

CITY OF NEWPORT

ORDINANCE NO. 2225

AN ORDINANCE AMENDING THE NEWPORT COMPREHENSIVE PLAN, ZONING MAP, AND CHAPTERS 14.01, 14.02, 14.03, 14.04, 14.05, 14.13, 14.34 AND 14.52 OF TITLE XIV OF THE NEWPORT MUNICIPAL CODE (ZONING ORDINANCE), IMPLEMENTING THE UPDATED YAQUINA BAY ESTUARY MANAGEMENT PLAN

(Newport File No. 1-CP-24 / 1-Z-24)

WHEREAS, consistent with Statewide Planning Goal 16, the City of Newport regulates the type and manner in which new development may occur in those portions of the Yaquina Bay Estuary that fall within the City's Urban Growth Boundary; and

WHEREAS, this is accomplished through the application of policies in the City's Comprehensive Plan; a Zoning Map identifying areas that are to be retained in a natural state, areas in conservation, and areas where development is anticipated; and a Zoning Ordinance, codified in Title XIV of the Newport Municipal Code, with standards that apply in each of the mapped areas; and

WHEREAS, the City's policies and standards draw from an overarching Yaquina Bay Estuary Management Plan ("Plan") that is over 40 years old, and outdated as it relates to such matters as the location and condition of natural resources, existing/anticipated development, modern conservation practices, and climate change; and

WHEREAS, the Department of Land Conservation and Development ("DLCD") hired consultants to update the Plan, an effort that took several years, and that was informed by feedback from steering and advisory committee members, town hall attendees, and individuals that provided comment through a project website, before culminating in a new draft Plan in August of 2023; and

WHEREAS, for the City to implement the Plan it must amend the "Yaquina Bay and Estuary Section" of its Comprehensive Plan; update the relevant chapters of its Zoning Ordinance, and adopt a revised zoning map; and

WHEREAS, the City Planning Commission initiated the necessary amendments in the spring of 2024, holding work sessions on March 25, 2024, June 24, 2024, and July 22, 2024, at which interested parties were afforded an opportunity to provide feedback as draft policy and regulatory documents were being prepared; and

WHEREAS, an initial public hearing was held by the Planning Commission on August 26, 2024, at which it took public testimony before closing the record and continuing the hearing to September 23, 2024 so that the members could further consider the testimony before making a recommendation; and

WHEREAS, the Planning Commission convened a work session on September 9, 2024 to review and discuss the testimony from the August 26, 2024 hearing, and requested staff prepare a final round of revisions for its consideration on September 23, 2024; and

WHEREAS, on September 23, 2024 the Planning Commission reopened the hearing and afforded the public an opportunity to comment on the final draft of the Comprehensive Plan, Zoning Ordinance, and Zoning Map revisions, including testimony submitted prior to the close of the initial August 26, 2024 hearing; and

WHEREAS, at the close of the September 23, 2024 public hearing, the Planning Commission voted to recommend the City Council adopt the Comprehensive Plan, Zoning Ordinance, and Zoning Map amendments, finding that information in the updated Yaquina Bay Estuary Management Plan relating to the location and condition of natural resources, existing/anticipated development, modern conservation practices, and climate change, demonstrated a public need for the changes, and that the revisions are required by public necessity and are consistent with the general welfare of the community; and

WHEREAS, changes to the Newport Comprehensive Plan consist of a rewritten “Yaquina Bay and Estuary Section” of the document that includes refined boundary descriptions, classifications, resource capabilities, management objectives, general policies and special policies for each of twelve (12) estuary management units that fall within the Newport Urban Growth Boundary; and

WHEREAS, changes to the City’s land use regulations, contained in Title XIV of the Newport Municipal Code, impact Chapters 14.01, 14.02, 14.03, 14.04, 14.05, 14.13, 14.34 and 14.52 and includes new definitions; restructured estuary zoning that groups estuary management units by their classifications; a new outright permitted use section for minor alterations in development zones; updated general and special standards for uses that require review; new impact assessment and climate vulnerability standards; and requirements for conditional uses that focus on ensuring the proposals are consistent with the resource capabilities of the affected area; and

