significant intertidal area, and important shellfish beds. Existing alterations are minor in nature. Further minor structural alterations such as pilings and dolphins would be consistent with the existing character and resource capability of the area.

> Management Objective: Management Unit 3 shall be managed to conserve natural resources of importance.

> Special Policies: Major clam beds are located within Management Unit 3. These clam beds shall be protected.

Management Unit 4

> Description: Management Unit 4 is the Corps of Engineers authorized deep-water federal navigation channel, up to and including the turning basin at McLean Point. This unit includes the 40-foot-deep, 400-foot-wide entrance channel; the 30-foot-deep, 300-foot-wide bay channel, and the turning basin. Natural resources within the unit include fish spawning and nursery areas, and important shellfish beds. Major uses within the unit include navigation (shallow, medium and deep draft), recreation (fishing, crabbing, and boating) and some limited commercial harvest. Alterations include pilings, navigation aids, submerged crossings and the Yaquina Bay bridge crossing. Of special importance is the maintenance dredging of the federally authorized navigation channel and turning basin. Management Unit 4 is an area of diverse marine influenced habitats, including some major shellfish beds.

> Classification: Development. This unit has been classified as development, to provide for the dredging and other alterations required to maintain the deep-water navigation channel and turning basin.

> Resource Capability: As a development management unit, authorized uses are not subject to resource capability requirements. The area is periodically dredged for maintenance of the federally authorized navigation channel and turning basin, and resources present are subject to this regular disturbance.

> Management Objective: Management Unit 4 shall be managed to protect and maintain the authorized navigation channel and turning basin for deep-draft navigation.

> Special Policies: ~~None.~~ Adverse impacts of dredging operations within Management Unit 4 on existing shellfish beds shall be minimized. Port facilities may extend into the deep water channel subject to approval by the US Army Corps of Engineers, which maintains jurisdiction, in part, to ensure that new development does not impede navigation.

Management Unit 5

> Description: Management Unit 5 consists of the area between the north shore of the bay and the navigation channel, from the west boundary of the Highway 101 right-of-way east to McLean Point. It includes the Port of Newport commercial moorage basins (Port Docks 3, 5 and 7, and the north marina breakwater), the developed waterfront in the Newport urban area, and the Port of Newport's international terminal facilities at McLean Point. Natural resources of importance include tideflats, eelgrass and shellfish beds, and fish spawning and nursery areas. This portion of the estuary is used intensively for shallow and medium draft navigation, moorage of small and large boats, and for recreation. Other significant uses include the Port of Newport's international terminal operation, research activities, the U.S. Coast Guard Station, seafood processing plants and infrastructure, and mixed-use development along the historic Newport bayfront. The shoreline and aquatic areas are extensively altered with riprap, bulkheads, piers and wharves, the north marina breakwater, pilings, floating docks, periodic maintenance dredging and other activities.

> Classification: Development. This unit is classified as development to provide for the port's development needs in support of navigation, commercial fishing and other water dependent and mixed uses along the urban waterfront.

> Resource Capability: Management Unit 5 is the most extensively altered area in the estuary. Maintenance and redevelopment of existing facilities in this area, along with new development, will result in further alterations, including major dredging and construction activities. As a development management unit, these authorized uses within Management Unit 5 are not subject to resource capability requirements.

> Management Objective: Management Unit 5 shall be managed to provide for the development of port facilities and other water-dependent uses requiring aquatic area alterations. Water-related and non-related uses not requiring dredge or fill may be permitted consistent with the unique mixed-use character of the Newport waterfront.

> Special Policies: Important shellfish beds are located in Management Unit 5, in particular the ODFW designated shellfish preserve on the north side of the north marina breakwater, as described in OAR 635-005-0290(7). Adverse impacts on these shellfish beds from development shall be minimized.

Due to the limited water surface area available and the need for direct land to water access, alternatives (such as mooring buoys or dry land storage) to docks and piers for commercial and industrial uses are not feasible in Unit 5. Multiple use facilities common to several users are encouraged where practical.

Nonwater-related uses may be permitted within the estuarine area adjacent to the old waterfront from Bay Street to Pine Street, extending out to the pierhead line as established

by the Corps of Engineers. Tourist related activities will be encouraged to locate on the landward side of S.W. Bay Boulevard. The bay side of S.W. Bay Boulevard should accommodate water-dependent and water-related types of uses. Some tourist related uses may locate on the water side but only upon the issuance of a conditional use permit.

Management Unit 6

> Description: Management Unit 6 consists of the area south of the north marina breakwater, extending from MLW south to the navigation channel. Unit 6 is bounded on the west by a north-south line extending from the west end of the breakwater to the navigation channel, and on the east by a north-south line extending from the east end of the breakwater to the navigation channel. Unit 6 contains both intertidal and subtidal area with a number of important resource characteristics. Significant habitat areas include eelgrass and shellfish beds, fish spawning and nursery areas, and waterfowl habitat. Major uses in the unit include recreation (fishing, boating, crabbing and clamming), medium and shallow draft navigation, and some limited commercial harvest activities. Alterations within the unit include pilings and navigation aids.

> Classification: Conservation. This unit has been classified as conservation in order to conserve the natural resources of the unit while allowing minor alterations similar to those now existing in the unit.

> Resource Capability: Management Unit 6 is a mostly sub-tidal area near the upper end of the marine subsystem. It supports a variety of important resources that could be adversely impacted by major fill, removal or other aquatic alterations. Important uses in the unit such as navigation and recreation require a largely unobstructed surface area. For these reasons, alterations consistent with the resource capability of this unit are limited to minor structural alterations such as pilings and dolphins. Any fill or removal activities should be evaluated on a case-by-case basis.

> Management Objective: Management Unit 6 shall be managed to conserve natural resources and to provide for uses compatible with existing navigation and recreation activities.

> Special Policies: The shellfish beds south of the north marina breakwater as defined by the publication "Sub-tidal Clam Populations: Distribution, Abundance and Ecology" (OSU Sea Grant, May 1979) are considered a resource of major importance. Adverse impacts on this resource shall be avoided or minimized.

Management Unit 7

> Description: Management Unit 7 consists of the aquatic area between the navigation channel and the south shore, from the west boundary of the Highway 101 right-of-way east to the small boat pier at the Hatfield Marine Science Center. It includes the South Beach Marina, the NOAA Marine Operations Center, and the OSU Hatfield Marine Science Center facilities. The majority of the unit is sub-tidal and includes eelgrass and shellfish beds, and fish spawning and nursery areas. Major uses in the area are deep, medium and shallow

draft navigation, moorage, recreation and some limited commercial harvest. Alterations include pilings, piers and wharves, breakwaters, floating docks, riprap, and periodic dredging.

> Classification: Development. This unit has been classified as development to provide for water dependent uses, including the NOAA Marine Operations Center, the South Beach Marina and OSU Hatfield Marine Science Center facilities.

> Resource Capability: Management Unit 7 is classified for development; therefore, authorized uses are not subject to resource capability requirements.
> Management Objective: Management Unit 7 shall be managed to provide for water dependent development compatible with existing uses. Non-water dependent uses not requiring dredge or fill may be permitted consistent with adjacent coastal shorelands designations.

> Special Policies: Eelgrass beds, shellfish beds, and fish spawning and nursery areas are located within Management Unit 7. Adverse impacts of development on these resources shall be avoided or minimized.

Submerged crossings, bridge footings, pilings, dolphins, and other navigation and marina related development undertaken as part of the approved comprehensive plan shall be permitted, as well as docking and other facilities to serve proposed development.

Development of deep and medium draft port facilities shall be a permitted use only outside of the existing South Beach Marina boat basin.

Due to the limited water surface area available and the need for direct land to water access, alternatives (such as buoys and dry land storage) to docks and piers for commercial and industrial uses are not feasible in Unit 7. Multiple use facilities common to several users are encouraged where practical.

Management Unit 8

> Description: Management Unit 8 is a sub-tidal area between the navigation channel and the intertidal flats of the Idaho Point/King's Slough area. It contains significant habitat areas, including eelgrass and shellfish beds, fish spawning and nursery areas, and waterfowl habitat. Uses within the unit consist of medium and shallow draft navigation, commercial harvest and recreation. Existing alterations are limited to navigation aids.

> Classification: Conservation. This unit has been classified as conservation in order to conserve the natural resources of the unit while allowing minor alterations similar to those now existing in the unit.

> Resource Capability: Management Unit 8 is an important resource area. Shallow portions of this sub-tidal unit support eelgrass beds; major shellfish beds are also located in this area. Alterations in this area are limited to navigation aids (pile supported). Similar minor structural alterations such as pilings and dolphins are consistent with the resource

capabilities of this area.

> Management Objective: Management Unit 8 shall be managed to conserve and protect natural resources such as eelgrass and shellfish beds.

> Special Policies: ~~None.~~ A cobble/pebble dynamic revetment for shoreline stabilization may be authorized for protection of public facilities (such as at the Hatfield Marine Science Center).

Management Unit 9

> Description: Management Unit 9 includes the Idaho Flats tideflat between the Marine Science Center and Idaho Point, all of King Slough, and the intertidal area ~~upriver~~ upstream from the mouth of King Slough known as Raccoon Flat.

More than 600 acres of tideland are estimated to be included in Management Unit 9. This includes 250 acres at Idaho Flat, 235 acres in King Slough and at the mouth of King Slough, and over 120 acres upstream from the mouth of King Slough. Of this total, about 260 acres are inside the Newport City Limits, most notably Idaho Flat and a smaller area just east of Idaho Flat.

This is one of the largest tideflats in the estuary with a number of natural resource values of major significance, including eelgrass beds, shellfish beds, low salt marsh, fish spawning and nursery areas and waterfowl habitat.

The area is used ~~extensively~~ for recreational purposes~~, primarily angling, clamming and waterfowl hunting~~ with significant recreational clamming in Idaho Flat (accessed primarily from the Hatfield Marine Science Center location) and occasional angling and waterfowl hunting. There are several private boat ramps, including one at Idaho Point ~~A private boat ramp~~ (formerly the site off a small marina)~~. is present at Idaho Point~~.

~~The~~ Nearly all of the intertidal flat area ~~west of Idaho Point~~ is in public ownership (State of Oregon Board of Higher Education), and it is adjacent to, and accessible from, the Hatfield Marine Science Center campus. The intertidal areas are utilized to support research and educational activities at Hatfield.

Most of the intertidal area of King Slough is privately owned and was used historically for log storage. Log storage will no longer be done in this area. Tideland in the middle and northern portions of Kings Slough and adjacent to the mouth of King Slough have been identified as candidate sites, or currently support, ~~There is a~~ small-scale, low intensity aquaculture operations (~~tipping bag oyster culture~~oyster farms)~~. on the east side of King slough~~. A substantial portion of the intertidal area upstream from King Slough (Raccoon Flat) ~~intertidal area along the west shore above the mouth of King Slough~~ is privately-owned by the Yakona Nature Preserve and Learning Center. Alteration to the unit is minimal, with a few scattered pilings and limited areas of riprapped shoreline.

> Classification: Natural. Management Unit 9 has large tideflats with various water

depths (shallow intertidal areas, deeper intertidal areas, and subtidal channels) and some variation of substrate (sand, mud, unconsolidated substrate) that naturally support a variety of organisms beneficial to the estuary. ~~As a major tract of tideflat, t~~This unit has been classified natural in order to preserve the area's natural resources, including eelgrass and clam beds. ~~of the unit.~~

> Resource Capability. Management Unit 9 is a highly sensitive area with resource values of major importance to the estuarine ecosystem. In order to maintain resource values, alterations in this unit shall be kept to a minimum. Minor alterations which result in temporary disturbances (e.g., limited dredging for submerged crossings) are consistent with resource values in this area; other more permanent alterations will be reviewed individually.

> Management Objective. Management Unit 9 shall be managed to preserve and protect natural resources and values. This includes protecting ecologically-beneficial organisms to preserve the biological resources and, where possible, enhance the biological capabilities of the unit. Beneficial biological resources include submerged aquatic vegetation, fish and crab spawning and nursery areas, natural clam beds, and compatible shellfish aquaculture.

> Special Policies. Limited maintenance dredging and other maintenance activities may be permitted for the maintenance of the existing boat ramp in Management Unit 9. Expansion of this use or establishment of new marina uses is not permitted.

Major portions of Management Unit 9 are held in private ownership. Because the preservation of critical natural resources requires that uses in this area be severely restricted, public or conservation acquisition of these privately owned lands is strongly encouraged.

Newport had previously taken two Goal 16 exceptions that will remain in effect, those being the waste seawater outfall for the Oregon Coast Aquarium and storm water run-off through natural, existing drainage systems. Both uses are permitted in Management Unit 9.

A cobble/pebble dynamic revetment for shoreline stabilization may be authorized for protection of public facilities (such as at the Hatfield Marine Science Center). A Special Policy is to facilitate and encourage a balance of ecologically-beneficial organisms to preserve and enhance biological productivity of this area.

Management Unit 10

> Description. Management Unit 10 includes the Sally's Bend area between Coquille Point and McLean Point and bounded on the south by the authorized federal navigation channel. ~~Much of this unit is owned by the Port of Newport.~~ A number of minor alterations are present, including pilings and riprap along the shoreline.

There are 550 acres of tideland at Sally's Bend. The Port of Newport owns 503 acres and leases out another 16 acres, the Oregon Board of Higher Education owns 16 acres, and

others own 15 acres. Of the total, 43 acres adjacent to Mclean Point are inside the Newport City limits. In addition to this tideland, Management Unit 10 includes a subtidal area between the tideflat and the federal navigation channel.

The unit consists of one of the largest tideflats in the estuary, with a number of natural resource values of major significance including eelgrass beds, shellfish and algal beds, fish spawning and nursery areas, and wildlife and waterfowl habitat. The historically large eelgrass meadow present in MU 10 has become much smaller over time, indicating a significant loss of habitat. Eelgrass and associated habitat make this area extremely important for Endangered Species Act (ESA) listed fish species, commercially important fisheries species, recreationally important clams, and migratory birds. It is recognized as "Essential Fish Habitat" under the Magnuson–Stevens Fishery Conservation and Management Act. Additionally, a significant area in the middle of MU 10 is utilized by pinnipeds (seals and sea lions) as a haul out region, which are species supported under the Marine Mammal Protection Act. Recovering populations of native Olympia oysters have also been surveyed at the South corner of the management unit off Coquille Point.

Uses in the area are limited to shallow draft navigation, recreational use, and some minor commercial harvest of clams. The Sally's Bend recreational clamming area in this unit is the largest in Yaquina Bay. There are no public boat launches or other recreational infrastructure to access the water via boat, but public access is available at the NW Natural Gas plant on the West side and Coquille Point to the East. An Olympia oyster restoration project was initiated by ODFW in 2021, on the state-owned tidelands region of MU 10 (on the southern corner).

> Classification: Natural. Sally's Bend is a large tideflat with various water depths (shallow intertidal areas, deeper intertidal areas, and subtidal channels) and some variation of substrate (sand, mud, unconsolidated substrate) that naturally support a variety of organisms beneficial to the estuary. ~~As a major tract of tideflat with eelgrass beds, t~~This unit has been classified natural in order to preserve the area's natural resources ~~in the unit.~~, including eelgrass, clam beds, and Olympia oysters.

> Resource Capability: Management Unit 10 is similar in character and resource values to Management Unit 9. Due to the importance and sensitive nature of the resources in this area, permitted alterations shall be limited to those which result in only temporary, minor disturbances (e.g., several submerged crossings have been located in this area). More permanent alterations will be reviewed individually for consistency with the resource capabilities of the area.

> Management Objective: Management Unit 10 shall be managed to preserve and protect natural resources and values. This includes protecting ecologically-beneficial organisms to preserve the biological resources and, where possible, enhance the biological capabilities of the unit. Beneficial biological resources include submerged aquatic vegetation, fish and crab spawning and nursery areas, natural clam beds, and compatible shellfish aquaculture.

> Special Policies: Because this unit is suitable for native oyster re-establishment and restoration efforts are underway, impacts to existing Olympia oysters shall be avoided.

Deepening and widening of the federal navigation channel and turning basin into this management unit, which would impact the significant ecosystems within Sally's Bend, shall be avoided.

Mitigation and Restoration

The mitigation provisions of Statewide Planning Goal 16: Estuarine Resources require that appropriate sites be designated to meet anticipated needs for estuarine resource replacement required to compensate for dredge or fill in intertidal or tidal marsh areas. These sites are to be protected from uses that would preempt their availability for required mitigation activities. Mitigation sites have been selected from among the restoration sites identified in the Lincoln County Estuary Management Plan for Yaquina Bay (see Figure 4 below). All of these sites have been evaluated as potential mitigation sites based on the following criteria:

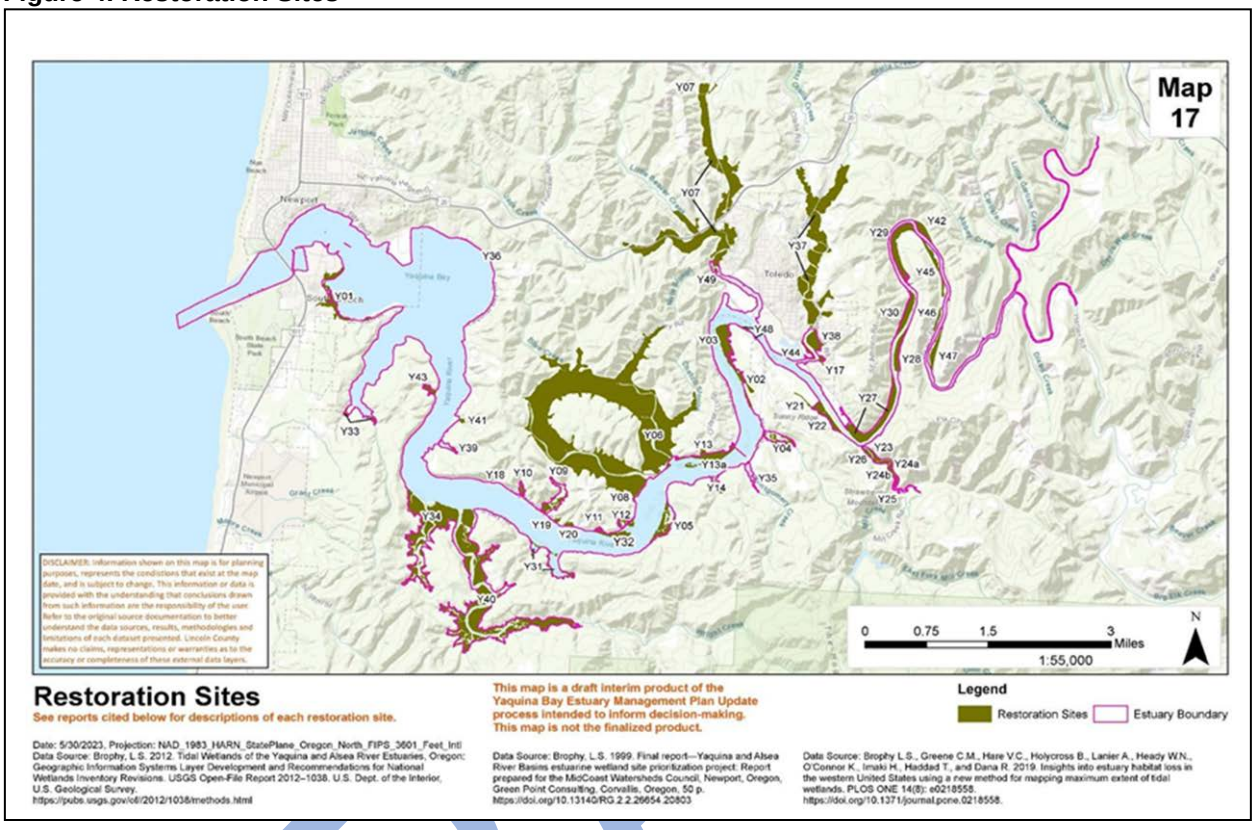
1. Biological Potential: Sites have been evaluated in terms of their similarity of habitat to areas likely to be altered or destroyed by future development activities; or, alternatively, sites were chosen which may provide resources that are in greatest scarcity compared to their past abundance or distribution. This evaluation has been based on an analysis of each site relative to a general assessment of probable foreseeable mitigation needs in each estuary, as well as past alterations or losses.