WHEREAS, Statewide Planning Goal 16 requires that the new outright permitted use section for minor alterations in development zones be supported by the following findings at the time code amendments are being considered:

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

WHEREAS, the above findings relate to the following new outright permitted uses, all of which are limited to development zones within the estuary:

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

WHEREAS, allowing the above uses as outright permitted uses in estuary development zones satisfies a need (i.e. substantial public benefit) because it (a) allows for small-scale repair or replacement of damaged or failing in-water infrastructure to occur in an expeditious manner, avoiding public harm and damage to the environment that can result from infrastructure failure, and (b) it will free up limited local government staff resources to focus on larger scale development proposals in the estuary where the risk of adverse impacts is greater; and (c) it avoids subjecting applicants to redundant review processes, since overlapping state and federal agency review processes would still apply; and

WHEREAS, there are no known public trust rights that would be impacted by these four uses, and each of them, by their nature, only occur within in-water areas; therefore, there is no feasible upland location where they can exist; and

WHEREAS, adverse impacts attributed to these four uses are minimized because (a) the scale of the projects are so small that the work can be completed quickly with limited disturbance; (b) the activities are subject to state and federal regulatory requirements that minimize potential estuary impacts (e.g. in-water work period restrictions); and (c) industry standards require best management practices for the safety of the workers and environment (particularly with respect to underwater welding and pile repair/installations); and

WHEREAS, changes to the City zoning map apply to in-water development, conservation and natural estuary management units, with the revisions being largely refinements of the existing boundaries; and

WHEREAS, the Newport City Council held a work session on May 20, 2024 and a public hearing on October 7, 2024 to consider the proposed amendments and voted in favor of the changes, after considering the Planning Commission recommendation, public testimony, and evidence and argument in the record; and

WHEREAS, in approving the amendments the Council concludes that there is a public need for the changes, and that they are required by public necessity and consistent with the general welfare of the community for the reasons outlined by the Commission; and

WHEREAS, information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above, are hereby adopted in support of the amendments to the City of Newport Comprehensive Plan Map, Zoning Map, and Title XIV of the Newport Municipal Code as set forth in Sections 2 through 4 of this Ordinance.

Section 2. Newport Comprehensive Plan Amendments. The “Yaquina Bay and Estuary Section” of the Newport Comprehensive Plan is hereby repealed and replaced as outlined in Exhibit “A” to this ordinance.

Section 3. Revised Newport Zoning Map Designations. The Zoning Map of the City of Newport is hereby amended to align with the text descriptions of the estuary management units included in Exhibit

"A" to this ordinance. The updated estuary management unit boundaries are graphically depicted on Exhibit "B" to this ordinance.

Section 4. Newport Zoning Ordinance Amendments. Chapters 14.01, 14.02, 14.03, 14.04, 14.05, 14.13, 14.34 and 14.52 of Title XIV of the Newport Municipal Code are hereby amended as set forth in Exhibit "C".

Section 5. Effective Date. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: 10-07-2024

Signed by the Mayor on 10-09-24, 2024



Jan Kaplan, Mayor

ATTEST:



Erik Glover, Asst. City Manager/City Recorder

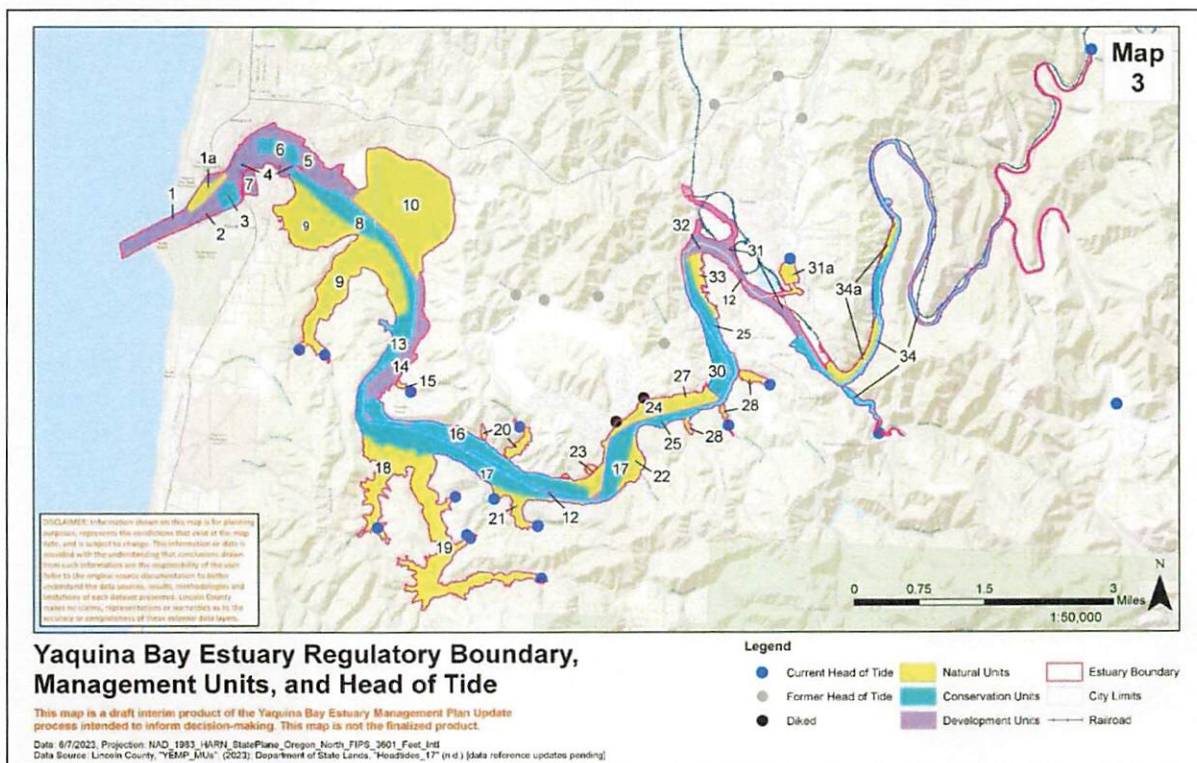
YAQUINA BAY AND ESTUARY SECTION

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 Yaquina Bay Estuary Goal 16 Resource Inventory Bibliography, dated July 15, 2024, 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

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; its existing and potential conflicts; and its climate vulnerabilities. Policies are established for each sub-area for the purpose of guiding the establishment of management unit designations and specific implementation measures.