2. Engineering or Other Technical Constraints: Sites have been evaluated in terms of the type and magnitude of technical limitations that need to be overcome to accomplish restoration or enhancement. Sites with fewer constraints were considered more appropriate for use as mitigation sites.

3. Present Availability: The probable availability of each site during the original planning period has been evaluated. This evaluation was based primarily on the presence or absence of existing conflicting uses and ownership factors that might influence availability (e.g., public versus private ownership).

4. Feasibility of Protecting the Site: An assessment of each site has been done to determine the likelihood that an overriding need for a preemptive use will arise during the planning period. Sites for which no conflicting uses are anticipated are considered most desirable from the standpoint of ensuring future availability through protective zoning or other means.

Figure 4. Restoration Sites



Mitigation Needs and Sites

Future mitigation needs in Yaquina Bay will most likely be generated by dredge and fill activities in intertidal flat areas in the Newport and Toledo sub-areas and possibly in the Yaquina sub-area. Almost all of the tidal marsh areas in Yaquina Bay are protected by Natural Management Unit designations, so projects involving dredge and/or fill in tidal marsh areas are unlikely.

Opportunities for restoration or enhancement in intertidal flat or shore areas in Yaquina Bay are limited. For this reason, the mitigation sites listed below were selected for the opportunities they provide for restoration primarily of tidal marsh, a historically diminished resource. The matching of sites to individual dredge or fill projects will be accomplished as part of the Oregon Department of State Lands Removal-Fill permit process.

It is important to note that the identification and protection of the following sites is intended to reserve a supply of sites and ensure their availability for estuarine resource replacement as required by Goal 16. This list in no way precludes the use of other appropriate sites or actions to fulfill Goal 16 mitigation requirements as determined by the Department of State Lands. The identified sites are from the following publication: Brophy, L.S. 1999. Final Report: Yaquina and Alsea River Basins Estuarine Wetland Site Prioritization Project (for the MidCoast Watersheds Council). The site numbers correspond to the sites visualized in

Figure 4. All sites are outside of the jurisdiction of the City of Newport.

Site # (Brophy, 1999)	Protective Mechanism
Y18	Coastal Shorelands (C-S) Overlay (significant wetland)
Y19	Estuary Management Unit (16)
Y20	C-S Overlay (significant wetland)
Y11	Estuary Management Unit (23)
Y30	C-S Overlay (significant wetland)
Y31	Estuary management Unit (21)
Y6	C-S Overlay (significant wetland)

Implementation

To implement the policies and standards of the Lincoln County Estuary Management Plan for Yaquina Bay, the City of Newport shall, at a minimum:

- Specify permissible uses for individual management units consistent with the Management Classification requirements of Part IV of the Lincoln County Estuary Management Plan for Yaquina Bay;
- Provide for the application of review standards set forth in Part II, Part IV and Part V in accordance with applicable procedural requirements; and
- Establish a requirement to assess the impacts of proposed estuarine alterations in accordance with Statewide Planning Goal 16, implementation requirement 1 and Part II of Lincoln County Estuary Management Plan for Yaquina Bay.
- Impact Assessment Requirements
- Unless fully addressed elsewhere in this chapter, actions that would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Impact Assessments are required for dredging, fill, in-water structures, shoreline protective structures including riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow lane disposal of dredged material, and other activities that could affect the estuary's physical processes or biological resources.

The Impact Assessment requirement does not by itself establish any approval threshold related to impacts. The purpose of the Impact Assessment is to provide information to allow local decision makers and other reviewers to understand the expected impacts of proposed estuarine alterations, and to inform the application of relevant approval criteria (e.g., consistency with resource capabilities).

The Impact Assessment need not be lengthy or complex. The level of detail and analysis should be commensurate with the scale of expected impacts. For example, for proposed alterations with minimal estuarine disturbance, a correspondingly simple assessment is sufficient. For alterations with the potential for greater impact, the assessment should be more comprehensive. In all cases, it should enable reviewers to gain a clear understanding of the impacts to be expected. The Impact Assessment shall be submitted in writing to the local jurisdiction and include information on:

1. The type and extent of alterations expected;
2. The type of resource(s) affected;
3. 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;
4. The expected extent of impacts of the proposed alteration must reference relevant Climate Vulnerabilities as described in applicable sub-area(s) for the management unit(s) where the alterations are proposed (applicants are encouraged to document the use of any applicable data and maps included in the inventory such as sea level rise and landward migration zones) when considering future:
   a. long term continued use of the proposed alteration
   b. water quality and other physical characteristics of the estuary,
   c. living resources,
   d. recreation and aesthetic use,
   e. navigation, and
   f. other existing and potential uses of the estuary;
5. The methods which could be employed to avoid or minimize adverse impacts; and
6. References, information, and maps relied upon to address (1) through (5) above.

Local Review Procedures

Statewide Planning Goal 16 establishes a number of discretionary standards that apply to the review of proposed estuarine development activities. These standards are in turn incorporated into this estuary management plan, specifically in Parts II, IV, V, VI of the Lincoln County Estuary Management Plan for Yaquina Bay.

City approval of estuarine alterations subject to one or more discretionary review criteria is a "permit" as defined in ORS 215 and ORS 227 and subject to the procedural requirements of ORS 227.160 to 227.186. In compliance with statutory procedural requirements, all proposals for estuarine alterations subject to Goal 16, Implementation Requirement 2, or subject to findings of consistency with the resource capabilities of the area, shall be reviewed in accordance with either Type II procedure (decision without a hearing subject to notice), or Type III procedure (public hearing), as specified in the applicable jurisdiction's land use regulations.

State and Federal Regulation

Most development activities in estuarine aquatic areas are subject to regulation by one or more state and federal agencies. These regulatory requirements derive from state and federal statutes, and these authorities are discrete and independent from the provisions of the Lincoln County Estuary Management Plan and this Comprehensive Plan. State and federal regulatory requirements are therefore additive to the policies and implementation requirements of the Lincoln County Estuary Management Plan and this Comprehensive Plan. That is, the authorization of uses and activities through the City of Newport does not remove the requirement for applicants to comply with applicable state and federal regulatory requirements. Likewise, state and/or federal approvals of estuarine development

activities do not supersede or pre-empt the requirements of Newport's plan and implementing regulations. For detailed information regarding state and federal regulatory programs involved in estuarine alterations, users should contact the relevant agency.
State and Local Coordination

Under ORS Chapter 197, state agencies are required to conduct their activities (including the issuance of permits and other authorizations) in a manner that complies with the statewide planning goals and is compatible with local comprehensive plans and land use regulations. To address this requirement, each state agency has developed and adopted a state agency coordination (SAC) program that has been approved by the Land Conservation and Development Commission. The SAC sets forth the procedures each agency will employ to assure that agency actions comply with the statewide planning goals and are compatible with local plans and regulations.

For state agencies with regulatory authority over estuarine development, the primary mechanism for ensuring compatibility with local estuary plan requirements is the Land Use Compatibility Statement (LUCS). Applicants for Removal-Fill permits, waterway authorizations, water quality certifications and most other state agency authorizations are required to obtain from the local land use authority a LUCS that certifies that the proposed use or activity complies with local land use requirements or that specifies local land use approvals are required to establish compliance. In general, state agencies will not begin their permit review until compatibility with local planning requirements is certified by the local jurisdiction.

Exceptions

With Ordinance No(s), the City of Newport took two exceptions to Goal 16/"Estuarine Resources." The first is for a seawater outfall line in conjunction with the Oregon Coast Aquarium. The second is for storm water drainage and outfall for the portion of South Beach that naturally drains into Management Unit 9-A.

(Existing language to be retained except where edited)

Yaquina Bay Shorelands:

This section summarizes inventory information about the shorelands adjacent to Yaquina Bay. Identification of the shorelands boundary was based upon consideration of several characteristics of the bay and adjacent uplands. Resources shown on the Yaquina Bay Shorelands Map within the bay-related portion of the shorelands boundary include:

> Areas subject to 100-year floods as identified on the Flood Insurance Rate Map (FIRM).

> Significant natural areas, adjacent marsh, and riparian vegetation along the shore.

> Points of public access to the water.

> Areas especially suited for water-dependent uses.

> Dredged material disposal sites (for a more detailed discussion of dredged material disposal sites, see the amended Yaquina Bay and River Dredged Material Disposal Plan[13]).

Several of the Goal 17 inventory topics for coastal shorelands do not appear in the legend for the Yaquina Bay Shorelands Map either because they do not occur (coastal headlands) or are not directly associated with it (geologic hazards). However, the report and mapping of hazards by RNKR Associates is included in the Newport Comprehensive Plan inventory.[14] The historic and archaeological resources of the Yaquina Bay Shoreland have been identified in the historical section of this document.

The Yaquina Bay Bridge is the major aesthetic landmark on Yaquina Bay. Views associated with the ocean have relegated the river scenes to secondary importance.[15] The Visual Resource Analysis of the Oregon Coastal Zone classified the whole of Yaquina Bay as an area with a "less obvious coastal association" than the ocean beaches or Yaquina Head.[16]

[13] Wilsey & Ham, Yaquina Bay and River Dredged Material Disposal Plan, 1977.
[14] RNKR Associates, Environmental Hazard Inventory: Coastal Lincoln County, Oregon, 1978.
[15] Wilsey & Ham, Yaquina Bay Resource Inventory, 1977.
[16] Walker, Havens, and Erickson, Visual Resource Analysis of the Oregon Coastal Zone, 1979.

Flooding

Areas of 100-year floods along Yaquina Bay (Zone AE), as shown on the Flood Insurance Rate Map for the City of Newport (effective ~~April 15, 1980~~October 18, 2019), are included on the Yaquina Bay Shorelands Map. This line represents base flood elevation of 9 or 10 feet, depending upon the location.

The City of Newport has adopted flood plain management regulations that have been approved by the Federal Emergency Management Agency (FEMA). The regulations include provisions that meet the requirements of the National Flood Insurance Program.

Significant Natural Areas

The Oregon Natural Heritage Program identified two significant natural areas on Yaquina Bay within the Newport UGB. These areas are mostly within the boundaries of Estuarine Management Units 9~~-A~~ and 10~~-A~~. However, the shore adjacent to these management units also contains riparian vegetation and marshland.[17] These significant shoreland and wetland habitats and adjacent wetlands, including riparian vegetation, are shown on the Yaquina Bay Shorelands Map on page XXX.

Public Access Points

The Yaquina Bay Shorelands Map identifies points of public access to the water for purposes of boating, clamming, fishing, or simply experiencing the bay environment. In addition to those points, there are several points identified in the Inventory of Coastal Beach Access Sites published by Benkendorf and Associates.[18] That document is hereby included within this Plan by reference.

Areas Especially Suited for Water-Dependent Uses

There are several shoreland areas in the Newport UGB that are especially suited for water-dependent uses (ESWD). The shoreland areas especially suited for water-dependent recreational uses within the Newport UGB are virtually all on the ocean as described in the Ocean Shorelands Inventory. Suitable sites for water-dependent commercial and industrial uses exist on both the north and south shores of Yaquina Bay. Some of the water-dependent commercial areas, such as the marina sites, also have a recreational aspect. The port development section of this element will discuss the ESWD sites in more detail.

[17] Wilsey & Ham, Yaquina Bay Resource Inventory, 1977.
[18] Benkendorf and Associates, Inventory of Coastal Beach Access Sites, 1989.

The factors which contribute to special suitability for water-dependent uses on Yaquina Bay Shorelands are:

> Deep water (22 feet or more) close to shore with supporting land transport facilities suitable for ship and barge facilities;

> Potential for aquaculture;

> Potential for recreational utilization of coastal water or riparian resources;

> Absence of steep slopes or other topographic constraints to commercial and industrial uses next to the water;

> Access or potential for access to port facilities or the channel from the shorelands unobstructed by streets, roads or other barriers.

The first three factors are stated in Goal 17. Protected areas subject to scour that would require little dredging for use as marinas do not exist in Newport. The last two factors are based upon analysis of the characteristics of Yaquina Bay and its shorelands.

There are three areas within the Yaquina Bay Shorelands that have been identified as ESWD based on the five factors listed above. The degree and nature of the suitability for water-dependent uses varies both within and among these areas; consequently, a flexible approach to evaluate proposed uses in these areas on a case-by-case basis will be necessary.

The ESWD areas are noted below with applicable factors from the above list in parentheses, beginning with the east end of the original plat of Newport and proceeding clockwise around the bay. (See the Yaquina Bay Shorelands Map on page XXX for locations.)

1.) The Port of Newport's commercial boat basin facilities and parking lot/storage area lie between the bayfront on the west and the Embarcadero Marina and parking area on the east. This area lies entirely to the south of Bay Boulevard (factors 3, 4 and 5).

This area is largely developed or committed to port facilities, including docks, port offices, and a parking area. This is the port area devoted to berthing commercial fishing boats. There is development potential for changes in the port's facilities to meet the changing needs of the commercial fishing industry. While the total number of vessels has declined, their size and diversity is increasing. Some vessels in the 70 to 100 foot class routinely fish as far away as the north Alaskan coast. Uses outside or on the fringes of the port area that do not conflict or interfere with commercial fishing needs could be acceptable and appropriate.

2.) The other area on the north side of the bay especially suited for water dependent uses is part of the McLean Point fill area, including Sunset Terminals and the LNG tank. Only that land with close proximity to the deep water channel is included.

This area is entirely south of the western portion of Yaquina Bay Road (factors 1, 4 and 5).

This area has existing facilities and future development potential for a variety of water-borne transportation, shipping and storage activities in conjunction with fish processing, marine industry, and bulk shipping of limestone, logs, and lumber, liquefied natural gas, or other commodities. A variety of industrial uses would be desirable on the landward side of the terminal facilities.

3.) On the south side of the bay, the OSU Marine Science Center's dock facilities, the Ore-Aqua commercial salmon hatchery, and the land immediately adjacent to the South Beach Marina are especially suited for water-dependent uses (factors 2, 3, 4 and 5), and will also serve the needs of workers and visitors to the area.

This area is only partly developed. Additional water-related and non water-related developments associated with the existing South Beach Marina, the OSU Marine Science Center, and port development as identified in the port development plan are envisioned for the areas landward of this ESWD area. These facilities further

the public's enjoyment and understanding of the coastal environment, and resources are most desirable.

Port Development Plan:

The City of Newport's Urban Renewal Agency and the Port of Newport contracted with CH2M HILL of Corvallis to prepare an update of the port development element of the city's Comprehensive Plan (already mentioned in this section).

The first part of the port development plan is an executive summary of the entire plan. That section is repeated here.

Executive Summary

Industry Demands: The waterfront property bordering historic and scenic Yaquina Bay is used for a wide variety of activities. This diversity of uses contributes to the vibrancy of the Newport area. However, there is a tension between the various industries using the waterfront property as they compete for space to grow and expand their respective activities. The primary industries vying for use of bay front property are:

- Commercial shipping
- Commercial fishing
- Research and education
- Tourism

Commercial shipping provides the justification for continued federal participation in harbor and navigation channel maintenance activities. The channels not only provide access to the deep draft shipping lanes of the Pacific Ocean but also make Yaquina Bay a favored harbor for a large commercial fishing fleet, which in turn attracts many tourists to the bay front to observe off-loading and processing of the catch. Research and education activities support the commercial fishing industry and also attract visitors to the area. The combined presence of the Hatfield Marine Science Center and the deep draft navigation channel draws large ocean research vessels into the harbor for supplies, repairs, and to provide floating exhibitions open to the public. Thus, these major industries are all linked together.

Two hundred and fifty acres along the estuary are zoned for water-related or water-dependent use, and it is important to balance the needs of all to provide balanced growth in the local economy. The current needs of each of these industries are discussed below.

> The commercial shipping industry requires additional staging areas and needs to reserve room for future expansion. Additions of a dedicated shipper or a second export commodity, such as wood chips or other forest products, is the type of activity that could generate the need for additional berths.

> Commercial fishing activities are restricted by lack of moorage, service and work docks, and upland support area for storage and repair work. Competition between ports often leads to marketing support facilities at rates that do not meet debt service in the name of economic development and job creation. This is done to attract commercial fishing vessels to a port because of the financial impact one of these boats can make on the local economy. Each boat is, in essence, an independent business, and the boats are increasingly being operated in a business-like manner.

> Research and education requirements are fairly straightforward: room for expansion and maintenance of the environmental parameters upon which they depend (e.g., water quality in the vicinity of seawater intake facilities).

> The tourism industry relies on the continued presence of the fishing fleet and access to the variety of activities that may be enjoyed along the waterfront, in addition to room for expansion.

<u>Potential Development of Bay Front Areas</u>: Parking is in short supply. Retail merchants, tourists, and commercial fisherman alike put this shortage at the forefront of their needs. Access to the bayfront could be enhanced by a multi-level parking structure with a capacity for approximately 400 vehicles. This would not solve all parking shortages nor completely eliminate congestion; however, construction of such a facility would provide the opportunity to establish one-way traffic along the bay and restrict all but commercial and emergency vehicles from the lower reach of Bay Boulevard.

The lower bayfront offers the potential for cold storage facilities, ice making and

selling facilities, receiving docks and buying stations, and transient moorage space. If the now vacant Snow Mist site is not used for these activities, then it may be appropriate to allow other short-term uses. This should be permitted only if the short-term use allows easy conversion to the proposed primary use upon demonstrated need and demand for such a facility.

The area from Port Dock 5 to the Embarcadero should be dedicated, primarily, to the needs of the commercial fishing industry. However, some current uses, such as long term storage for crab pots and cod pots, are not appropriate considering the limited amount of upland area along the waterfront. The potential for major redevelopment of this area has been identified. This would enhance public enjoyment of the waterfront in addition to expanding facilities for the commercial fishing fleet.

The project requires filling of public tidelands between Port Docks 3 and 5. This would provide space for a waterfront park area with a good view of the commercial fishing activities at Port Dock 5. Bay Boulevard could also be widened to provide additional street-side parking and one-way traffic lanes along this section. The remaining land would be converted to more efficient gear staging and short term storage, parking dedicated to the commercial fishermen, and marine retail lease space. A boardwalk running from Port Dock 3 to the Embarcadero would also allow tourists visual access to the activities of the fleet while maintaining the physical separation necessary for public safety.

Other elements of the overall development of this area's potential include relocating the U.S. Army Corps of Engineers' breakwater to expand the commercial fishing moorages. Realignment of the Port docks would also be considered, along with replacing the original Port Dock 3 transient moorage facility.

The benefits of this major redevelopment project will be limited if more moorage and long term gear storage facilities are not developed elsewhere. The Fishermen's Investment Company site offers the necessary land for long term gear storage, service and work docks, permanent and transient moorage for boats up to 300 feet in length, and marine industrial lease facilities. Developing this facility would be strategic for the Port. Then, the Port Dock 7 fill area could be completely redeveloped for more appropriate uses.

The port's International Terminals facility has the capability for minor expansions of cargo staging areas, or possibly for the addition of facilities for barges or commercial fishing vessels. However, available land limits the potential for growth at this location.

McLean Point has the largest parcel of undeveloped property on the lower bay. This property is privately owned, and plans for development have not been announced. It would be well suited for a wide variety of uses such as:

- Boat haulout and marine fabrication
- Gear storage and staging
- Service and work docks
- Fish receiving, buying and processing facilities

- Moorage
- Commercial shipping terminals
- Surimi processing

This undeveloped parcel of land is critical to the overall development of the lower bay. If it is not developed, then the Port of Newport should consider buying or leasing the property with the intent to develop it to meet the needs of the shipping or fishing industries.

The South Beach peninsula serves as the home for many recreational boaters and for the research and education community. Potential developments that are attractive to the long term use of this area include moorages for research vessels, continued expansion of the Marine Science Center, and continued development at the Newport Marina at South Beach complex.

Idaho Point offers limited potential for development. Possibly a small boat haulout facility servicing the smaller commercial fishing boats could be developed. The shallow channel to the area, its small land area suitable for development, and its isolation from other businesses and support facilities severely limit the potential for developing a major haulout facility.

Development Restrictions: Limited funding and environmental regulations will be the most likely restrictions to developing the identified projects. Projects that should be developed in the next five years are those without major environmental restraints or that are fairly small in scale. Other projects should be developed later, as market conditions dictate or as funds become available. Construction on the waterfront is not inexpensive, and foundation conditions along the north side of Yaquina Bay are complicated by a very dense Nye mudstone formation, locally called "hardpan."

GOALS AND POLICIES
YAQUINA BAY AND ESTUARY

Goal: To recognize and balance the unique economic, social, and environmental values of the Yaquina Bay Estuary.

Policy 1: Balanced Use of Estuary. The City of Newport shall continue to ensure that the overall management of the Yaquina Bay Estuary shall provide for the balanced development, conservation, and natural preservation of the Yaquina Bay Estuary as appropriate in various areas.

Policy 2: Cooperative Management. The city will cooperate with Lincoln County, the State of Oregon, and the Federal Government in the management of the Yaquina Bay Estuary.

Policy 3: Use Priorities. The Yaquina Bay Estuary represents an economic

resource and provides vital ecosystem services of regional importance. The overall management of the estuary shall ensure adequate provision for protection of the estuarine ecosystem, including its biological productivity, habitat, diversity, unique features and water quality, and development, consistent with its overall management classification – deep-draft development – and according to the following general priorities (from highest to lowest). The prioritization of management policies is not intended to reduce or alter the tribal trust responsibilities of the federal government:

a) Uses which maintain the integrity of the estuarine ecosystem;

b) Water dependent uses requiring an estuarine location;

c) Water related uses which do not degrade or reduce natural estuarine resources and values;

d) Non-dependent, non-related uses that do not alter, degrade, or reduce estuarine resources or values and are compatible with existing and committed uses.

Policy 4: Natural Resources. The Yaquina Bay Estuary supports a variety of vitally important natural resources that also support the major economic sectors of Newport and the surrounding area. The overall management of the estuary shall include adequate provision for both conservation and preservation of natural resources. This will include consideration of culturally important tribal resources.

Policy 5: Riparian Vegetation. Riparian vegetation shall be protected along the Yaquina Bay shoreland where it exists. The only identified riparian vegetation within the UGB is that shoreland vegetation adjacent to Management Unit 9 A. This vegetation shall be protected by requiring a fifty (50) foot setback from the high water line for any development in the area. Adjacent public roads may be maintained as needed.

Policy 6: Recreational Resources. The Yaquina Bay Estuary represents a recreational resource of both local and statewide importance. Management of the estuary shall protect recreational values and ensure adequate public access to the estuary. This will include consideration of culturally important tribal resources.

Policy 7: Dredged material disposal sites identified in the Yaquina Bay and River Dredged Material Disposal Plan, which are located within the Newport urban growth boundary, shall be protected. Development that would preclude the future use of these sites for dredged material disposal shall not be allowed unless a demonstration can be made that adequate alternative disposal sites are available. Dredging and/or filling in the estuary shall be allowed only:

a.) if required for navigation or other water dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this plan; and

b.) if a need (e.g., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights or tribal cultural resources or practices; and

c.) if no feasible alternative upland locations exist; and

d.) if adverse impacts are minimized.

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

Policy 8: All restoration projects should serve to revitalize, return, replace or otherwise improve estuarine ecosystem characteristics. Examples include restoration of biological productivity, fish or wildlife habitat, other natural or cultural characteristics or resources, or ecosystem services that have been diminished or lost by past alterations, activities or catastrophic events. In general, beneficial restoration of estuarine resources and habitats, consistent with Statewide Planning Goal 16, should be facilitated through implementing measures.

Policy 9: Newport Sub-Area. The primary objective in the Newport sub-area shall be to manage the development of water dependent uses, including but not limited to deep draft navigation, marine research, and commercial fishery support facilities. In general, non-water related uses shall not occupy estuarine surface area. However, limited non-water related uses may be permitted in keeping with the scenic and historic bayfront community on the north side of the sub-area. Adverse impacts of development on natural resources and established recreational uses shall be minimized. Land uses of adjacent shorelands should be consistent with the preferences and uses of other sub-areas.

Policy 10: Bayfront Uses. The city shall encourage a mix of uses on the bayfront. Preference shall be given to water-dependent or water-related uses for properties adjacent the bay. Nonwater-dependent or related uses shall be encouraged to locate on upland properties.

Policy 11: Water-Dependent Zoning Districts. Areas especially suited for water-dependent development shall be protected for that development by the application of the W-1/"Water-Dependent" zoning district. Temporary uses that involve minimal capital investment and no permanent structures shall be allowed, and uses in conjunction with and incidental to water-dependent uses may be allowed.

Policy 12: Solutions To Erosion and Flooding. Nonstructural solutions to problems of erosion or flooding shall be preferred to structural solutions. Where flood and erosion control structures are shown to be necessary, they shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. Additionally, or cobble/pebble dynamic revetments in MU 8 and 9~~ A~~ to be allowed, the project must demonstrate a need to protect public facility uses, that land use management practices and nonstructural solutions are inadequate, and the

proposal is consistent with the applicable management unit as required by Goal 16.

Policy 13: Impact Assessment. Impact Assessments are required for dredging, fill, in-water structures, shoreline protective structures including riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow lane disposal of dredged material, and other activities that could affect the estuary's physical processes or biological resources.

The Impact Assessment need not be lengthy or complex. The level of detail and analysis should be commensurate with the scale of expected impacts. For example, for proposed alterations with minimal estuarine disturbance, a correspondingly simple assessment is sufficient. For alterations with the potential for greater impact, the assessment should be more comprehensive. In all cases, it should enable reviewers to gain a clear understanding of the impacts to be expected. The Impact Assessment shall be submitted in writing to the local jurisdiction and include information on:

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;

d.) The expected extent of impacts of the proposed alteration must reference relevant Climate Vulnerabilities as described in applicable sub-area(s) for the management unit(s) where the alterations are proposed (applicants are encouraged to document the use of any applicable data and maps included in the inventory such as sea level rise and landward migration zones) when considering future:

1.) long term continued use of the proposed alteration

2.) water quality and other physical characteristics of the estuary,

3.) living resources,

4.) recreation and aesthetic use,

5.) navigation, and

6.) other existing and potential uses of the estuary;

e.) The methods which could be employed to avoid or minimize adverse impacts; and

f.) References, information, and maps relied upon to address (1) through (5) above.

Policy 14: Alteration of the Estuary. Uses and activities other than dredge and fill activity which could alter the estuary shall be allowed only:

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

b.) If no feasible alternative upland locations exist; and

c.) If adverse impacts are minimized.

Policy 15: Resource Capability Determinations - 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, injury, or for future intended use.

Policy 16: Resource Capability Determinations - 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.

Policy 17: Temporary Alterations in Natural and Conservation Management Units. A temporary alteration is dredging, filling, or other estuarine alteration occurring over no more than three years which is needed to facilitate a use allowed by the Comprehensive Plan and the Permitted Use Matrices of the Zoning Ordinance. The provision for temporary alterations is intended to allow alterations to areas and resources that would otherwise be required to be preserved or conserved.

Temporary alterations include:

> 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 jetty maintenance);

> Alterations to establish mitigation sites, alterations for bridge construction or

repair, and for drilling or other exploratory operations; and

> Minor structures (such as blinds) necessary for research and educational observation.

Temporary alterations require a resource capability determination to ~~e~~insure that:

> The short-term damage to resources is consistent with resource capabilities of the area; and

> The area and affected resources can be restored to their original condition.

Policy 18: Exempt Uses. New development or redevelopment that will not alter an aquatic area within the estuary or where the scale and scope of the development or redevelopment is so small that its impact on the aquatic area is negligible may be classified in the Newport Zoning Ordinance as exempt from estuarine review.

ADD IN THE INDIVIDUAL MANAGEMENT UNIT MAPS

June 20, 2024 Revisions to NMC Chapter 14 Implementing Relevant Provisions of the Updated Yaquina Bay Estuary Plan

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 14.01 PURPOSE, APPLICABILITY, AND DEFINITIONS**

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14.01.020 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:

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Adverse Impact (Significant). means any impact, resulting in degradation of an important resource, that is unacceptable because it cannot be mitigated or because of unacceptable conflicts in the management or use of the impacted resource.

Alteration (estuary). means any man-caused change in the environment, including physical, topographic, hydraulic, biological, or other similar environmental changes, or changes which affect water quality.

Aquaculture. the raising, feeding, planting, and harvesting of fish, shellfish, or marine plants, including facilities necessary to engage in the use.

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.

Commented [SG1]: Well done definitions except they don't include policy definitions-- see comments below

Commented [DT2]: Added definition per DLCD's recommendation.

Commented [DT3]: Added definition from OAR 660-017-0005.

Climate Change. The increasing changes in the measures of climate over a long period of time including precipitation, temperature, and wind patterns.

Cobble Dynamic Revetment. 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 dynamic revetment represents a transitional strategy between a conventional riprap revetment of large interlocking stones and a beach nourishment project.

Dike. An earthen embankment or ridge constructed to restrain high waters.

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

Dredging (estuary). 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.)

Dredged Material Disposal (estuary). The deposition of dredged material in estuarine areas or shorelands.

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.

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

Excavation (estuary). The process of digging out shorelands to create new estuarine surface area directly connected to other estuarine waters.

Fill (estuary). The placement of material in the estuary to create new shoreland area or raise the elevation of land.

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.

Management Unit. A policy level in the Yaquina Bay Estuary Management Plan that is designed to provide specific implementing provisions for individual project proposals. Each unit is given a management classification of Natural, Conservation, or Development. These classifications are based on the resource characteristics of the units as determined through an analysis of resource inventory information. The classification carries with it a general description of intent and a management objective. Each management unit objective is implemented by its applicable Estuary Zoning District which specifies uses and activities that are permitted or conditional within the unit. Many management units also contain a set of Special Policies that relate specifically to that individual unit.

Commented [DT4]: Added definition of Management Unit. Aligns with similar language in the Estuary Management Plan.

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

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.

Mitigation (estuary). 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.

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.

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.

Restoration (estuary). 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 fills or dikes, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas, etc.

Passive restoration is the use of natural processes, sequences, or timing to bring about restoration after the removal or reduction of adverse stresses.

Shoreline stabilization. The stabilization or protection from erosion of the banks of the estuary by vegetative or structural (riprap or bulkhead) means.

Submerged Crossings. Power, telephone, water, sewer, gas, or other transmission lines that are constructed beneath the estuary, usually by embedding into the bottom of the estuary.

Temporary Alteration (estuary). Dredging, filling, or other estuarine alteration occurring over a specified short period of time (not to exceed three years) that is needed to facilitate a use allowed by the applicable Estuary Zoning District. The provision for temporary alterations is intended to allow alterations to areas and resources that would otherwise be required to be preserved or conserved.

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

Staff: The above definitions will be added to NMC Chapter 14.01 in alphabetical order. The terms provide context for regulatory changes in NMC Chapter 14.04.

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CHAPTER 14.02 ESTABLISHMENT OF ZONES

14.02.010 Establishment of Zones

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

Zone Designation	Abbreviated
Estuary Conservation Zone	(E-C)
Estuary Development Zone	(E-D)
Estuary Natural Zone	(E-N)
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)
Heavy Industrial	(I-3)
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)~~

Commented [SG5]: You have eliminated the individual management units and collapsed them within their designated zones. How does this reconcile with the Estuary Management plan itself which has individual information for each management unit (although very incomplete and poorly done)?

Commented [MR6R5]: Through the other pieces of this code as updated through the revisions, an applicant will need to address the individual management unit objectives and special policies so that is not being lost through the change to the zoning district concept.

~~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)~~

Staff: The Management Units have been categorized under three new zoning classifications, "Estuary Conservation Zone," "Estuary Development Zone," and "Estuary Natural Zone" and will no longer be independent zoning districts. These revisions reflect that change. The City eliminated its M-H zoning overlay decades ago, so that deletion is a housekeeping clean-up item. The same is true with respect to the addition of the I-3 zone district, which was inadvertently left off of the table.

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CHAPTER 14.03 ZONING DISTRICTS

14.03.010 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~~ five (~~4~~5) basic classifications and ~~thirteen~~ eighteen (~~13~~18) use districts as follows:

A. Districts zoned for residential use(s).

1. R-1 Low Density Single-Family Residential.

2. R-2 Medium Density Single-Family Residential.

Commented [GS7]: Must admit that I don't understand "zoning districts" relative to using either a category of "zone" or "district". Probably something to do with the planning definitions and lexicon.

Commented [MR8R7]: It is the same as it would be on land - this is how Newport describes all of its base zones. For example, residential, commercial, industrial. The concept is the same in the water as it is on land.

3. R-3 Medium Density Multi-Family Residential.

4. R-4 High Density Multi-Family Residential.

B. Districts zoned for commercial use(s).

1. C-1 Retail and Service Commercial.

2. C-2 Tourist Commercial.

3. C-3 Heavy Commercial.

C. Districts zoned for industrial use(s).

1. I-1 Light Industrial.

2. I-2 Medium Industrial.

3. I-3 Heavy Industrial.

4. W-1 Water Dependent.

5. W-2 Water Related.

D. Districts zoned for public use(s).

1. P-1 Public Structures.

2. P-2 Public Parks.

3. P-3 Public Open Space.

E. Districts zoned for estuary use(s).

1. E-C Estuary Conservation

2. E-D Estuary Development

3. E-N Estuary Natural

Staff: The above changes add the three estuary zones to the list of zone districts within the City of Newport.

***

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:

E-C/"Estuary Conservation." The intent of the E-C district is to conserve, protect, and where appropriate enhance renewable estuarine resources for long term uses and to manage for uses that do not substantially degrade the natural or recreational resources or require major alterations to the estuary.

E-D/"Estuary Development." The intent of the E-D district is to provide for water dependent and water related development. Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.

E-N/"Estuary Natural." The intent of the E-N district is to preserve, protect and where appropriate enhance these areas for the resource and support the values and functions they provide. These areas shall be managed to ensure the protection of significant fish and wildlife habitats; of continued biological productivity within the estuary; and of scientific, research, and educational needs.

Staff: This section of the Newport Municipal Code includes "intent statements" for each of the City's zoning districts. The intent language for these three new zone districts aligns with the Management objectives for each of them, as outlined in the updated Yaquina Bay Estuary Management Plan.

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14.03.120 Estuary Uses

The following list sets forth the uses allowed within the estuary land use classification. Management units are a subclassification of the listed zones. Uses not identified herein are not allowed.

"P" = Permitted Uses.

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

Commented [SG9]: I assume these are totally consistent with Goal 16 (which of course provides more detail). Should you reference Goal 16?

Commented [MR10R9]: These zoning districts and their intents are consistent with the text of the updated Yaquina Bay EMP which is consistent with Goal 16. This is true of all parts of the zoning code as they are shaped by the statewide planning goals. There is no need to reference the goal itself.

Commented [SG11]: Is this phrase defined anywhere—who determines substantial degradation?

Commented [MR12R11]: In this case, this is a statement of the zone's intent. It would be incorporated into the existing list of all the other zoning districts in Newport (such as "Low Density Single-Family Residential" and "Light Industrial"). Applications are reviewed against all the applicable criteria in the zoning code and not just the intent descriptions. Intent statements are typically general and include terms that are not necessarily defined, but rather they describe land use categories that have common characteristics and development.

Commented [SG13]: Is the phrase "major alteration" defined anywhere?

Commented [MR14R13]: It is not.

Commented [GS15]: I assume that means that major alterations are allowed in the ED district.

Commented [MR16R15]: They can be, as long as they meet the other applicable criteria for those zones and any special policies of the development management unit. The major alteration must be for water-related or water-dependent uses.

Commented [DT17]: Add reference to non-water dependent and water-related uses.

Commented [GS18]: No mention here about allowable uses consistent with Goal 16. Need additional wording such as "and allows uses consistent with this intent that do not have significant impacts on the natural area."

Commented [MR19R18]: Additional language could be added to address this concern. I provide some draft text from the revised YBEMP here as an example.

The list of allowable uses (consistent with Goal 16) are listed in the next section: 14.03.120.

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"X" = Not Allowed.

		E-C	E-D	E-N
	Management Units	3, 6, and 8	1, 2, 4, 5, 7, and 12	1a, 9, and 10
1.	Active restoration of fish and wildlife habitat, water quality, or estuarine productivity.	C	P [3]	C [1]
2.	Aquaculture requiring dredge, fill or other alteration of estuarine aquatic area.	C [1]	P [3]	X
3.	Aquaculture that does not involve dredge or fill or other estuarine aquatic area alteration except that incidental dredging for harvest of benthic species or the use of removable structures such as stakes or racks may be permitted.	C	P [3]	C [1]
4.	Boat ramps for public use not requiring dredge or fill.	C	P [4]	C [1]
5.	Bridge crossing support structures and dredging necessary for their installation.	C	P [3]	C [1]
6.	Bridge crossing spans that do not require the placement of support structures within an E-C or E-N zone.	P	P	P
7.	Commercial boat basins and similar moorage facilities.	X	C	X
8.	Communication facilities.	C	P [3]	C [1]
9.	High intensity water dependent recreation, including, but not limited to, boat ramps and marinas, and including new and maintenance dredging for such uses.	C [1]	C	X
10.	Installation of tide gates in existing functional dikes.	C	P [3]	C [1]
11.	In-water disposal of dredged material.	X	C	X
12.	Marine terminals.	X	C	X
13.	Mining and mineral extraction, including dredging necessary for such extraction.	C [1]	P [3]	X
14.	Minor navigational improvements.	C [1]	P [3]	X
15.	Navigation activities and improvements.	X	C	X
16.	Navigation aids such as beacons and buoys.	C	P [3]	C
17.	On-site maintenance of existing functional tide gates and associated drainage channels, including, as necessary, dredging and bridge crossing support structures.	C	P [3]	C
18.	Other water dependent uses requiring the occupation of estuarine surface area by means other than fill	C [1]	P [3]	X
19.	Passive restoration activities.	P [2]	P [3]	P [2]

Commented [SG20]: OK—so aquaculture is allowed conditionally in natural areas.

Commented [MR21R20]: Correct - it is a conditional use subject to the resource capability test. Also, in E-N, aquaculture is limited to activities that do not include dredge or fill or alteration other than what is listed in the table. This language is directly from Goal 16.