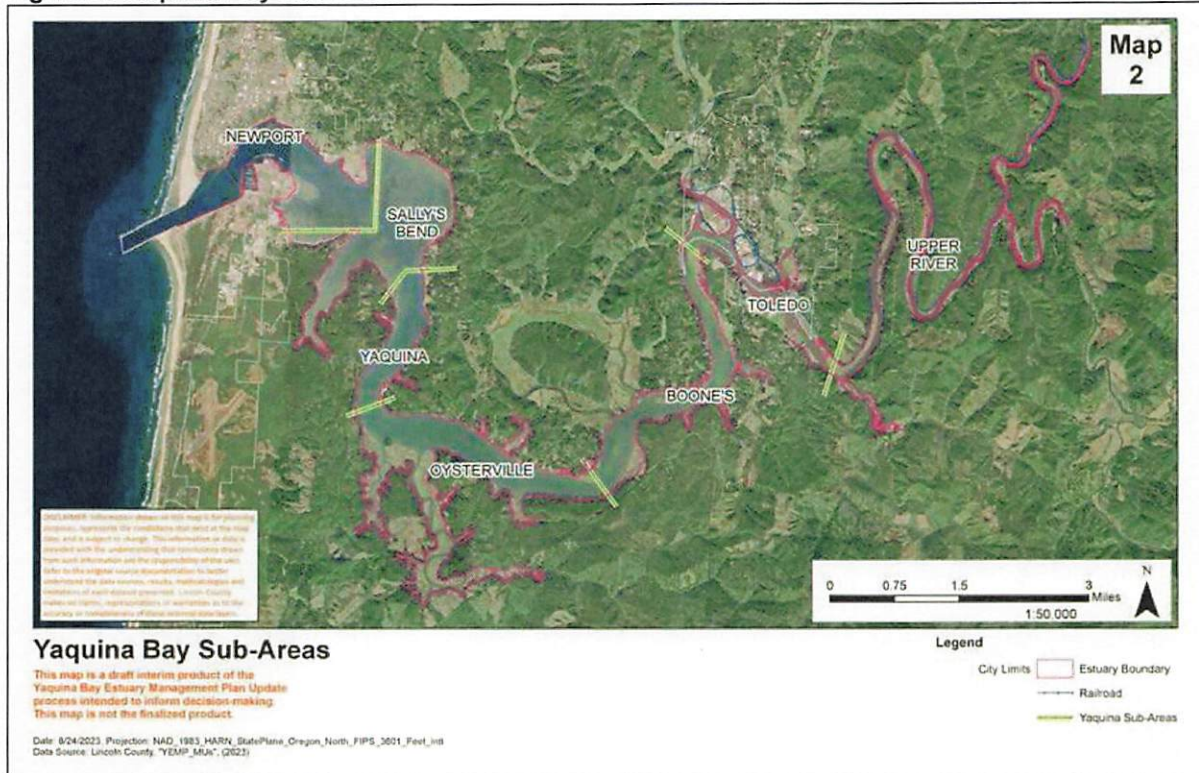
³Feely et al. 2008. Barton, A. B. Hales, G. G. Waldbusser, C. Langdon, R.A. Feely. 2012. The Pacific oyster, *Crassostrea gigas*, shows negative correlation to naturally elevated carbon dioxide levels: Implications for near-term ocean acidification effects. *Limnology and Oceanography*, 57(3): 698-710.

⁴Feely, R. A. C. L. Sabine, J. M. Hernandez-Ayon, D. Jansson, 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 (2012)

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 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 eelgrass and algal beds, shellfish beds and fish spawning and nursery areas. Eelgrass and associated habitat is extremely important for Endangered Species Act (ESA) listed fish species, commercially important fisheries species, recreationally important clams, and migratory birds. Additionally, it is recognized as "Essential Fish Habitat" under the Magnuson–Stevens Fishery Conservation and Management Act.

- > **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;

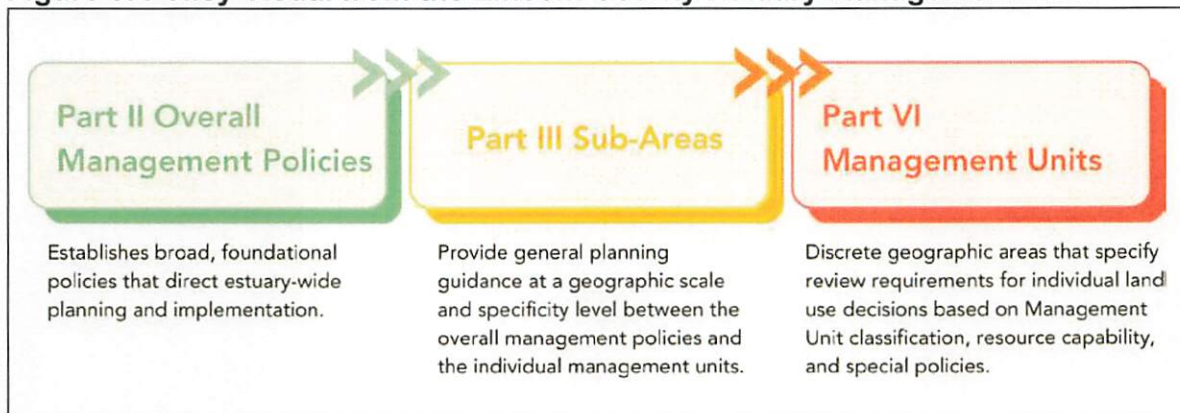
- Increased risk of structural failure of boat ramp and recreation facilities due to sea level rise and storm surge;
- Increased frequency and extent of storm surge flooding due to sea level rise of bay-adjacent industrial and waste treatment sites increasing risk of structural damage and pollution events;
- 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, the Port of Newport, and other stakeholders 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. riprap for protection of 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



Estuary Management Unit: 1

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP_MUs (2024)

DISCLAIMER: Information shown on this map is for planning purposes, represents the conditions that exist at the map date, and is subject to change. This information or data is provided with the understanding that conclusions drawn from such information are the responsibility of the user. Refer to the original source documentation to better understand the data sources, results, methodologies and limitations of each dataset presented. Lincoln County makes no claims, representations or warranties as to the accuracy or completeness of these external data layers.