20.	Pipelines, cables and utility crossings including incidental dredging necessary for their installation.	C	P [3]	C [1]
21.	Projects for the protection of habitat, nutrient, fish, wildlife, and aesthetic resources.	P [2]	P [3]	P [2]
22.	Research and educational observations.	P [2]	P [3]	P [2]
23.	Riprap for the protection of uses existing as of October 7, 1977.	C	P [3]	C
24.	Riprap for the protection of unique resources, historical and archeological values, and public facilities.	C	P [3]	C
25.	Temporary alterations.	C [1]	P [3]	C [1]
26.	Undeveloped low intensity recreation.	P [2]	P [3]	P [2]
27.	Water dependent commercial uses.	X	P [4]	X
28.	Water dependent industrial uses.	X	P [4]	X
29.	Uses allowed conditionally in an adjacent water-dependent or water-related zone district	X	C	X
30.	Water storage of products used in industry, commerce, or recreation.	X	C	X

[1] Conditional use is subject to a resource capability test.

[2] Projects that require aquatic area alteration may be permitted as conditional uses.

[3] Projects may, or may not, include aquatic area alteration and are subject to staff level review using a Type 1 decision making process.

[4] Projects are subject to staff level review using a Type 1 decision making process unless they involve dredging or the placement of fill, in which case they are subject to conditional use review.

Staff: The above table is formatted to match those used for other zone classifications within the City. The footnotes inform the level of review required, with detailed standards being included in the NMC Chapter 14.04

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CHAPTER 14.04 ESTUARINE USE STANDARDS

14.04.010 Purpose

The purpose of this section to establish standards for new development and redevelopment within estuarine aquatic areas in a manner consistent with Statewide Planning Goal 16. As used in this section, "estuarine aquatic area" means estuarine waters, submerged lands, tidelands, and tidal

Commented [DT22]: Added additional use allowance that should have been included. Picks up Bayfront conditional uses.

Commented [SG23]: Might be good to define this but assume it means showing no adverse significant impact to the natural productivity and ecological functioning of the management unity (as compared to an entire zone).

Commented [MR24R23]: The resource capability test has its own section in the code: 14.04.040.

Commented [SG25]: Define

Commented [MR26R25]: Type 1 procedures are defined in the city's existing code, Chapter 14.52

marshes up to Mean Higher High Water or the line of non-aquatic vegetation, whichever is further landward.

14.04.020 Exempt Uses

The following uses and their accessory uses are permitted outright and are not subject to the standards contained in this chapter

A. Within all Estuary Zone Districts

1. Undeveloped low intensity recreation requiring no aquatic area alteration.
2. Research and educational observations requiring no aquatic area alteration.
3. Projects for the protection of habitat, nutrient, fish, wildlife, and aesthetic resources requiring no aquatic area alteration.
4. Passive restoration that requires no aquatic area alteration.
5. Bridge crossing spans that do not require the placement of support structures.

B. Within the E-D Zone District

1. Piling repair involving welded patches, wraps, sleeves, or the injection of grout or similar reinforcing material.
2. Removal or installation of not more than six pile associated with an in-water structure within a 12 month period.
3. In-kind replacement of a floating structure.
4. Underwater welding.

Commented [DT27]: Added minor development activities exempt from City estuarine review. May still require Army Corps/DSL permit. These changes have not been reviewed by DLCD and may need to be adjusted prior to a hearing.

14.04.030 General Standards

The following standards will be applied to all new uses, expansion of existing structures, 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.

A. Structures: Structures include all constructed facilities that extend into the estuary, whether fixed or floating. Not included are log rafts or new land created from submerged

or submersible lands. All structures proposed within an estuary zoning district must adhere to the following:

1. The siting and design of all structures shall be chosen to minimize adverse impacts on aquatic life and habitats, flushing and circulation characteristics, and patterns of erosion and accretion, to the extent practical.
2. 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.
3. 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.
4. Occupation of estuarine surface areas by structures shall be limited to the minimum area practical to accomplish the proposed purpose.
5. Where feasible, breakwaters of the floating type shall be preferred over those of solid construction.
6. 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 to this requirement 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.
7. 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.
8. The size, shape, and orientation of a dock or pier shall be limited to that required for the intended uses.
9. For structures associated with marinas or port facilities:
    a. Open moorage shall be preferred over covered or enclosed moorage except for repair or construction facilities;

Commented [SG28]: But minimizing at what cost? Often a phrase is added "to the extent practical" meaning that a huge cost cannot be incurred to achieve a small marginal benefit. I would use a phrase such as "reduce significant adverse impacts" For example see #4 below.

Commented [MR29R28]: Adding "to the extent practical" or to "reduce significant adverse impacts" would be fine. This section of the city's code is outside of what is required by Goal 16.

Commented [DT30R28]: Added "to the extent practical"

Commented [MR31]: Does this mean a goal exception? Or exemption from this requirement? Might be good to clarify.

Commented [DT32R31]: Language has been clarified.

Commented [SG33]: Define!

Commented [MR34R33]: Potential definition: "Significant Adverse Impact means any impact, resulting in degradation of an important resource, that is unacceptable because it cannot be mitigated or because of unacceptable conflicts in the management or use of the impacted resource."

Commented [DT35R33]: Definition added.

b. Multi-purpose and cooperative use of moorage parking, cargo handling, and storage facilities shall be encouraged;
c. Provision of public access to the estuary shall be encouraged, where feasible and consistent with security and safety requirements.

10. Shoreline stabilization structures shall be confined to those areas where:
    a. Active erosion is occurring that threatens existing uses or structures; or
    b. New development or redevelopment, or water-dependent or water-related uses requires protection for maintaining the integrity of upland structures or facilities;
11. Structural shoreline stabilization methods shall be permitted only where the shoreline protection proposal demonstrates that a higher priority method is unreasonable. The following, in order, are the preferred methods of shoreline stabilization:
    a. Vegetative or other nonstructural technique;
    b. Cobble dynamic revetment;
    c. Vegetated riprap;
    d. Unvegetated riprap;
    e. Bulkheads (except that the use of bulkheads shall be limited to ED and EC management units only).
12. Minor modifications of the shoreline 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.

B. Dikes: New diking is the placement of dikes on an area that has never been previously diked; or has previously been diked but all or a substantial part of the area is presently subject to tidal inundation and tidal marsh has been established.
1. Existing functional dikes and tide gates may be maintained and repaired as necessary to fulfill their purpose as flood control structures.
2. New dikes in estuarine areas shall be allowed only:
a. As part of an approved fill project, subject to the standards for fill in the applicable Estuary Zoning District; and
b. If appropriate mitigation is undertaken in accordance with all relevant state and federal standards.

Commented [SG36]: This a two word awkward phrase. I would eliminate or add the word "feasibility" next to security and safety at end of the sentence. .

Commented [MR37R36]: Agree that this wording is awkward.

Commented [DT38R36]: Language has been redrafted for clarity.

3. Dikes constructed to retain fill materials shall be considered fill and subject to standards for fill in the applicable Estuary Zoning District.
4. The outside face of new dikes shall be protected by approved shoreline stabilization procedures.

C. Submerged Crossings:
1. 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 the applicable Estuary Zoning District.
2. Submerged crossings shall be designed and located so as to eliminate interference with present or future navigational activities.
3. Submerged crossings shall be designed and located so as to ensure sufficient burial or water depth to avoid damage to the crossing.

D. Excavation:
1. Creation of new estuarine surface area shall be allowed only for navigation, other water-dependent use, or restoration.
2. 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.
3. Excavation of as much as is practical of the new water body shall be completed before it is connected to the estuary.
4. In the design of excavation projects, provision of public access to the estuary shall be encouraged to the extent compatible with the proposed use.

14.04.040 Special Standards

Commented [DT39]: Retitle to "Special Standards" to match the updated Estuary Management Plan.

A. Dredging, filling, or other alterations of the estuary shall be subject to a Resource Capability Test that satisfies the following:

1. The activity will occur in conjunction with a use authorized in accordance with a use listed in NMC 14.03.120;
2. A substantial public benefit is demonstrated;

3. The use or alteration does not substantially interfere with public trust rights;
4. No feasible alternative upland locations exists; and
5. Adverse impacts are minimized. Adverse impacts include:
    a. Short-term effects such as pollutant release, dissolved oxygen depletion, and disturbance of important biological communities.
    b. 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.
    c. Removal of material in wetlands and productive shallow submerged lands.

14.04.050 Impact Assessments

A. All decisions authorizing uses that involve alterations of the estuary that could affect the estuary's physical processes or biological resources shall include a written impact assessment. The impact assessment need not be lengthy or complex. The level of detail and analysis should be commensurate with the scale of expected impacts. For example, for proposed alterations with minimal estuarine disturbance (e.g. docks, aquaculture facilities), a correspondingly simple assessment is sufficient. For alterations with the potential for greater impact (e.g. navigation channels, boat basins), the assessment should be more comprehensive. In all cases it shall provide a summary of the impacts to be expected. It should be submitted in writing to the local jurisdiction. It shall include:

1. The type and extent of alterations to be authorized;
2. The type of resources affected;
3. The expected extent of impacts on water quality and other physical characteristics of the estuary, biological resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary;
4. The expected extent of impacts of the proposed alteration should reference relevant Climate Vulnerabilities as described in applicable sub-area(s) and management unit (applicants are encouraged to document the use of any applicable data and maps included in the inventory such

Commented [SG40]: Same comment as before—needs a modifying phrase such as to the "extent practical" and who determines what "minimized" implies in the context of major costs?

Commented [MR41R40]: The intent here is that the applicant provides this information and describes how any adverse impacts are minimized. It is a discretionary decision, made through the conditional use process. The list of potential adverse impacts included with this provision is meant to help guide what is meant by adverse impacts.

Commented [SG42]: When is the word "use:' appropriate relative to "alterations". Are they synonymous? Is alterations a physical change only? A definition would be useful.

Commented [MR43R42]: 'Use' and 'alteration' are not synonymous. Use is defined by the city's code as: "Use: The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained."

In the context of the estuary, 'use' is how the area is to be used. An activity is usually a way to get to the use. For example, dredging is an activity to develop a marina, which is the use. Both uses and activities are regulated by Goal 16. Alterations are typically about the activities occurring in the estuary to get to an approved use. 'Alteration,' while undefined in Goal 16, has broad meaning by the context in which it is used throughout the Goal.

In OAR 660-017-0005, there is a definition for estuarine alteration that could be incorporated here.

"Estuarine Alteration" means any human-caused change in the environment, including physical, topographic, hydraulic, biological, or other similar environmental changes, or changes which affect water quality.

Commented [DT44R42]: Definition added.

Commented [SG45]: This is identical language as the estuary management plan but has the same problem. Similar to other comments is there a definition or examples of "minimal estuarine disturbance". Il this spatially or temporally dependent? Some may define minimal as zero impacts. Need good definition and examples.

Commented [MR46R45]: It is discretionary. Examples could be provided: "alterations with minimal estuarine disturbance (for example, docks, aquaculture facilities)." "Alterations with potential for greater impact, (for example, navigation channels, boat basins)."

Commented [DT47R45]: Examples added.

as sea level rise and landward migration zones) when considering future:

a. continued use of the proposed alteration given projected climate change impacts
b. water quality and other physical characteristics of the estuary,
c. living resources,
d. recreation and aesthetic use,
e. navigation, and
f. other existing and potential uses of the estuary; and

5. Methods to be employed to avoid or minimize adverse impacts.

In the process of gathering necessary factual information for the preparation of the impact assessment, the Community Development 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.

14.04.060 Conditional Use Standards

A. Conditional uses within the E-N zone district shall comply with the following standards:
1. The use is consistent with the intent of the E-N zone district; and
2. The use complies with any applicable Special Policies of the individual Management Unit.
3. The use shall be consistent with the resource capabilities of the Management Unit. A use is consistent with the resource capabilities of the area when:
a. The negative impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant; or
b. The resources of the area are able to assimilate the use and its effects and continue to function in a manner which conserves long-term renewable resources, natural biological 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.

Commented [DT48]: Setup sub-sections by Zone.

Commented [SG49]: I assume this is determined by the Estuary Management Plan Management Unit policies and not the city.

Commented [MR50R49]: Correct. The City could decide to include additional special policies for the management units with their jurisdiction. The city will be adopting the policies for each management unit within their jurisdiction in the Newport Comprehensive Plan.

Commented [SG51]: This needs definition and examples. The phrase “are not significant” needs to be defined with examples.

4. Information from the Impact Assessment shall be used to determine if a use is consistent with the resource capability of the area.

B. Conditional uses within the E-C zone district shall comply with the following standards:
1. The use is consistent with the intent of the E-C zone district; and
2. The use complies with any applicable Special Policies of the individual Management Unit.
3. The use shall be consistent with the resource capabilities of the Management Unit. A use is consistent with the resource capabilities of the area when:
   a. The negative impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant; or
   b. The resources of the area are able to assimilate the use and its effects and continue to function in a manner which conserves long-term renewable resources, natural biological 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.
4. Information from the Impact Assessment shall be used to determine if a use is consistent with the resource capability of the area.

C. Conditional uses within the E-D zone district shall comply with the following standards:
1. The use is consistent with the intent of the E-D zone district; and
2. The use is consistent with the management objective of the individual Management Unit.
3. The use complies with any applicable Special Policies of the individual Management Unit.
4. The use is permitted outright or conditionally in the adjacent water-related or water-dependent zone district.
5. Information from the Impact Assessment shall be used to determine if a use satisfies the standards of this sub-section.

Commented [SG52]: I assume this is determined by the Estuary Management Plan Management Unit policies and not the city.

Commented [MR53R52]: Correct. The City could decide to include additional special policies for the management units with their jurisdiction. The city will be adopting the policies for each management unit within their jurisdiction in the Newport Comprehensive Plan.

Commented [SG54]: This needs definition and examples. The phrase “are not significant” needs to be defined with examples.

Commented [SG55]: I assume this is determined by the Estuary Management Plan Management Unit policies and not the city.

Commented [MR56R55]: Correct. The City could decide to include additional special policies for the management units with their jurisdiction. The city will be adopting the policies for each management unit within their jurisdiction in the Newport Comprehensive Plan.

14.04.070 Dredged Material Disposal Standards

A. Disposal of dredged materials should occur on the smallest possible land area 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 ensure 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 ensure 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. Priorities for the placement of dredged material disposal sites shall be (in order of preference):

1. Upland or approved fill project sites.

2. Approved offshore ocean disposal sites.

3. Aquatic areas.

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.

Staff: NMC Chapter 14.04 is being rewritten in its entirety to include the approval criteria from the updated Yaquina Bay Estuary Management Plan.

CHAPTER 14.05 MANAGEMENT UNIT SPECIAL POLICIES

(Chapter to be rewritten and relevant policies will be incorporated into Chapter 14.04)

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CHAPTER 14.34 CONDITIONAL USES

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14.34.060 Supplemental Estuary Conditional Use Standards

Uses permitted conditionally within estuary zone districts, pursuant to NMC 14.03.120 shall be subject to the standards listed in NMC Chapter 14.04.

Staff: This section is being added to the end of the Conditional Use chapter to put individuals on notice that additional standards apply to conditional uses proposed within the estuary.

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CHAPTER 14.52 PROCEDURAL REQUIREMENTS

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14.52.060 Notice

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G. Written Notice for Land Use Decision in Estuary Zone Districts. The City of Newport shall notify state and federal agencies with interest or jurisdiction in estuaries of estuary use applications which may require their review. This notice will include a description of the use applied for, references to applicable policies and standards, and notification of comment and appeal period.

Commented [SG57]: Is there a time frame (e.g., within 30 days etc.)

Commented [DT58]: Notice timeframe Chapter 14.52

Staff: This section is being added to the land use procedural chapter to identify notice requirements for City land use decisions within estuary zones.

REQUESTED EDITS TO MANAGEMENT UNIT 9

NOTE:

Language included in August 2023 update, "final draft" YBEMP is edited as follows:
[~~Deletion~~] = Language deleted from the "final draft" is shown by brackets and strikethrough.
Insertion = Language to be inserted is shown in italics.

Management Unit 9: YAQUINA BAY

Description

Management Unit 9 includes the Idaho Flat tideflat between the Marine Science Center and Idaho Point, all of King Slough, and the intertidal area [~~upriver~~] *upstream* from the mouth of King Slough known as [~~Racoon~~] *Raccoon* Flat (see Figure 15).

More than 600 acres of tideland are estimated to be included in Management Unit 9. This includes 250 acres at Idaho Flat, 235 acres in King Slough and at the mouth of King Slough, and over 120 acres upstream from the mouth of King Slough. Of this total, about 260 acres are inside the Newport City Limits, most notably Idaho Flat and a smaller area just east of Idaho Flat.

This is one of the largest tideflats in the estuary with a number of natural resource values of major significance, including eelgrass beds, shellfish beds, low salt marsh, fish spawning and nursery areas and waterfowl habitat.

The area is used [~~extensively~~] for recreational purposes, [~~primarily angling, clamming and waterfowl hunting~~] *with significant recreational clamming in Idaho Flat (accessed primarily from the Hatfield Marine Science Center location) and occasional angling and waterfowl hunting.* [~~*A private boat ramp (formerly the site of a small marina) is present at Idaho Point*~~.] *There are several private boat ramps, including one at Idaho Point (formerly the site of a small marina).*

[~~The~~] *Nearly all of the Idaho Flat* intertidal flat area [~~west of Idaho Point is in public ownership (~~] *is owned by the* State of Oregon Board of Higher Education, *and considered to be part of the OSU Hatfield Marine Science Center campus. [~~)~~]. There is significant potential for OSU to use this area in support of research and education, especially as OSU implements an expansion of the OSU Hatfield marine sciences program, an expansion already underway. A much smaller area of tideland is leased by the Port of Newport to the Oregon Coast Aquarium.*

Most of the intertidal area of King Slough is privately owned and was used historically for log storage. *Log storage will no longer be done in this area. Instead, current owners of most of the tideland in the middle and northern portions of King Slough and adjacent to the mouth of King Slough have done extensive water quality testing, received Oregon Department of Agriculture approval to grow and harvest shellfish for human consumption, and have started a small-scale*

oyster farm using equipment where oysters are grown in the water column, which minimizes adverse impacts to organism growing in the mud flats. There is potential to expand aquaculture activities in the future using methods and equipment consistent with protecting the ecology of the estuary. The NOAA Office of Aquaculture issued a Fact Sheet in 2022 "Aquaculture Provides Beneficial Ecosystem Services" explaining that shellfish, and in particular oysters, filter water and improve water quality as well as improve habitat for small crustaceans and small fish.
[~~There is a small, low intensity aquaculture operation (tipping bag system) on the east side of King Slough~~.]

[~~A substantial portion of the Racoon Flat intertidal area along the west shore above the mouth of King Slough is owned~~] *The intertidal area upstream from King Slough (Raccoon Flat) is privately-owned, with the area closest to King Slough having the same owner as tideland in King Slough. A larger area upstream* is owned by the Yakona Nature Preserve [~~and Learning Center~~], *an Oregon-registered charitable organization, which also owns adjacent forested upland, with the stated purpose "To develop and maintain a sanctuary for flora and fauna native to the Oregon central coast and to create an educational space in which people can learn about the natural environment and the Native American history of the area encompassing the preserve."*

Alteration to the unit is minimal, with a few scattered pilings and limited areas of riprapped shoreline."

Classification: Natural

[~~As a major tract of tideflat, this unit has been classified natural in order to preserve the natural resources of the unit~~.]

Management Unit 9 has very large tideflats with various water depths (shallow intertidal areas, deeper intertidal areas, and subtidal channels) and some variation of substrate (sand, mud, unconsolidated substrate) that naturally support a variety of organisms beneficial to the estuary. The most significant natural resources to be preserved are eelgrass and clam beds.

Resource Capability

Management Unit 9 is a very large area, with more than 600 acres. As a large area, it is capable of supporting a diversity of beneficial biological resources.

There is a sizable clam bed at Idaho Flat with cockles, gaper, butter and littleneck clams. This flat shifts from sand to mud, moving west to east. The access point from shore is at the Hatfield Marine Science Center at the west. Idaho Flat is a very popular recreational clamming area at minus tide levels. In addition, there is a clam bed at Raccoon Flat, with cockles most prevalent and, less common, gaper and littleneck clams. However, the clam bed at Raccoon Flat is inaccessible, except by boat, and located on privately owned tideland and is not used by recreational clammers.

Native eelgrass (Zostera marina) provides a significant ecological benefit when used by forage fish, most notably Pacific herring, as a spawning "structure" and habitat for herring egg broods

until the larval herring emerge. Native eelgrass prefers growing on substrate where it can root and in deeper intertidal water, below mean low tide, and adjacent subtidal water where is it not susceptible to desiccation (drying out) at low tide. In 2012, there were relatively small areas of native eelgrass, most notably along the northern edge of Idaho Flat adjacent to the main channel of Yaquina Bay, and small area near the mouth of King Slough. It has been reported there was a loss of eelgrass in Idaho Flat in 2021, compared with 2011.

There are no significant populations of native Olympia oysters (Ostrea lurida) in Management Unit 9. Native Olympia oysters grow naturally in subtidal areas on solid substrate; these characteristics are missing from Management Unit 9. After a feasibility study considering locations in the main channel of King Slough, a research biologist concluded that any native oysters and spat would be covered and smothered by silt flowing in the channel.

A portion of Management Unit 9 has a unique biological capability for growing shellfish for human consumption, as determined by extensive and ongoing water quality testing. As a result, the Oregon Department of Agriculture (ODA) has classified an area in the middle and north portions of King Slough, and at the mouth of King Slough, as an "Approved Area" for growing shellfish for human consumption. This area is the only ODA "Approved Area" in the entire Yaquina Bay estuary for growing shellfish for human consumption (while Management Units 16 and 17 are in an ODA "Conditionally Approved Area" for growing shellfish for human consumption). The "Approved Area" is an area of special biological productivity, with important resource value.

In addition, this area is ideal for research, scientific studies, and demonstration projects to learn about the estuary and environmental trends affecting it, explore feasible and desirable approaches to protect and enhance a balanced ecology, and demonstrate best practices. This is especially appropriate because the Oregon Board of Higher Education owns 250 acres of Idaho Flat tideland that is adjacent to the Hatfield Marine Science Center.

Management Unit 9 is a highly sensitive area with resource values of major importance to the estuarine ecosystem. In order to maintain resource values, alterations (*besides scientific studies, active restoration projects, and shellfish aquaculture)* in the unit shall be kept to a minimum. Minor alterations which result in temporary disturbances (e.g., limited dredging for submerged crossings) are consistent with resource values in this area; other more permanent alterations will be reviewed individually *for consistency with the resource capabilities of the area.*

Management Objective

[~~Management Unit 9 shall be managed to preserve and protect natural resources and values.~~]
The primary objective shall be to seek a balance of ecologically-beneficial organisms to preserve the biological resources and, where possible, enhance the biological capabilities of this large area. Beneficial biological resources include submerged aquatic vegetation, fish and crab spawning and nursery areas, natural clam beds, and compatible shellfish aquaculture. The preservation of one species or organism does not preclude other species or organisms that are

also beneficial to the ecology of the estuary. For example, cultivated oysters provide many of the same ecosystem benefits as native Olympia oysters, grow in areas of tideflats where Olympia oysters will not grow, and are less susceptible to die-offs from summer heat waves or temporary winter sub-freezing temperatures. Commercial aquaculture, that is not detrimental to other desirable estuarine resources, is compatible with the management objective of this Management Unit 9. Similarly, scientific studies that may include some limited, temporary alterations, are compatible with this management objective, because the studies increase knowledge about the estuary, its organisms, approaches for enhancing future biological productivity of the estuary, future "best practices" for managing the estuary, and approaches for responding to future climate and other environmental changes. Recreational clamming has a limited impact on the clam beds and is consistent with maintaining the biological capabilities of Management Unit 9. However, commercial clam harvesting should be monitored and managed to prevent overharvesting from natural clam beds, and should only be allowed with permission by the tideland owners.

Special Policies

1. [~~Limited maintenance dredging and other maintenance activities may be permitted for the maintenance of the existing boat ramp in Management Unit 9. Expansion of this use or the establishment of new marina uses is not permitted~~.]
2. [~~Major portions of Management Unit 9 are held in private ownership. Because the preservation of critical natural resources requires that uses in this area by severely restricted, public or conservation acquisition of these privately owned lands is strongly encouraged~~.]
1. *City of Newport Special Policy: "Goal 16 exceptions have been taken for the waste seawater outfall for the Oregon Coast Aquarium and for increased storm water runoff through an existing drainage system."*
2. *City of Newport Special Policy: "A cobble/pebble dynamic revetment for shoreline stabilization may be authorized … for protection of public facilities (such as the Hatfield Marine Science Center facilities)."*
3. *A Special Policy is to facilitate and encourage a balance of ecologically-beneficial organisms to preserve and enhance biological productivity of this area.*
4. *Special Policy for Research Projects, Scientific Demonstration Projects, and Educational Activities. Research projects, scientific demonstration projects, and educational activities are permitted providing permission is granted by the tideland owner and, when applicable, they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 5 Scientific Measurement Devices; and any applicable requirements of the Oregon Department of State Lands (DSL); the Oregon Department of Environmental Quality (DEQ); and the Oregon Department of Fish and Wildlife (ODFW). If a project satisfies these regulatory requirements, then the project satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."*
5. *Special Policy for Active Restoration Projects. "Active restoration of fish and wildlife habitat or water quality and estuarine enhancement" projects are permitted providing*

permission is granted by the tideland owner and, when applicable, they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities; and any applicable requirements of the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), and the Oregon Department of Fish and Wildlife (ODFW). If a project satisfies these regulatory requirements, then the project satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."

6. *Special Policy for Shellfish Aquaculture. Shellfish aquaculture activities (for oysters, clams and/or mussels) "which does not involve dredge or fill or other estuarine alteration other than" (a) "incidental dredging for harvest of benthic species" or (b) "removable in-water structures" are permitted providing permission is granted by the tideland owner and they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 48 Commercial Shellfish Mariculture Activities; the Oregon Department of Agriculture (ODA) Commercial Shellfish Management Program; and any applicable requirements of the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), and the Oregon Department of Fish and Wildlife (ODFW). If an activity satisfies these regulatory requirements, then the activity satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."*

BACKGROUND/EXPANATORY NOTES:

The owner of tideland is opposed to the owner of upland dredging the tideland. The tideland owner considers any such dredging, without permission of the tideland owner, to be trespass. If the upland owner previously requested and received government dredging permits without notifying the government agencies that the tideland had different ownership, then the upland owner may have made significant omissions from permit applications.

When the 1982 YBEMP was adopted, there were different owners of tideland in Management Unit 9. In 1982, the privately-owned tideland in Management Unit 9 was owned by Georgia-Pacific Corporation and by Times Mirror Land and Timber Company, both corporations interested in harvesting and using timber. Times Mirror owned the property with the log dump on the west side of King Slough. In 1982, there was substantial public concern about use of the estuary for dumping, storing and transporting logs and a public desire to limit those practices.

The current private owners of tideland in Management Unit 9 are opposed to the past log storage and transportation practices, and those practices are now disallowed. Instead, the current tideland owners are concerned about the ecology of the estuary. One owner, Yakona Nature Preserve, a non-profit owning forested upland along with tideland upstream from the mouth of King Slough, is dedicated to preserving the natural environment. Owners of tideland in the middle and north portions of King Slough, and adjacent to the mouth of King Slough, are interested is shellfish aquaculture using "best practices" compatible with preserving the natural environment. The current owner of tideland at the south portion of King Slough, along with owning significant forested upland, has undertaken no activities in the estuary after purchasing the property in 1992.

Besides research and scientific studies, the only commercial activity planned for Management Unit 9 is shellfish aquaculture using "best practices." Even if this tideland were to be placed in a conservancy, under Oregon conservancy law (ORS 271.715), a conservation preservation easement may include conserving real property for a variety of desirable purposes including agriculture, and aquaculture is categorized as agriculture. So, aquaculture can be retained as a desirable purpose under a conservancy agreement.

REQUESTED EDITS TO MANAGEMENT UNIT 10

NOTE:
Language included in August 2023 update, "final draft" YBEMP is edited as follows:
[~~Deletion~~] = Language deleted from the "final draft" is shown by brackets and strikethrough.
Insertion = Language to be inserted is shown in italics.

Management Unit 10: YAQUINA BAY

Description
Management Unit 10 includes the Sally's Bend area between Coquille Point and McLean Point and bounded on the south by the authorized federal navigation channel (see Figure 16). [~~Much of this unit is owned by the Port of Newport~~.] A number of minor alterations are present, including pilings and riprap along the shoreline.

There are 550 acres of tideland at Sally's Bend. The Port of Newport owns 503 acres and leases out another 16 acres, the Oregon Board of Higher Education owns 16 acres, and others own 15 acres. Of the total, 43 acres adjacent to McLean Point are inside the Newport City Limits. In addition to this tideland, Management Unit 10 includes a subtidal area between the tideflat and the federal navigation channel.

The unit consists of one of the largest tideflats in the estuary, with a number of natural resource values of major significance including eelgrass beds, shellfish and algal beds, fish spawning and nursery areas, and wildlife and waterfowl habitat. The historically large eelgrass meadow present in MU 10 has become much smaller over time, indicating a significant loss of habitat. Eelgrass and associated habitat make this area extremely important for Endangered Species Act (ESA) listed fish species, commercially important fisheries species, recreationally important clams, and migratory birds. It is recognized as "Essential Fish Habitat" under the Magnuson-Stevens Fishery Conservation and Management Act. Additionally, a significant area in the middle of MU 10 is utilized by pinnipeds (seals and sea lions) as a haul out region, which are species supported under the Marine Mammal Protection Act. Recovering populations of native Olympia oysters have also been surveyed at the South corner of the management unit off Coquille Point.

Uses in this area are limited to shallow draft navigation, recreational use, and some minor commercial harvest of clams. The Sally's Bend recreational clamming area in this unit is the largest in Yaquina Bay. There are no public boat launches or other recreational infrastructure to access the water via boat, but public access is available at the NW Natural Gas plant *at McLean Point* on the west side and Coquille Point to the east. An Olympia oyster restoration project was initiated by ODFW in 2021, on the state-owned tidelands region of MU 10 (on the southern corner).

The Port of Newport's 2019 Strategic Business Plan Update supports research and aquaculture:
"The marine research and education sectors are well established in Newport; an estimated 300 people work at the Hatfield Marine Science Center, including OSU faculty, graduate students, researchers, and staff from other agencies…."
"Aquaculture is a rapidly growing sector of the international economy and represents an opportunity for development in Newport as well."
"Opportunities for growing aquaculture in the Newport area include the expansion of existing operations, as well as the development of new ones."
"Oyster cultivation could be expanded in Yaquina Bay. There is demand for intertidal land for oyster cultivation with the appropriate characteristics (soil conditions and water quality, etc.)"

Classification: Natural

[~~As a major tract of tideflat with eelgrass beds, this unit has been classified natural in order to preserve natural resources in the unit.~~]

Sally's Bend is a very large tideflat with various water depths (shallow intertidal areas, deeper intertidal areas, and subtidal channels) and some variation of substrate (sand, mud, unconsolidated substrate) that naturally support a variety of organisms beneficial to the estuary. The most significant natural resources to be preserved are eelgrass and clam beds. The small area with Olympia oysters should also be protected.

Resource Capability

Sally's Bend is a very large area, with 550 acres. As a large area, it is capable of supporting a diversity of beneficial biological resources.

There is a sizable clam bed with cockles and, less common, littleneck and gaper clams. The area is very muddy so recreational clammers need to be cautious. The access points from shore are at the McLean Point on the west and at Coquille Point on the east side of Sally's Bend.

Native eelgrass (Zostera marina) provides a significant ecological benefit when used by forage fish, most notably Pacific herring, as a spawning "structure" and habitat for herring egg broods until the larval herring emerge. Native eelgrass prefers growing on substrate where it can root and in deeper intertidal water, below mean low tide, and adjacent subtidal water where is it not susceptible to desiccation (drying out) at low tide. In 2012, native eelgrass was located in a portion of the middle of Sally's Bend and the area closest to the main channel of Yaquina Bay and along the main channel of Yaquina Bay. It has been reported there is less density of eelgrass at Sally's Bend in 2021 than 2011.

Native Olympia oysters (Ostrea lurida) grow naturally in subtidal areas on solid substrate; these characteristics are missing from much of the Sally's Bend tideflat area. However, some limited areas of subtidal channels at Sally's Bend, or subtidal areas along the boundary of the tideflats and the main channel of Yaquina Bay, may be feasible for active Olympia oyster restoration projects with the addition of solid material to compensate for areas with inadequate natural solid substrate, providing the oysters do not get covered in silt.

Significant portions of the Sally's Bend tideflat do not have the sufficient water depth or solid substrate necessary for native eelgrass or for native Olympia oysters. These areas can support other biological resources that are beneficial to the estuary.

Water characteristics including salinity level, and nearly complete tidal exchange of water during each tide cycle, can support shellfish aquaculture. Clams could be cultivated to use as crab bait by the Dungeness crab fleet, while satisfactory water quality testing is needed before Oregon Department of Agriculture (ODA) would give approval for growing shellfish for human consumption. However, shellfish aquaculture activities should avoid any significant adverse impact on native eelgrass or native Olympia oysters.

Close proximity to Hatfield Marine Science Center facilitates scientific studies of the estuary that are beneficial to the estuary as well as supportive of research and education programs

Management Unit 10 is similar in character and resource values to Management Unit 9. Due to the importance and sensitive nature of the resources in this area, *besides scientific studies, active restoration projects, and shellfish aquaculture,* permitted alterations shall be limited to those which result in only temporary, minor disturbances (e.g., several submerges crossings have been located in this area). More permanent alterations will be reviewed individually for consistency with the resource capabilities of the area.

Management Objective

[~~Management Unit 10 shall be managed to preserve and protect natural resources and values.~~]
The primary objective shall be to seek a balance of ecologically-beneficial organisms to preserve the biological resources and, where possible, enhance the biological capabilities of this large area. Beneficial biological resources include submerged aquatic vegetation, fish and crab spawning and nursery areas, natural clam beds, and compatible shellfish aquaculture. The preservation of one species or organism does not preclude other species or organisms that are also beneficial to the ecology of the estuary. For example, cultivated oysters provide many of the same ecosystem benefits as native Olympia oysters, grow in areas of tideflats where Olympia oysters will not grow, and are less susceptible to die-offs from summer heat waves or temporary winter sub-freezing temperatures. Commercial aquaculture, that is not detrimental to other desirable estuarine resources, is compatible with the management objective of this Management Unit 10. Similarly, scientific studies that may include some limited, temporary alterations, are compatible with this management objective, because the studies increase knowledge about the estuary, its organisms, approaches for enhancing future biological productivity of the estuary, future "best practices" for managing the estuary, and approaches for responding to future climate and other environmental changes. Recreational clamming has a limited impact on the clam beds and is consistent with maintaining the biological capabilities of Management Unit 10. However, commercial clam harvesting should be monitored and managed to prevent overharvesting from natural clam beds.

Special Policies

1. Because [~~this unit is~~] *some subtidal areas may be* suitable for native oyster re-establishment and restoration efforts are underway, impact to existing Olympia oysters shall be avoided.
2. Deepening and widening of the federal navigation channel and turning basin into this management unit, which would impact the significant ecosystems within Sally's Bend, shall be avoided.
3. *A Special Policy is to facilitate and encourage a balance of ecologically-beneficial organisms to preserve and enhance biological productivity of this area.*
4. *Special Policy for Research Projects, Scientific Demonstration Projects, and Educational Activities. Research projects, scientific demonstration projects, and educational activities are permitted providing permission is granted by the tideland owner and, when applicable, they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 5 Scientific Measurement Devices; and any applicable requirements of the Oregon Department of State Lands (DSL); the Oregon Department of Environmental Quality (DEQ); and the Oregon Department of Fish and Wildlife (ODFW). If a project satisfies these regulatory requirements, then the project satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."*
5. *Special Policy for Active Restoration Projects. "Active restoration of fish and wildlife habitat or water quality and estuarine enhancement" projects are permitted providing permission is granted by the tideland owner and, when applicable, they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities; and any applicable requirements of the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), and the Oregon Department of Fish and Wildlife (ODFW). If a project satisfies these regulatory requirements, then the project satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."*
6. *Special Policy for Shellfish Aquaculture. Shellfish aquaculture activities (for oysters, clams and/or mussels) "which does not involve dredge or fill or other estuarine alteration other than" (a) "incidental dredging for harvest of benthic species" or (b) "removable in-water structures" are permitted providing permission is granted by the tideland owner and they comply with regulatory requirements of the U.S. Army Corps of Engineers (Corps) including Corps Nationwide Permit (NWP) 48 Commercial Shellfish Mariculture Activities; the Oregon Department of Agriculture (ODA) Commercial Shellfish Management Program; and any applicable requirements of the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), and the Oregon Department of Fish and Wildlife (ODFW). If an activity satisfies these regulatory requirements, then the activity satisfies the Goal 16 requirement that the activity be "consistent with the resource capabilities of the area and the purposes of this management unit."*

C. Requested new appendix so YBEMP will include policies relevant for 2024 and the future.

POLICY FOR MAKING DETERMINATIONS ABOUT NATURAL RESOURCES, NATURAL RESOURCE VALUES, AND NATURAL RESOURCE CAPABILITIES OF INDIVIDUAL NATURAL AND CONSERVATION MANAGEMENT UNITS

NEED TO IDENTIFY SOURCE(S) OF INFORMATION

For maps and other sources of information about the location and extent of "natural resources," "natural resource values," and/or "natural resource capabilities," the original source(s) of the information must be identified along with the date(s) the information was collected and the methodology used to collect the information. It is insufficient to show a map of aquatic flora and/or fauna without identifying the original source(s), date(s) and methodology used as the basis for the map. This information must be readily available to anyone seeking this information about the estuary, including people considering new uses and activities in the estuary and applicants requesting new uses and activities in the estuary.

ADDITIONAL RESOURCE MAPS

Besides the maps provided to accompany the August 2023 "final draft" YBEMP, the following additional resource maps should be provided:

- Historical extent of oyster beds.
- Oregon Department of Agriculture (ODA) map of Yaquina Bay Shellfish Management Area showing "Approved Areas" and "Conditionally Approved Areas" for growing shellfish for human consumption.

1908 SURVEY ON FILE WITH COUNTY SURVEYOR

NEED TO PROVIDE "DUE PROCESS" TO APPLICANTS MAKING REQUESTS FOR NEW ESTUARINE USES AND ACTIVITIES IN NATURAL AND CONSERVATION MANAGEMENT UNITS

When an applicant makes an application for a new use or activity, and when the planning office or other entity reviewing the application compares the application with the "natural resources," "natural resource values," and/or "natural resource capabilities" of the applicable Management Unit, the planning office or other entity must provide the applicant with the basis for comparison along with documentation about the basis of comparison. The applicant must be given an opportunity to provide comments for the record about the maps and/or other information used by the planning office or other entity; and the applicant must be given an opportunity to provide additional information that may include, but not be limited to, more recent information about the Management Unit's "natural resources," "natural resource values," and/or "natural resource capabilities."