Legend

Natural Units	Estuary Boundary
Conservation Units	City Limits
Development Units	

> **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 shall 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 shall minimize disturbance of important natural resources identified in this unit.

Management Unit 1a



Estuary Management Unit: 1a

Date: 8/27/2024
Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
Data Source: Lincoln County YEMP_MUs (2024)

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Legend

Natural Units
 Conservation Units
 Development Units
 Estuary Boundary
 City Limits

> 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.

Activities for construction and maintenance of the jetties and other improvements that are part of the federally authorized navigation project may occur within Management Unit 1a. Such activities may be permitted consistent with the requirements for temporary alterations.

Management Unit 2



Estuary Management Unit: 2

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP_MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> **Description:** Management Unit 2 contains the area between the south jetty and the navigation channel, extending from the channel entrance east to a line 50 feet east of the base of 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, eelgrass 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 shall 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 shall minimize disturbance of important natural resources identified in this unit.

Management Unit 3



Estuary Management Unit: 3

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Int'l Feet
 Data Source: Lincoln County, YEMP, MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

- > **Description:** Management Unit 3 consists of the area between the navigation channel and MLW along the south shore, from a line 50 feet east of the base of 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.

Activities for construction and maintenance of the jetties and other improvements that are part of the federally authorized navigation project may occur within Management Unit 3. Such activities may be permitted consistent with the requirements for temporary alterations.

Management Unit 4



Estuary Management Unit: 4

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP, NUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

- > **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:** 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 federal and state agencies that maintain jurisdiction, in part, to ensure that new development does not impede navigation.

Management Unit 5



Estuary Management Unit: 5

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP_MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> **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. A portion of the west boundary of Management Unit 5 extends beyond the Highway 101 right of way to include a 50-foot radius around the fender dolphins that protect the west side of the Yaquina Bay bridge support structures. 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 to docks and piers for commercial and industrial uses (such as mooring buoys or dry land storage) 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



Estuary Management Unit: 6

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County YEMP MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> **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



Estuary Management Unit: 7

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP_MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> 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 OSU Hatfield Marine Science Center. A portion of the west boundary of Management Unit 7 extends beyond the Highway 101 right of way to include a 50-foot radius around the fender dolphins that protect the west side of the Yaquina Bay bridge support structures. 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



Estuary Management Unit: 8

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Int'l Feet
 Data Source: Lincoln County, YEMP, MUs (2024)

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Legend

 Natural Units	 Estuary Boundary
 Conservation Units	 City Limits
 Development Units	

> **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.