BACKGROUND/EXPLANATORY NOTES:

As part of the YBEMP update, DLCD's contractor posted on the YBEMP Update web site a series of maps about the Yaquina Bay estuary.

The contactor's YBEMP Update web site says:

"Estuary management plans rely on data and information that describe the physical, biological, social and economic conditions of the estuarine area, and define the boundaries of individual management units. This information has been mapped …." The web site then has a link to YBEMP maps posted by the contractor for use by local planning agencies and others.

None of the maps showing the flora and fauna and other physical and biological features identifies the original source(s) of information, the date(s) the information was collected, nor the methodology used to collect the information.

By failing to identify key information, including the date(s) the information was collected, and by providing this information as part of the current update, the implication is that the information is recent and relevant to current and future decisions about the estuary.

However, as an example, one of the maps ("Eelgrass extent, PMEP") was based on out-of-date information that was collected using an approach that would no longer be considered acceptable by current scientific standards. [PMEP is a reference to The Pacific Marine and Estuarine Fish Habitat Partnership.]

The "Eelgrass extent, PMEP" map used for the YBEMP update is the same as a map published jointly by The Nature Conservancy and The Pacific Marine and Estuarine Fish Habitat Partnership in "Eelgrass Habitats on the U.S. West Coast: State of the Knowledge of Eelgrass Ecosytem Services and Eelgrass Extent" (2018), a compendium of all information that PMEP was able to compile including all available previously published information. That publication provided:

- A map of "Maximum Observed Extent" of eelgrass in the Yaquina Bay estuary (page 83).
- An explanation that the secondary source of information for the map was The Oregon "Estuary Plan Book" (page 22), published in 1987 by the Department of Land Conservation and Development.
- The relevant map and description of habitat classification was provided previously on pages 86 and 87 of The Oregon "Estuary Plan Book." The identified "habitat," described subsequently as eelgrass, was previously described in The Oregon "Estuary Plan Book" as "seagrass" or "seagrass/algae." There was no further scientific identification about what constituted "seagrass" and whether it included native eelgrass (*Zostera marina*), invasive Japanese eelgrass (*Zostera japonica*) and/or other species. There was no identification of "algae" or whether this category was limited to macroalgae attached to the substate or also included additional, floating algae that appears seasonally.

- The primary source of information, used for The Oregon "Estuary Plan Book," was based on "aerial photographs ... interpreted for habitat classification by the Oregon Department of Fish and Wildlife (ODFW). (page 22)
- The date provided for the aerial photographs, interpreted by ODFW, was 1978 (page 23).

So, DLCD's contractor, to accompany the YBEMP "final draft" update, provided a map of "eelgrass extent" based on aerial photographs taken forty-five years previously, in 1978, and where the description of the aquatic vegetation was not limited to native eelgrass (*Zostera marina*), the type of eelgrass most significant for providing habitat for fish spawning and nursery areas.

Although other maps provided to accompany the YBEMP update are presumably based on much more recent information, the original source(s), date(s) and methodology must be provided for each map in order for the information to be useful to planners and applicants, and to provide "due process" to applicants so applicants can review this information, provide comments about the relevance of the information, and provide more recent information as part of the application review and approval/disapproval process.

B. Requested new appendix so YBEMP will include policies relevant for 2024 and the future.

POLICY TO FACILITATE AND ENCOURAGE A BALANCE OF ECOLOGICALLY-BENEFICIAL ORGANISMS IN NATURAL AND CONSERVATION MANAGEMENT UNITS

NEED TO FACILITATE AND ENCOURAGE USES AND ACTIVITIES THAT BENEFIT THE ECOLOGY OF THE ESTUARY

Nature, by itself, cannot restore the pre-existing natural environment after it was siginificantly altered by human activities.

Instead of pursuing an approach of "protecting the existing situation," the preferred approach should be "to seek a balance of ecologically-beneficial organisms to preserve the biological resources and where possible, enhance the biological capabilities" of Natural and Conservation Management Units.

The preferred approach would facilitate and encourage scientific studies to explore how to facilitate a "balance of ecologically-beneficial organisms," active restoration projects that would enhance having a "balance of ecologically-beneficial organisms," and shellfish aquaculture that improves water quality and enhances habitat for other organisms where aquaculture would be compatible with having a "balance of ecologically-beneficial organisms."

In effect, Natural Management Units should really be considered as "areas reserved for protecting and enhancing biological productivity," and Conservation Management Units should be considered as "biological areas with limited, grandfathered past practices."

BACKGROUND/EXPLANATORY NOTES:

Some past practices have caused significant degradation to the previously existing "natural" environment in Natural and Conservation Management Units, in addition to many modifications in Development Management Units.

Most of the original native Olympia oyster beds were destroyed. The destruction was summarized in a scientific article published in 1931. ("The Yaquina Oyster Beds of Oregon," by Dr. Nathan Fasten, Professor of Zoology at Oregon State College, published in The American Naturalist, September-October issue, 1931.)

1. *Early Period*. [About 1860 to 1870.] "... during this period large numbers of schooners came up the Yaquina River and dredged out tremendous quantities of oysters, virtually taking them out by scow loads, and transporting them by boat to the San Francisco markets for consumption. No thought was given at this time to conservation ..."

2. *Middle Period*. [About 1870 to 1923.] "... during this time the beds were worked heavily and continuously, and no thought was given to replenishing the supply. Many of the beds became so depleted that they were virtually exhausted."

3. Recent Period. [This dates from the year 1923 up until publication of the article in 1931.] "When this concern [the company that took over private leases and leased the State's natural oyster beds] got control of them they were already in a dangerous state of depletion. Instead of surveying them carefully for purposes of applying measures which would build them up and conserve the fast diminishing supply of oysters, they rather increased the damage by their heavy dredging and tonging operations. Many of the beds which were in a state of partial depletion were practically wiped out by such methods...."

"Since 1923, there has been no let-up and the exploitation of the oyster beds has increased...."

"In order to increase yields, many of the adult oysters with spat were dredge and tonged up from the natural beds...."

"... transferring them [adult oysters with young growing spat on their shells] on to depleted areas in the main channel of the stream is decidedly bad, for the oysters are soon covered in mud and silt to an extent where they are virtually buried. The result is that many of them are either killed off or their normal growth is greatly interfered with. Finally, when mud and silt cover the shells they no longer serve as cultch, for this debris makes it impossible for the free-swimming larvae to come in contact with the clean surfaces of the shells in order to affix themselves."

Historical activities in Natural Management Unit 9 have been very detrimental to the pre-existing natural conditions. These activities included:

- Building a railroad pier, starting at a railroad terminal at Idaho Point and extending 2,340 feet into the estuary where a log dump was built at the edge of the main channel of Yaquina Bay. The end of the pier appears to be at the south edge of Management Unit 8, adjacent to Management Unit 9. Construction of the railroad, railroad terminal, and pier was undertaken during World War I, and use continued until 1935 when the railroad line was shut down and equipment and the pier removed. Before the pier was removed, a train engine ran off the end of the pier and sank into the mud, presumably at the south edge of Management Unit 8, and never recovered.

- Construction of a log dump along the west bank of King Slough in 1951. The construction included dredging an estimated 30,500 cubic yards of material from the mud flat and dumping it at other locations in King Slough.

- Logging on some hillsides adjacent to the estuary, where large logs were pulled down the hills by large metal cables into the estuary. Each log brought with it a substantial amount of soil into the estuary.

The creation of log dumps and log storage areas, and pulling logs down hillsides into the estuary, was done in many locations in the Yaquina Bay estuary, changing the substrate and the physical and biological characteristics of the estuary forever.

Because these, and other, past activities have significantly modified the natural environment of the estuary, it is impossible for nature, left to its own devices, to restore what was previously destroyed. Instead, to provide a desirable ecological environment for the future, actions need to be taken pro-actively to compensate for the past destruction.

Sherri Marineau

From: Derrick Tokos
Sent: Monday, June 24, 2024 3:01 PM
To: Sherri Marineau
Subject: FW: A few comments about 6/20/24 revision of Comp Plan
Attachments: Input for revising Comp Plan, including suggested policies.pdf; Largest Privately Owned Parcels in MU 9, 6_24_24.pdf

Hi Sherri… could you please distribute to the Commission members?

Thanks,

Derrick

From: Mark Arnold [redacted]
Sent: Monday, June 24, 2024 2:16 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: A few comments about 6/20/24 revision of Comp Plan

[WARNING] This message comes from an external organization. Be careful of embedded links.

Derrick,

Hi. I appreciate the revisions you made for Management Units 9 and 10 for the revised Comprehensive Plan!

So far, I have gone through your 6/20/24 revision of the Comprehensive Plan but have not yet reviewed your revision to the Zoning Ordinance. As I mentioned last week, my concerns were primarily with the Comprehensive Plan. I thought the proposed Zoning Ordinance changes were consistent with the Goal 16 rule.

To provide more focus on your 6/20/24 revision, I have written the attached comments about this revision of the Comprehensive Plan. Also, attached, is a potential handout if anyone wants to discuss private ownership of tideland in Management Unit 9.

I hope this information will be helpful.

Mark

Mark Arnold
[redacted]

INPUT FOR REVISING CITY OF NEWPORT COMPREHENSIVE PLAN

Comments and Suggested Revisions

Edits to 6/20/24 draft revision: ~~Deletion~~ *Insertion*

Comments and proposed edits to 6/20/24 draft revision of Comprehensive Plan

Comments: The August 2023 draft YBEMP incorporated, by reference, resource inventory maps that were posted on the consultant's web site but not otherwise made available. For the resource maps, the consultant's web site did not identify the original sources of the information or the dates the information was collected or the methodology used to collect the information. Based on subsequent research, it appears that the consultant's map of "Eelgrass extent" was based on aerial photographs taken in 1978 and used in DLCD's "Oregon Estuary Book" published in 1987, and the areas the consultant categorized as "eelgrass" were originally identified as "seagrass" or "seagrass/algae." One type of floating algae (ulva) is large and can cover and smother beneficial organisms, including blocking sunlight from reaching native eelgrass. Another YBEMP map on the consultant's web site for tideland ownership miscategorized privately-owned tideland as unowned waterway, even though Lincoln County has the ownership information and the ownership information is available by using a "Lincoln County Maps" website. Instead, if resource information is used for making decisions about activities in the estuary, the original sources, dates of collecting, and methodology used to collect the information should be identified, and the most recent, up-to-date, accurate information should be used to inform decision-making.

On page 2, under the heading "Resource Inventories," revise the last sentence as follows: "The rationale for ~~permitted use decisions and~~ management *unit* classification is contained in these brief factual base summaries; for detailed resource information and a bibliography of documents included in the inventory, the XYZ section/document should be consulted."

Add the following sentence: "*When more up-to-date and more accurate resource information is available, the most up-to-date and accurate resource information should be used to inform decisions about resource capabilities of each management unit.*"

Comments and proposed edit to 6/20/24 draft revision of Comprehensive Plan

On page 3, under the heading "Climate Change Vulnerabilities," the following sentence should be deleted at the end of the last paragraph: "~~Potential cumulative impacts of alterations and development activities were considered and integrated into the policies and requirements of the Estuary Management Plan for Yaquina Bay~~."

Comments: This sentence simply is not true. There has been no systematic analysis of the cumulative impact of past alterations or past development activities. The impact of future changes and future developments cannot yet be analyzed or fully integrated into the estuary management plan or fully reflected in estuary policies and requirements.

Proposed addition to 6/20/24 draft revision of Comprehensive Plan

On page 14, under the heading "Management Unit 5," add a reference to the Embarcadero Marina. (Note: Many, but not all, of the boat slips in this marina are privately owned. This appears to be allowed for marinas in Development Management Units.)

Comment and possible addition to 6/20/24 draft revision of Comprehensive Plan

On pages 15-16, under the heading "Management Unit 7," should a reference be added for water intake and outflow for the Hatfield Marine Science Center? If so, the reference should include OSU and Federal and State agency laboratory and related activities.

Also, there is a question whether there is water outflow into Management Unit 9 and, if so, how to reference it in the Management Unit 9 section.

Comments and proposed edits to 6/20/24 draft revision of Comprehensive Plan

On pages 17-18, under the heading, "Management Unit 9," many of the revisions in the 6/20/24 draft are greatly appreciated!

On page 17, in "Description" paragraph 5, revise the beginning of the first sentence as follows: "Nearly all of ~~the intertidal flat area~~ *Idaho Flat* is in public ownership (State of Oregon Board of Higher Education) …."

Comment and requested addition on page 18 under "Resource Capability": The Goal 16 Rule includes the following language: "Inventories shall be conducted to provide information necessary for designating estuary uses and policies. These inventories shall provide information on the nature, location, and extent of physical, biological, social, and economic resources in sufficient detail to establish a sound basis for estuarine management and to enable identification of areas for preservation and areas of exceptional potential for development." In addition, the Goal 16 guidelines for inventories includes "water characteristics." A sentence can be added to Management Unit 9 under "Resource Capability" as follows: "*A portion of*

Management Unit 9 has a biological capability for growing shellfish for human consumption, as determined by extensive water quality testing."

Comment about Special Policy on page 18 for maintenance dredging for the boat ramp: It is likely that any dredging requested by the upland owner would be done on tideland that is privately owned. Any proposal for dredging should be approved by the tideland owner.

Comment about Special Policy on page 18 for encouraging "public or conservation acquisition" of privately-owned tideland: This Special Policy is a repetition of the Special Policy in the 1982 YBEMP and is out-of-date. When the 1982 YBEMP was adopted, the privately-owned tideland was in Kings Slough and adjacent to the mouth of Kings Slough. It was owned by companies in the business of harvesting timber, using dredged tideland for log storage, and using tideland for the transportation of logs. This no longer is the case. The current owners of this tideland support conservation principles and, in addition to conservation, one owner supports "best practice" shellfish aquaculture that can benefit the ecology of the estuary and supports research about the ecology of the estuary. In addition, during more than 40 years subsequent to 1982, no public agency has expressed interest in purchasing any of this tideland. One owner has provided a conservation easement, while the tideland is still owned by a private foundation. Instead of purchasing tideland, the Newport City Council in January 2024 approved in concept the conveyance of a small, 3-acre tideland parcel in Management Unit 9 to the private foundation. For these reasons, this Special Policy should be deleted.

Comments and proposed edits to 6/20/24 draft revision of Comprehensive Plan

On pages 19-20, under the heading, "Management Unit 10," many of the revisions in the 6/20/24 draft are greatly appreciated!

On page 20, it would be appropriate to revise the Special Policy for native Olympia oysters as follows: "Because ~~this unit is~~ *some areas may be* suitable for native oyster re-establishment and restoration efforts are underway, impacts to existing Olympia oysters shall be avoided." It would be inaccurate to portray all or nearly all of Management Unit 10 as being suitable for native Olympia oyster restoration. Most of Management Unit 10 does not have the solid substrate, nor sufficient water depth, to be suitable for growing Olympia oysters.

I'll defer to Port of Newport officials about other possible revisions for Management Unit 10 because the Port owns most of the tideland.

Comment about 6/20/24 draft revision of Comprehensive Plan

On page 26, under the heading "Significant Natural Areas," there is a reference to "two significant natural areas" identified by the "Oregon Natural Heritage Program." What are these two areas? I cannot find the document referenced in the footnote. Can more explanatory information be provided? Or, an appendix added with the information?

_____

Comment about 6/20/24 draft revision of Comprehensive Plan

On page 26, under the heading "Public Access Points," there is a reference to "several points identified in the Inventory of Coastal Beach Access Sites published by Benkendorf and Associates." I cannot find this document. Can more explanatory information be provided? Or, an appendix added with the information?

_____

Comment about 6/20/24 draft revision of Comprehensive Plan

On page 28, under the heading "Areas Especially Suited for Water-Dependent Uses" in item 3, there is a reference to "the Ore-Aqua commercial salmon hatchery" at South Beach. This hatchery was closed, and the location is now used for the NOAA facility. In addition, there is a sentence saying, "This area is only partially developed." It may be appropriate to delete or revise this sentence to reflect development that has already been done in the area.

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Comment about 6/20/24 draft revision of Comprehensive Plan

A section "Port Development Plan" starts on page 28. It may be appropriate for this section to be updated to reflect the most recent Port plan.

On page 31, there is a paragraph about the South Beach peninsula. One sentence reads, "Potential developments that are attractive to the long term use of this area include moorages for research vessels, continued expansion of the Marine Science Center, and continued development at the Newport Marina at South Beach complex." Because some of these developments have already been made, this sentence should be revised.

On page 31, there is a paragraph about Idaho Point. The possible developments mentioned for Idaho Point are inconsistent with use of shoreline adjacent to a Natural Management unit. (Possible uses, compatible with Management Unit 9, would include aquaculture support, marine research, and recreation.) This paragraph should be deleted.

Proposed Policies

Proposed Policy: Using most up-to-date information to inform decisions

Review of proposed projects and alterations, and permit decisions for activities proposed for the estuary and for shoreline adjacent to the estuary, should be based on the most recent, up-to-date, accurate, and relevant information, and based on the most relevant and relevant scientific studies. This includes resource capability information, and the likely impact that any proposed activity might have on the resource capabilities of the estuary. Relevant information provided by, and studies conducted by, subject matter experts should be given careful consideration.

Comments and proposed policy: Allow alterations that benefit the ecology of the estuary

Comments:

The results of a recent scientific study were published as an article entitled, "Shellfish aquaculture farms as foraging habitat for nearshore fishes and crabs" (Marine and Coastal Fisheries, March 2024). The study's conclusion: "Our results indicate that shellfish farms within a larger nearshore habitat of eelgrass meadows, mudflats, bivalve aquaculture gear, and edge habitat can provide foraging habitat for several species of nearshore fish."

The results of this study are consistent the NOAA Office of Aquaculture Fact Sheet "Aquaculture Provides Beneficial Ecosystem Services" (2022). The benefits of oyster aquaculture include filtering water, improving water quality, storing carbon in oyster shells, and providing habitat for juvenile fish and crustaceans.

Proposed Policy:

Proposed projects and alterations can be allowed in Natural and Conservation Management Units when they preserve the biological resources and enhance the biological capabilities of the estuary, providing the benefits they provide to the ecology of the estuary more than offset any other ecological impacts.

Proposed Policy: Conservation easements

Conservation easements cannot be imposed without the consent of property owners. Instead, government agencies must comply with the requirements of Oregon Revised Statutes (ORS) 271.715 through 271.795.

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Comments and proposed policy: Encourage keeping structures in the estuary in a state of good repair

Comments:

There are many instances where owners of structures in the estuary have allowed the structures to fall into a state of disrepair.

In particular, an invasive crustacean was introduced into the estuary that bores into Styrofoam, when not encased in a protective barrier, that is used for floatation of the decks of old docks. This has led to the deterioration of the Styrofoam, resulting in degradation of flotation capabilities. In some cases, Styrofoam has been breaking, with decks tipping toward or into the water, portions of old wooden decks breaking off and polluting the estuary, and Styrofoam dust being released into the water of the estuary, which is harmful to fish and other organisms living in the estuary.

Proposed Policy:

Maintenance of, and repairs to, existing structures in the estuary should be allowed and encouraged.

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Additional Concerns

Research Projects

Academic and government scientific researchers, and science faculty advisers for graduate student research projects, are subject matter experts about their scientific fields of study. In addition, many agencies providing funding for scientific research have their own subject matter experts. When research projects are proposed, it should be easy for the scientists to receive permission to proceed with their projects, without having to pay for expensive estuary use permits or to be subject to time-consuming reviews undertaken by people who are not subject matter experts. If tideland owners grant permission, and if the subject matter experts determine that the projects are compatible with the resource capabilities of the estuary, there should be a streamlined way to provide inexpensive and timely approvals for the projects.

Shellfish Aquaculture and Active Restoration Projects

It would be helpful to have an inexpensive and streamlined way to review proposals for small-scale aquaculture activities and active restoration projects.

Largest Privately-Owned Tideland Parcels in Management Unit 9
(Note: Several smaller tideland parcels are not shown)

Taxlot(s)	Tideland Acres	Owner in 1982	Owner in 2024
11-11-22-B0-00100	70.52	Geogia-Pacific Corp.	Yakona Nature Preserve (a private foundation)
11-11-15-00-01400 11-11-16-00-00200 11-11-21-00-00500	44.80 88.35 6.00	Geogia-Pacific Corp.	Kings Estuary Shellfish LLC (owned by Mark L. Arnold)
Part of 11-11-21-00-00600	62.95	The Times Mirror Company	Yaquina Bay Kings Shellfish LLC (owned by Mark, Brian & Jonathan Arnold)
Part of 11-11-21-00-00700	Significant amount of tideland in southern Kings Slough. Tideland acreage not identified by Assessor's Office.	Geogia-Pacific Corp.	Emery Investments, Inc.

The situation in 1982: Tideland used for log storage and transportation. Dredging adversely affected ecology of tideland.

- These tideland lots were owned by Georgia-Pacific Corporation, a timber company, and The Times Mirror Company, which harvested timber for use in producing paper for publishing.
- Previously, dredging was done in early 1950s on the Times Mirror parcel for log storage and transportation. This parcel was adjacent to a log dump. Dredged material was deposited as fill in the estuary.
- The 1982 YBEMP sought to restrict dredging in tideland for log storage and transportation.

The situation in 2024: Current owners support conservation, "best practice" aquaculture, and research.

- Yakona Nature Preserve granted a conservation easement to the McKenzie River Trust.
- Mark Arnold (Kings Estuary Shellfish LLC and Yaquina Bay Kings Shellfish LLC) wants some of his tideland to be used for "best practice" shellfish aquaculture and research, with remaining tideland conserved.
- Emery Investments has done nothing with its tideland and supports conservation.

City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: June 20, 2024

Re: RFP for Water System Master Plan

Attached is a copy of the Request for Proposals (RFP) the City has issued for consulting services to update its Water System Master Plan. The Plan was last updated in 2008, and the water treatment plant and many of the other listed projects have been constructed.

Please take a moment to look over the scope of work and consider whether or not it adequately addresses water system issues that you may have concerns about. Your feedback will help staff frame its approach to refining the scope of work as the project moves forward.

I look forward to our discussion.

Attachments
Water System Master Plan RFP

REQUEST FOR QUALIFICATIONS

Newport Municipal Water System Master Plan
Newport Project # 2019-022
City of Newport, Oregon
January 23, 2024

PROJECT COMPLETION DATE: TBD.

DEADLINE FOR RECEIPT OF PROPOSAL: Tuesday, February 27, 2024, 5:00 P.M. PST

ANTICIPATED CONTRACT AWARD DATE: Following May 6, 2024 City Council Meeting

Pursuant to District Rule 137-048-0220, the City of Newport (City) is conducting a formal selection procedure for professional services for the Newport Municipal Water System Master Plan**.** The full Request for qualifications may be examined and downloaded at the OregonBuys website at: https://oregonbuys.gov/ following registration.

Proposal must be received and registered with the Engineering Deptartment by the above specified deadline. Responses received after this time will be rejected as non-responsive.

Proposals may be e-mailed, mailed, or hand-delivered at the addresses listed below and plainly marked "**Request for Qualifications for Newport Municipal Water System Master Plan**". Mailed or hand-delivered proposals shall be submitted in a sealed opaque envelope. Faxed Proposals will be rejected as non-responsive.

Email proposal to: **Brian Crawford – Engineering Project Assistant**
b.crawford@newportoregon.gov

Submit mailed proposal to: **Brian Crawford – Engineering Project Assistant**
City of Newport, Oregon
169 SW Coast Highway
Newport, OR 97365

Deliver Proposal to: **Engineering Department – City Hall**
ATTN: Brian Crawford
City of Newport City Hall
169 SW Coast Highway
Newport, OR 97365

Information Contact: **Chris Beatty – Acting City Engineer/Senior Project Manager**
541-574-3376
c.beatty@newportoregon.gov

Request for Qualifications Schedule:

The City anticipates the following tentative timeline for receiving and evaluating the proposals and selecting a firm/individual for the Water Master Plan. This schedule is subject to change if it is in the City's best interest to do so.

• **Advertise Request for Qualifications**	**January 23, 2024**
• Deadline to Request Additional Information	February 21, 2024
• Last Date for Addenda	February 22, 2024
• **Proposals Due**	**February 27, 2024**
• Evaluation of Proposals Complete	March 19, 2024
• Notify Proposers of Interviews (if necessary)	March 20, 2024
• Proposers Interviews (if necessary)	March 27 – March 29, 2024
• Notice of Intent to Award	April 2, 2024
• Contract Negotiations	April 3– April 19, 2024
• **City Council Meeting**	May 6, 2024
• Notice of Award	May 7, 2024
• **Commencement of Contract**	**May 17, 2024**

1 General

1.1 Introduction

The City of Newport is soliciting proposals from qualified consulting firms with the expertise and training to provide professional engineering and design planning services for development of Water System Master Plan (WSMP), as described in Section 3 –Scope of Work. The implementation of any portion of a WSMP must be consistent with OAR 333-061 (Public Drinking Water Systems, Oregon Health Authority), OAR 660-011 (Public Facilities Planning, Department of Land Conservation and Development) and OAR 690-086 (Water Management and Conservation Plans, Water Resources Department).

The City intends to enter into a Professional Services Contract, a sample form is attached as Attachment A, with the selected consultant after negotiating a contract price.

Proposal clarifications or additional information requested by City must be provided by Proposer within 24 hours of request, excluding weekends and holidays.

2 Background

The City of Newport is located in Lincoln County, Oregon approximately in the center of the county coastline (44˚37'57"N, 123˚03'23"W) at the mouth of the Yaquina River. The City was incorporated in 1882 and quickly became a tourist destination in the summer for residents of the Willamette Valley. Non-native settlement in the area began 20 years prior to incorporation, shortly after the discovery of oyster beds in Yaquina Bay and the realization that there was profit to be made by shipping oysters to San Francisco and other areas. The Yaquina Head Lighthouse, dredging, and the jetty construction soon made Yaquina Bay an attractive shipping port.

The earliest water right listed for Newport is on Blattner Creek, the north branch of Big Creek. The 1909 permit for Blattner Creek water describes a dam 8 feet wide by 40 feet long being anticipated for completion in 1910 and having a masonry and concrete spillway. Water from the dam was then conveyed to the "city waterworks" via a pipeline with 8 or 10-inch "gate valves of iron." By 1915 the city had constructed the necessary waterworks and received a certificate of water right for .54 cfs (242 gpm).

By 1931, the city could prove beneficial use for water from Nye Creek and two certificates were issued totaling 2.2 cfs (987 gpm). That same year, received a certificate for water in Hurbert Street Creek, with pumping directly into the piping system when needed, for 0.1 cfs (45 gpm). A third certificate was issued in 1931 allowing for 10 cfs (4488 gpm) from Big Creek with plans for a timber dam 3 feet tall and 20 feet long, a pumphouse, and a 1.5-mile long 8-inch pipe to connect to the existing storage tank.

In the late 1940s, plans for a bigger dam on Big Creek and a filtration plant began. In 1951, a permit to construct a dam on Big Creek and store water behind it was submitted to the State and construction began on the water treatment facility. The population listed on the permit at that time was 3,200 persons. The dam was to be 25 feet high and 315 feet long, constructed of compacted clay with a concrete spillway. The dam was completed shortly after and a certificate allowing 200 acre-feet (65 million gallons) of storage was issued. Newport's water treatment facility was located just below the dam.

In 1963, with population approaching 5,500 persons (and much greater in the summer), and ongoing concerns about water supply, the city applied for 6.0 cfs (2693 gpm) from the Siletz River. The permit application described the plan for 38,000 feet of 14-inch piping to bring water from the Siletz to the Big Creek reservoirs that took until 1994 to complete.

A significant and ongoing problem for the City is the water quality degradation in the 55+ year-old lower Big Creek Reservoir. In recent years, the reservoir has become shallow, warmer and choked with Brazilian Elodea (a non-native, invasive species which adversely affects water quality).

The struggle to secure adequate raw water supplies to keep up with community needs continues, and in 1998 Newport applied for withdrawal and storage rights on Rocky Creek; however, facilities to utilize this additional water supply does not yet exist.

The City's water system has numerous components which have aged and may be undersized and/or in need of replacement. As growth continues the City must ensure reliable water service and fire protection to residents, businesses, industry and institutions. The last comprehensive system analysis and master planning effort occurred 15 years ago in 2008. The Executive Summary can be seen in Attachment A as part of this SOQ. Maps of the existing water system can be seen in Figure 1 as part of this SOQ. A full copy of the 2008 WSMP can also be found at:
https://www.newportoregon.gov/dept/pwk/mwp.asp

Several new facilities have been construction since 2008. The City completed construction of a new water treatment plant in 2015. Further, the removal of the two antiquated storage facilities adjacent to City Shops and the installation of new PRVs has impacted the pressure zones along the Bayfront. Population fluxes, changes in commercial water uses leads to the need for a water systems master plan.

The City's water distribution system includes the following approximate features:

- 93 miles of water pipelines, ranging from 2" to 16" diameter pipes with varying pipe types mostly consisting of PVC and AC
- 5,301 active water services, ranging from 3/4" to 8"
- 2,644 mainline valves
- 17 air relief valves
- 651 fire hydrants
- 6 storage tanks
- 11 pressure zones
- 6 pump stations

The City's water infrastructure serves a variety of categories including industrial, residential, tourism and water demands fluctuate based on factors including fish processing season(s) and time of year. Larger users of water within the City includes: fish plants, hotels, and the Rogue Brewery.

3 Scope of Work

The last WSMP was prepared in 2008 by Civil West Engineering Services, Inc. The normal planning period for the City's WSMP is 20 years. The City is nearing the end of the period, therefore necessitating the need for this project. In addition, the City needs to develop a comprehensive rate study including all infrastructure categories, this plan will contribute significant information to that process.

This WSMP will identify and prioritize necessary improvements for the City's water system. The WSMP will identify facility modifications or additions necessary to address the predicted future needs for water supply, treatment, storage, distribution, and capital improvements necessary to deliver clean, safe potable water services.

This WSMP will help the City focus on the best course of action for continued development of the water system by identifying the key critical issues the water system faces in the next decade and through buildout of the City.

Proposals should include additional sections or information as necessary and provide discussion on each on the need and approach.

3.1 Elements:

The WSMP will deliver the following elements:

1. Projection of current and future water needs, based on current and projected land use within the urban growth boundary (UGB)
    - The WSMP team will need to coordinate with the Big Creek Dam (BCD) project team to ensure projections align between both projects and are used consistently throughout the City.
2. Adequacy of hydrologic water supplies to meet current and future water demands,
3. Adequacy of raw water delivery and potable water treatment,
4. Adequacy of finished water delivery and storage systems to meet current, 5 yr, 10yr, and buildout needs.

5. Adequacy of current and future delivery systems to meet fire suppression, fire flow storage, and emergency storage requirements
    - Fully describe system
    - Maps of deficiencies and recommended improvements.
6. Capital projects needed to deliver projected immediate, 5 yr, 10 yr, and buildout water needs
7. Infrastructure age and replacement schedule and costs
8. Considerations for resiliency in the event of a major earthquake
9. Computer modelling
    - Evaluate existing mapping (GIS) for accuracy and completeness
    - Add/correct components of GIS maps to ensure complete framework for modeling
    - Model Calibration
    - Training and/or modeling support

Conservation Task:

In addition to the WSMP, an optional scope task will be to develop a Water Management and Conservation Plan (WMCP) as guided by Oregon Water Resources Department's administrative rules found at OAR Chapter 690, Division 86.

PROPOSED OUTLINE OF EACH ELEMENT:

1. Projection of current and future water needs, based on current and projected land use within the urban growth boundary
    a. Coordinate with Community Development Department to summarize land use within the UGB.
    b. Determine unit demands for each user category (residential, commercial, industrial, etc) using data supplied by the City. Special consideration will be analyzed for impacts of tourism and the demands on the system from the fishing industry.
    c. Determine total water demand (AF/yr.) for each category using data supplied by the City.
    d. Coordinate with Big Creek Dam project team to ensure consistency between this plan and assumptions used in that project.
2. Describe the City's water supplies, storage, and treatment capacities, and determine water supply Firm Yield (98% reliability standard) based on current and projected stream flow and climatological data and information for our surface water supplies, water rights, and watershed characteristics (Siletz and Big Creek watersheds). This analysis will be performed for both the existing Big Creek Dam facility, as well as the proposed Big Creek Dam facility. Recommend pumping strategies and reservoir management strategies in order to maximize water supplies.
3. Determine total current annual water demand and buildout annual water demand (AF/yr). Compare annual water demand to available Firm Yield (98% reliability standard). Utilize water availability in "critically dry", "dry", "normal", and "wet" water years.
4. Determine the current and total projected buildout demand, and capacity needed to be supported by the water system for average day, maximum day plus fire flow, and peak hour.
5. Develop design criteria in order to assess infrastructure needs: Fire flow, fire flow storage (based on duration), emergency storage, maximum pipeline velocities, etc.
    a. Analyze existing system mapping in GIS, identify inaccuracies and deficiencies in map and gather data to eliminate data gaps as needed to develop a complete model.
    b. Prepare a hydraulic model to analyze the water system. Perform at least three fire flow plus max day scenarios to determine weak areas in the system needing upgrades. Check

model through a minimum of three flow tests throughout the system. Water model to become the property of the City. Provide 8 hours of training on use of the water model.

6. Based on modelling results, prepare a recommended capital improvement plan (CIP), with costs, for infrastructure upgrades needed to deliver an adequate supply based on the design criteria developed.
    a. Develop approaches to reduce or delay cost such as population/flow dependent project triggers.
7. Based on the available water infrastructure inventory, develop recommendations for replacement of aging infrastructure. Develop a criticality matrix that prioritizes known critical facilities. Include in the CIP.
8. Make recommendations regarding installation of earthquake resistant infrastructure. Include in the CIP.
9. Deliver (and train staff) a calibrated, user-friendly water system modelling tool, able to calculate and summarize system adequacy and improvements required to deliver potable water.

3.2 Scope Tasks:

The City of Newport will provide the following services, to the maximum extent possible, and unless otherwise noted, data from the most recent WSMP and CAD water system file. In the interest of cost savings, updated aerial mapping will not be needed for this project. Consultant will rely on existing data from the recent LYDAR project completed in 2019. Awardee will provide the following services:

TASK 1: PROJECT MANAGEMENT

1. Project Administration:

    Consultant shall provide a Project Administration Plan (PAP) to direct, coordinate, and monitor the activities of the project with respect to budget, schedule, and contractual obligations. The (PAP)shall be updated on a biweekly basis and submitted to the City.

2. Coordination Meetings:

    Consultant shall provide a minimum of biweekly conference calls and/or meetings between the Consultant and City personnel to review project progress, discuss project challenges and findings, and review early study results. Consultant shall ensure that the City personnel and Consultant team members maintain a shared understanding regarding study direction, objectives, and deliverables.

3. Quality Assurance and Quality Control Review:

    Consultant shall conduct internal Quality Assurance and Quality Control meetings and follow-up with technical experts as necessary during the course of the project.

TASK 2: MEETINGS AND DATA GATHERING

1. Project Scoping Meeting:

   The consultant will initiate and attend the project kickoff meeting with the City to review the project scope and tasks and to confirm the specific requirements of the WSMP. Consultant shall prepare an agenda for the kickoff meeting, invite necessary attendees, collect data, and discuss the schedule of the project.

2. Refine Scope of Services:

   Consultant will refine and prepare a detailed scope of services and fee to complete the defined tasks for submission to the City. Provide recommendations for any information or sections not noted in this RFP and discussion on each.

3. Attend "Water Supply Management and Conservation Work Group" and City Council Meeting:

   Consultant will attend regularly scheduled work group and council meetings for the purpose of answering questions and addressing issues concerning this project. Number of meetings to be determined as part of scoping meeting.

4. Conduct interviews:

   Consultant shall conduct interviews as needed with City personnel familiar with the water distribution to collect information on the operation and maintenance of the system and known deficiencies, if any. Consultant shall make site visits with City personnel to specific facilities if necessary. The following is a potential list of City employees that have been identified to help answer questions and provide information about the water system.

   Chris Beatty – Acting City Engineer
   Justin Scharbrough – Public Works Operations Superintendent
   Steve Stewart – Water Treatment Plant Supervisor
   Matt Hall – Water Distribution Supervisor
   Rob Murphy – Fire Chief
   Travis Reeves – Sr. Systems Administrator

5. Collect and Review Current Mapping and Water System Data:

   Consultant shall submit a list of information to be collected (including but not limited to, GIS layers, AutoCAD files, distribution system hydraulic model in "WaterGEMS" format, as-builts where available, water right documentation, planning documents, system components, analysis criteria, water supply/source alternatives, water utility billing data, and deficiencies and repair data) and provided by the City.

   Identify data gaps and method to eliminate gaps sufficiently to have reliable maps that are complete enough for a comprehensive model.

6. Facilities Inventory – Existing System Description:

   This subtask is intended to set the context for the subsequent water system analysis. Consultant shall update the water system description to include, at a minimum.

   a. Water system background
   b. Current and future water service area description and boundary definition.
   c. Existing pressure zone characteristics and boundary definitions.
   d. Future pressure zone characterization and boundary definitions.
   e. Inventory of existing facilities (source and treatment, water rights, reservoirs, pump stations, pressure reducing valves, transmission and distribution piping, and fire hydrants).

7. Review of 2008 WSMP

   Review and update assumptions and information, including cost estimates, from previous City of Newport 2008 WSMP. This task should include reviewing the recommended projects from the 2008 WSMP and identify which projects have been completed to-date. Additionally, recommended projects not completed that should be considered.

8. Review of City Water Projects and Development Activity

   Consultant shall work with City staff to develop understanding of all current, in-progress City Water Projects and development activity within the City.

TASK 3: WATER DEMAND

1. Calculate Existing Production:

   Consultant shall determine current system-wide water use based on water production records. Monthly water production records will be provided for Consultant's review and summary. Consultant shall identify the maximum water use for the period of available record and develop seasonal water use trends. Consultant shall calculate water usage for average day, maximum day, and peak hour demand conditions. Calculated use for these conditions will be used to adjust water demands before they are allocated to the hydraulic model.

2. Calculate Existing Customer Usage

   Consultant shall calculate individual user water demands from water billing data. Water use for individual water users will be calculated for average day, maximum day, and peak hour demand.

3. Water System Demand Forecast

   Consultant shall forecast water demands.

   Expected growth shall be determined based on estimates from the Population Research Center at Portland State University for 5-year, 10-year, and full build-out scenarios. At a minimum the Consultant shall include the following.

a. Review previous estimates of the per capita demand factors and meter records for selected user categories to update unit demand factors.
b. If necessary, review and make recommendations for estimated unaccounted-for water use records from the City's customer billing and master meter records if available.
c. Review pertinent sections of Big Creek Dam documentation and coordinate with Big Creek Dam project team. Assume at least two meetings to coordinate and ensure consistency and accuracy between projects.