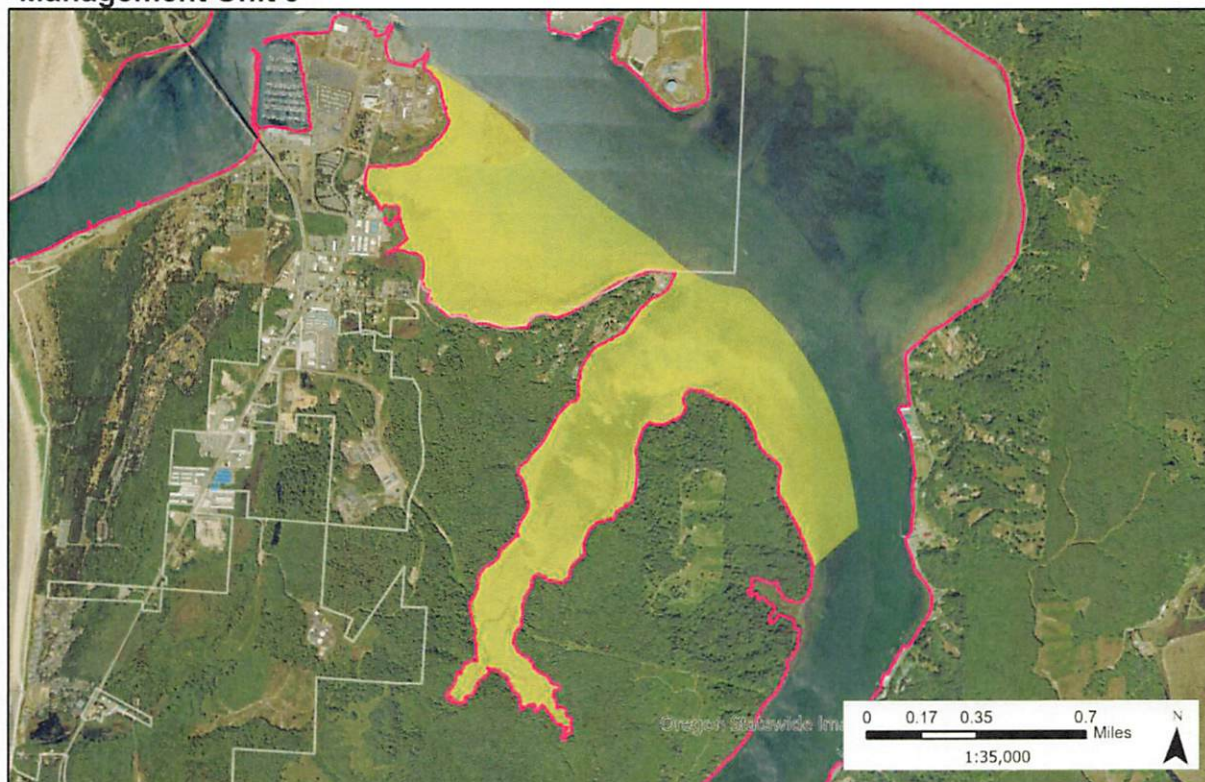
> **Classification:** Conservation. This unit has been classified as conservation in order to conserve the natural resources of the unit while allowing minor alterations similar to those now existing in the unit.

> **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: A cobble/pebble dynamic revetment for shoreline stabilization may be authorized for protection of public facilities (such as at the OSU Hatfield Marine Science Center).

Management Unit 9



Estuary Management Unit: 9

Date: 8/27/2024
Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Int Feet
Data Source: Lincoln County, YEMP_MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> 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 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 for recreational purposes with significant recreational clamming in Idaho Flat (accessed primarily from the OSU Hatfield Marine Science Center location) and

occasional angling and waterfowl hunting. There are several private boat ramps, including one at Idaho Point (formerly the site off a small marina)..

Nearly all of the intertidal flat area is in public ownership (State of Oregon Board of Higher Education), and it is adjacent to, and accessible from, the OSU 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, small-scale, low intensity aquaculture operations (oyster farms).. A substantial portion of the intertidal area upstream from King Slough (Raccoon Flat) 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 ripped 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. This unit has been classified natural in order to preserve the area's natural resources, including eelgrass and clam beds.

> 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.