TASK 4: WATER SUPPLY

1. Water System Storage and Supply

Consultant shall evaluate the City's current and future storage and supply capacities to ensure that they meet operational and regulatory requirements for average day, maximum day plus fire flow, and peak hour demand as listed in Task 3.2. Consultant shall evaluate alternatives to increase city's storage and supply needs to meet future water demands. This task is currently being evaluated by HDR, Inc. (HDR) as part of the future Big Creek Dam Replacement Project. The City will use data for this task to compare with evaluations, assumptions, and recommendations by HDR. Coordination with the City, HDR, and Consultant will be required to ensure that both the Big Creek Dam water supply projections and the WSMP are consistent.

TASK 5: WATER TREATMENT

Consultant shall evaluate the City's existing water treatment methods and provide recommendations for improvements to current water treatment facilities. Consultant shall provide recommendations for improved maintenance practices on existing facilities and investigate whether future water treatment requirements will become more stricter requiring upgrades to the existing facilities. This should be evaluated for a 20-year outlook.

TASK 6: WATER DELIVERY

1. Evaluate Existing Distribution System Capacities:

1.1 Existing Distribution System

Consultant shall evaluate the distribution system using the hydraulic model to determine its capacity to deliver water under peak demand conditions as well as under fire flow conditions. The following model scenarios will be run and evaluated using:

A. Peak Hour Demands (during Maximum Day)
B. Average Maximum Day Demand Plus Fire Flow (evaluated at fire flow junctions)

Consultant shall review storage and supply capacities to ensure that they meet operational and regulatory requirements. All deficiencies discovered in the distribution systems will be identified.

1.2 Data collection/Mapping

Consultant shall provide for field data collection to eliminate inaccuracies and gaps in mapping prior to modeling effort.

1.3 Abandon Obsolete Water Mains

Consultant shall identify redundant water mains and services that need to be transferred to a different water main. Consultant shall identify projects to transfer water services and abandon redundant water mains.

2. Seismic Evaluation

Consultant to conduct a seismic evaluation for a "Cascadia Event" for all City water critical facilities including, but not limited to; raw water transmission lines, reservoirs, storage tanks, and pump stations.

3. Cathodic Protection

Consultant to provide evaluation of existing cathodic protection within the existing system, particularly on under bay crossings, and provide recommendations on improving or addition of cathodic protection.

4. Coordinate with the City of Newport's Intergrade-of-Record for the water system SCADA system.

5. System Condition Assessment

Consultant shall develop a database to assess the condition of the City's water system. The database shall separate the City's water system into segments, such as raw transmission lines, storage tanks, pumps, wells, pressure reducing valve, and water distribution by street block length (street intersection to street intersection). Consultant shall develop a rating system to apply to the water system segments. The rating system would be used to rank each segment based on highest priority of replacement or repair. The rating system would be a numerical points system based on items such as:

A. Increase Capacity (Determined by Task 6.1.1)
B. Coordination of City's Street maintenance or Capital Improvement Projects.
C. Existing Deficiencies

i. Number of Repairs
ii. Condition
iii. Years Left in expected Life Cycle
iv. Dangerous Materials (Lead joint, Asbestos Pipe, etc.)

6. Construction Standards and Drawings

Consultant shall evaluate and recommend changes in design and construction standards and standard drawings to update the existing "draft" manual for CIP and development projects consistent with current best practices and surrounding water provider agencies.

TASK 7: Hydraulic Model Update

7.1 Water System Modeling Software:

The City owns a system-wide model built using "WaterGEMS" that has not been updated for several years. There have been several projects that affect the model since the last update. These projects will need to be added to the model. The City desires integration of the system model into GIS.

7.2 Assign Water Demands:

Consultant shall create four (4) demand sets in the model to hold maximum hour and minimum, average, and maximum day demands. Diurnal water use graphs shall be used to calculate a series of multipliers (peaking factors) to be used as part of the model to adjust hourly demands. The diurnal pattern will be entered into the model and assigned to all demand nodes.

7.3 Fire Flow Evaluation:

The system evaluation report shall include an evaluation of the system pressures and velocities encountered during the fire flow and a list of locations at which the pressure falls below minimum levels as designated by the City.

7.4 Model Verification:

7.4.1 Develop Model Verification Plan

Consultant shall prepare a draft calibration plan for the model and submit to the City for review. The plan will identify locations for fire flow and pump tests, identify SCADA data to be gathered, and document the testing protocol. Pump tests will include gathering data for a single operating point at each pump or pump station to confirm model pump curves.

7.4.2 Perform Model Hydraulic Verification Testing

Consultant shall provide testing plan, including time frame required. Consultant shall coordinate with the City to conduct calibration testing. City personnel shall assist in performing flow testing, and will be responsible for supplying any tools and equipment required for operation of system facilities. Consultant shall be responsible for supplying all other equipment required for testing.

7.4.3 Perform Model Hydraulic Verification

Consultant shall develop computer model simulations or scenarios for each of the fire flow calibration tests. Model results from the calibration simulations will be compared with the field data and measured against the calibration criteria. Comparisons that fall outside the established criteria will be identified and adjustments and/or corrections to the model will be made until satisfactory results are obtained. Pump test data points will be compared to pump curves in the model. Pump curves in the model will be adjusted if necessary. Calibration efforts will be coordinated with and reviewed by the City to determine the appropriate level of calibration. The initial pressure calibration target shall be within 5% accuracy. If calibration at some locations cannot be achieved within the time limit, written suggestions will be made as to possible reasons for the discrepancy and what steps might be taken to improve calibration at that location. Consultant shall keep friction coefficient values within realistic range.

7.5 Ability to Model:

The City needs to have the ability to assess service to a location (developed or undeveloped) so we can answer development questions as well as making operational decisions. Additionally, the Consultant shall provide a certain level of training to City employees so that internal modeling changes can be made to reflect new projects or changes within the water system between WSMP's.

Provide GIS files as needed in coordination with the City's GIS team to support ongoing mapping and model maintenance.

TASK 8: WATER SYSTEM CAPITAL IMPROVEMENTS PLAN

7.1 General:

Consultant shall group identified improvements into projects with planning level cost estimates of +/-20% accuracy prepared for each project. Projects may include projects from previous WSMP that were not implemented to-date. Consultant shall develop a 20-year Capital Improvement Plan (CIP) for the water system (1, 3, 5, 10, 20-year). The improvement projects will be prioritized in order of importance and suggested dates for construction will be assigned.

7.2 Past Funded Projects but not Implemented

1. Bayfront PRV Radio Read SCADA Integration
2. Bay Crossing Flow Meters
3. Pump Station SCADA Upgrades
4. Raw Water Distribution Pump, Motor, VFD
5. Raw Water Pump, Motor, VFD

7.3 Current Projects Under Design Phase

1. Big Creek Dam Replacement
2. Main Storage Tanks Replacement

3. NE 54th Street Pump Station
4. Fall Street Reservoir Project (Newport Hospital Emergency Water Storage Tank)

TASK 9: WATER MANAGEMENT AND CONSERVATION PLAN

Consultant shall evaluate the need for water management and water use conservation. Coordination with the "Water Supply Management and Conservation Work Group" and the "Mid-Coast Water Conservation Consortium" is required. Consultant to incorporate input from these groups as they work through the water management and conservation plan section of the WSMP. Level of coordination and number of meetings to be determined as part of the initial project scoping meeting.

Develop a Water Management and Conservation Plan (WMCP) document with contents as guided by Oregon Water Resources Department's administrative rules found at OAR Chapter 690, Division 86.

Measures to be included, but not limited to:

- Determining drought stages, trigger points when the various stages of water emergency are hit, conditions that drive the need water conservation, and appropriate declaration methods with the community
- Residential conservation actions that can be taken to reduce water waste
- How large users of water including, fish plants, can reduce water use
- Identify potential economic impacts on farm, forest, recreation, industry, and forest resources in the watershed.

Consultant shall build in a public education component to demonstrate what the City is doing, or plans to do, for water management and conservation. Additionally, what individuals and businesses being served by the City's water system can do to support this effort.

TASK 10: WATER SYSTEM MASTER PLAN REPORT

10.1 Consultant will prepare an WSMP report consisting of the following sections and various appendices, developed in two phases (draft and final):

Section ES – Executive Summary
Section 1 - Introduction
Section 2 – Study Area
Section 3 – Regulatory Requirements
Section 4 – Design Criteria and Service Goals
Section 5 - Water Demand Analysis
Section 6 – Hydraulic Model Update Methodology and Findings
Section 7 - Water Distribution System Evaluation
Section 8 – Water System Condition Assessment
Section 9 – Water System Capital improvement Plan
Section 10 – Water Management & Conservation Plan

1. Consultant will update CAD water system file, as needed.

Several drawings of the existing CAD water system file set will require revisions and updating. All plans will be prepared to conform to state and FAA CAD standards and will be made available in electronic format.

1.1 As part of the water system's Master Plan Update, the sheets required for the CAD water system file, at a minimum, should contain the following:

a. Cover Sheet
b. Existing CAD water system file
c. Future CAD water system file (existing and future can be combined)
d. Data Sheet
e. Other (as determined by City and consultant through planning process)

1.2 CAD water system file revisions, (i.e., an 'As-Built' CAD water system file) should be accompanied by a memo explaining the changes which have occurred since the last CAD water system file update.

1.3 Existing Water system Facilities Plan: This drawing will be updated reflecting changes since completion of the existing drawing. This drawing will be prepared at a scale of either 1" = 300' or 1" = 400'

1.4 Ultimate Water System Layout Plan: This drawing will be revised reflecting the preferred alternate layout. This drawing will be prepared at a scale of either 1" = 300' or 1" = 400'.

1.5 Forward Draft Findings: Consultant will prepare and submit the revised CAD water system file drawings. In addition, a reduced 11" x 17" set will be provided in Adobe PDF to the City's webmaster for inclusion on the city's website.

2. Review Process and Final Documentation

2.1 Review Process: An internal review will be conducted by Consultant, City, Water Supply Management and Conservation Work Group, and Planning Committee. A web site will be created for further public assess and commentary. Consultant will provide a USB Flash Drive containing draft .pdf version of the 2021 WSMPU. Please break out and label each section.

3.2. Final Documents: Five (5) copies of Final signed 2023 WSMP hard copy.

3. Close-out Meeting

3.1 Final Meeting. Consultant will hold a final project meeting with the City to review the project and solicit all final comments.

3.2 Final Report. Pending receipt of comments from all interested parties, a final WSMP report will be prepared. Bound, printed copies will be distributed to the City and Planning Committee. Additional copy of final report provided on a Flash Drive in Adobe PDF format.

3.3 CAD Water system File. The final CAD water system file will be distributed as stated above in section b. In addition, the City will receive one (1) "E" Size copy for reference/display.

4 Proposal Content

Please limit the number of pages in the proposal to twenty (20) 8.5"x 11" pages. Pages printed on both sides will be counted as two pages. The intent is for a brief/focused proposal. Resumes are not included in the total page count. The City is not interested in brochures, boilerplate, or general information that is not relevant to the project at hand or specifically related to the proposed project team's experience. Consultants responding to this request are advised to provide a clear and responsive project approach addressing all issues noted in this request and the proposed scope of work.

4.1 Introductory Letter

Each proposal shall include an introductory or cover letter. This letter should:

- Be addressed to Chris Beatty, Interim City Engineer, City of Newport, Oregon and shall be signed by an officer of the firm authorized to bind the firm to all statements made in the SOQ. Provide contact information, including telephone number(s), e-mail address(es), and physical address(es) to which correspondence should be addressed.
- Acknowledge the Proposer accepts all terms and conditions contained in the SOQ and supporting documents.
- Name the person(s) authorized to represent the Proposer in any negotiations and the name of the person(s) authorized to sign any contract that may result.
- Confirm that applicable licensure, including applicable subconsultants, to practice engineering in the State of Oregon.

4.2 Project Understanding

The proposal should clearly state the proposal team's understanding of the project concept and scope tasks.

4.3 Project Approach

The proposed approach to the project should be clearly outlined; including the project team's methodology for completing all the tasks within the proposed project scope. Proposers are welcome to suggest variations to the proposed scope. Suggested variations shall be accompanied by detailed explanation for the reason to consider variations, benefits to the City, project, etc.

The approach should clearly identify any subcontractors and what tasks they will be working on. Approach will also address opportunities to save cost and utilize existing data to maximize efficient use of the project budget.

4.4 Project Schedule

Provide an overall project timeline for the tasks within the scope of work. Proposer availability and capability to perform the needed planning services described in this RFP. Schedule should prioritize the Sections in Task 10 – Water System Master Plan Report with an emphasis on Section 6 – Hydraulic Model Update Methodology and Findings. This section is of high priority to the City so that current projects

under the design phase can be added to the model to enable the City to determine how these improvement projects will affect the model and whether there is opportunity to enhance the overall water system function.

Due to the need for the City to conduct a comprehensive rate study, approaches that can reduce the schedule length are desirable. Provide option to "fast-track" schedule to the extent possible without compromising quality and completeness. Discuss strategies and opportunities as well as risks to schedule compression.

4.5 Experience and References

The proposer shall provide a list of projects completed by the consultant and/or subconsultants that are similar in scope to the proposed work. This list shall include the client, brief description, location, cost, and completion date for the project.

Provide detailed descriptions of at least 5 similar projects, by name, scope, location, cost and completion date, performed within the last 5 years which best characterize work quality and the capabilities of the Proposer. Detail the type of work that was done that supports the proposition that the team is capable of performing similar work. Provide an estimate of the total number of similar master plans developed by proposing firm within the last 15 years.

Provide the names and current phone numbers of individuals representing three owners of projects listed above, to be used as references. References from public works projects are preferred. Please verify that the references identified had direct contact with your proposed team members.

Demonstrated ability and experience in facilitating and leading a public involvement planning process/program.

4.6 Project Team/Key Personnel

List the key personnel who will make up the project team and provide pertinent information about education, training, experience, certifications, and/or demonstrated excellence in their particular field. Provide a simple project organizational chart to demonstrate the lines of communication.

Communicated understanding of water systems. Acknowledged information specific to Newport. Demonstrated ability to synthesize technical information and communicate this information in verbal, written or graphic form. Describe how the project team will interact with City staff and what level of support will be anticipated or expected from the City.

It is assumed that key personnel will not be changed during the project without written confirmation from the City of Newport.

4.7 Rates

Provide hourly rate structure of proposing firm under separate cover. Rates not scored and will not be viewed until after proposals are scored.

5 Selection Criteria

The City is using a qualifications-based selection (QBS) process as mandated for certain contracts anticipated to exceed $100,000 by ORS 279C.110. As a result, selection of the most qualified candidate will be made without regard to the price of the services. If the City does not cancel the RFP, only after selecting the most qualified candidate will the City and the selected candidate enter into contract negotiations for the price of the services. The City shall direct negotiations toward obtaining written agreement on the Planner's performance obligations, a payment methodology that is fair and reasonable to the City, and any other provisions the City believes to be in the City's best interest to negotiate.

If the City and the selected candidate are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate. The City may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the City terminates the RFP.

The City will screen and rank the proposals based on the criteria outlined in this SOQ, using the following criteria:

	Points
Introductory Letter	**5**
Understanding and Approach	**35**
Schedule	**15**
Experience and References	**25**
Team/Key Personnel	**20**
Results from Interviews, if conducted	**20**

Total score up to 100 (120 if interviews are conducted)

Applicants are encouraged to address these criteria in their proposals. Applicants may include any additional information they consider important or beneficial in the consideration of their proposal for this project.

6 Reimbursement

City of Newport will not be responsible for any costs associated with preparing this proposal.

7 Confidentiality

To the extent permitted, under Oregon Public Records Law, the Proposal shall be considered confidential and shall not be disclosed to the public until after the date and time set forth above for receipt of the Proposal.

8 Limitations

This request does not commit the City of Newport to pay any costs incurred to prepare any proposal. Further, the City of Newport reserves the right to:

- Accept or reject any and all proposals received as a result of this RFP at any time,
- Negotiate with any of the proposers,
- Cancel the request, in part or in whole, if it is determined to be in the best interest of the City/Public to do so,
- Award to the selected contractor any subsequent contracts, in whole or in part,
- Seek further proposals for this work.
- Seek clarification on any point in any proposal at any phase of the selection process.

9 False or Misleading Statements

If the review committee feels, at any time, that a contractor's proposal contains false or misleading statements, references, or any other matter which does not support a function, attribute, capability, or condition as stated by the firm or firms submitting, the submittal shall be rejected, regardless of the status or the phase of the selection process.

10 Award of Contract

Once the final proposal has been selected and the fee proposal accepted or negotiated, the consultant will be asked to enter into a contract for the performance of the work.

A sample Professional Services Contract is attached (see Attachment A). Please identify any potential requests to alter the standard language.

11 Proposal Withdrawal

Any proposer may withdraw its proposal prior to the final deadline for submission by providing the City with a written request stating the desire to withdraw. Withdrawal of a proposal will not prejudice the right of a firm to file a new proposal before the deadline.

12 Rejection

City of Newport may reject any Proposal not in compliance with all prescribed public contracting procedures and requirements and may reject for good cause all Proposals upon finding that it is in the public interest to do so.

13 Licenses

Proposals for a public improvement project may not be received or considered by the City of Newport unless the Proposer is licensed to perform the work described. Selected contractor may be required to purchase a City business license if not already licensed.

14 Application of Public Contract Laws

The City of Newport is a municipality of the State of Oregon. Contracts with the City of Newport are subject to compliance with applicable statutory public contract requirements, including but not limited to those stated in ORS Chapter 279. All contracts with City of Newport are also subject to administrative rules of the City of Newport's public contract review board.

Attachment A

CITY OF NEWPORT

EXAMPLE CONTRACT

Attachment B

CITY OF NEWPORT

2008 WATER SYSTEM MASTER PLAN

EXECUTIVE SUMMARY

Figure 1

CITY OF NEWPORT

2008 WATER SYSTEM MASTER PLAN

EXISTING WATER MAPS (NORTH AND SOUTH)

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)

July 8, 2024 Work Session

- Public Outreach Plan and Web Updates for City Center Revitalization Plan
- Status of South Beach Island Annexation Project

July 8, 2024 Regular Session

- TBD (might be cancelled)

July 22, 2024 Work Session

- Scope of Work for Updating Newport's System Development Charge Methodology
- Web Map Updates with New Aerial Imagery and Lidar Information

July 22, 2024 Regular Session

- Placeholder for Public Hearing on Next Phase of Wilder Planned Development

August 12, 2024 CANCELLED

August 26, 2024 Work Session

- Comprehensive Plan Streamlining Project Sample Chapter (Beth Young)
- Wastewater Treatment Plant Master Plan Policy Review

August 26, 2024 Regular Session

- Public Hearing on Amendments to Ord #2222 to Implement Adjustment Provisions of Governor's Housing Bill (SB 1537)
- Hearing on Comp Plan/Zoning Amendments Implement the Updated Estuary Management Plan

September 9, 2024 Work Session

- Placeholder for Discussion about Parking Code Changes to Implement ePermitting in Nye Beach
- Update on State of Oregon Housing Needs Analysis Rulemaking

September 9, 2024 Regular Session

- Placeholder for Public Hearing on Warren UGB Minor Amendment Request

September 23, 2024 Joint Commission / Council Work Session

- City Center Revitalization Plan Market Analysis and Planning for Public Event No. 1

September 23, 2024 Regular Session

- TBD

October 14, 2024 Work Session

- Comprehensive Plan Streamlining Project Full Document (Beth Young)
- Placeholder to Discuss Scope of Housekeeping Code Amendment Package

October 14, 2024 Regular Session

- Public Hearing on Wastewater Treatment Plant Master Plan Policies