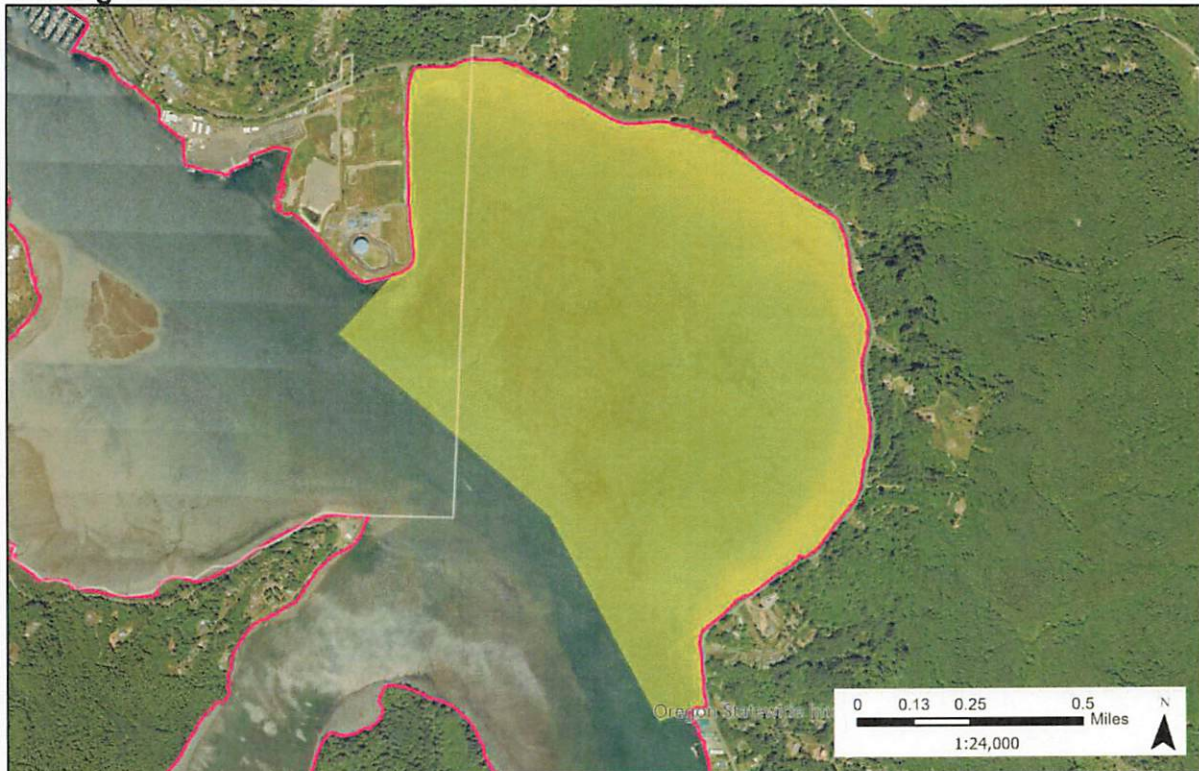
> Special Policies. Limited maintenance dredging and other maintenance activities may be permitted for the maintenance of the existing boat ramp in Management Unit 9. Expansion of this use or establishment of new marina uses is not permitted.

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 OSU Hatfield Marine Science Center).

Management Unit 10



Estuary Management Unit: 10

Date: 8/27/2024
Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
Data Source: Lincoln County, YEMP, MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> **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. 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 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 and Urban Growth Boundary. 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, although the cause, whether natural or manmade, is unknown. Eelgrass and associated habitat make this an extremely important fish spawning and nursery area. It also supports recreationally clamming, and is important migratory bird habitat. Additionally, it has been observed that the middle portion of MU 10 is utilized on occasion by pinnipeds (seals and sea lions) as a haul out region. Recovering populations of native Olympia oysters have also been surveyed at the South corner of the management unit off Coquille Point. While a small section of MU 10 may be suitable for native oyster restoration, most of the MU 10 is unlikely to be utilized by native oysters given habitat and substrate.

Existing uses in this area include 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. This unit has been classified natural in order to preserve the area's natural resources, 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.

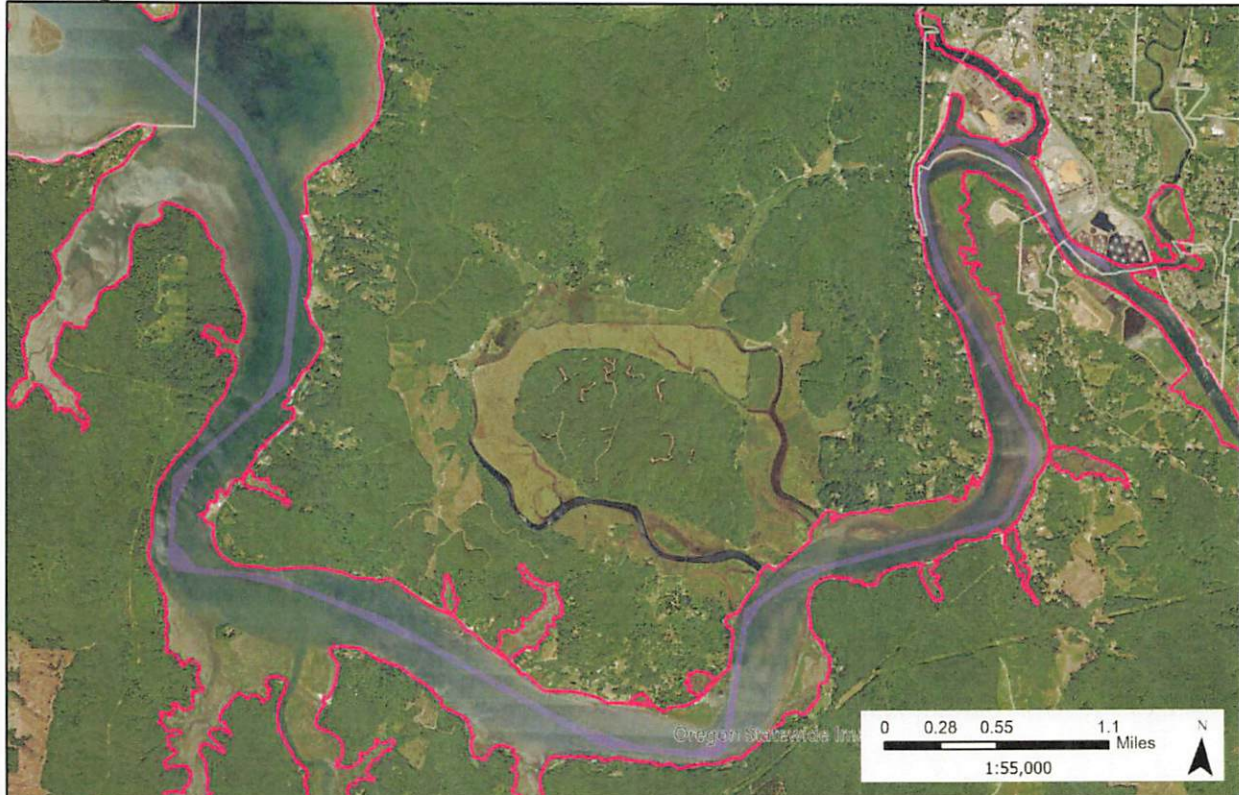
> Management Objective: Management Unit 10 shall be managed to preserve and protect natural resources and values. This includes protecting ecologically-beneficial organisms to preserve the biological resources and, where possible, enhance the biological capabilities of the unit. Beneficial biological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

> Special Policies: Because this unit is suitable for native oyster re-establishment and restoration efforts are underway, significant adverse impacts to existing Olympia oyster beds 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.

Management Unit 12



Estuary Management Unit: 12

Date: 8/27/2024
 Projection: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Intl Feet
 Data Source: Lincoln County, YEMP_MUs (2024)

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Legend

- Natural Units
- Conservation Units
- Development Units
- Estuary Boundary
- City Limits

> **Description.** Management Unit 12 consists of the Corps of Engineers federally authorized navigation channel from the turning basin to the upstream extent of dredging at RM 14 in Toledo (see Figure 17). The channel above the turning basin is maintained to a depth of 18 feet up to Yaquina (RM 4+ 20), and to a depth of 10 feet from Yaquina up to Toledo. Natural resources of major significance in the unit are shellfish beds and fish spawning and nursery areas. The channel is used extensively for shallow and medium draft navigation, though there is currently no active commercial cargo traffic. Other uses include recreation, commercial harvest and aquaculture. Alterations within the channel include maintenance dredging and several minor alterations such as pilings, submerged cable crossings and navigation aids. Only a small portion of this management unit is within the Newport Urban Growth Boundary.

> **Classification:** Development. This unit has been classified development as it is the federally authorized navigation channel and undergoes periodic maintenance dredging.

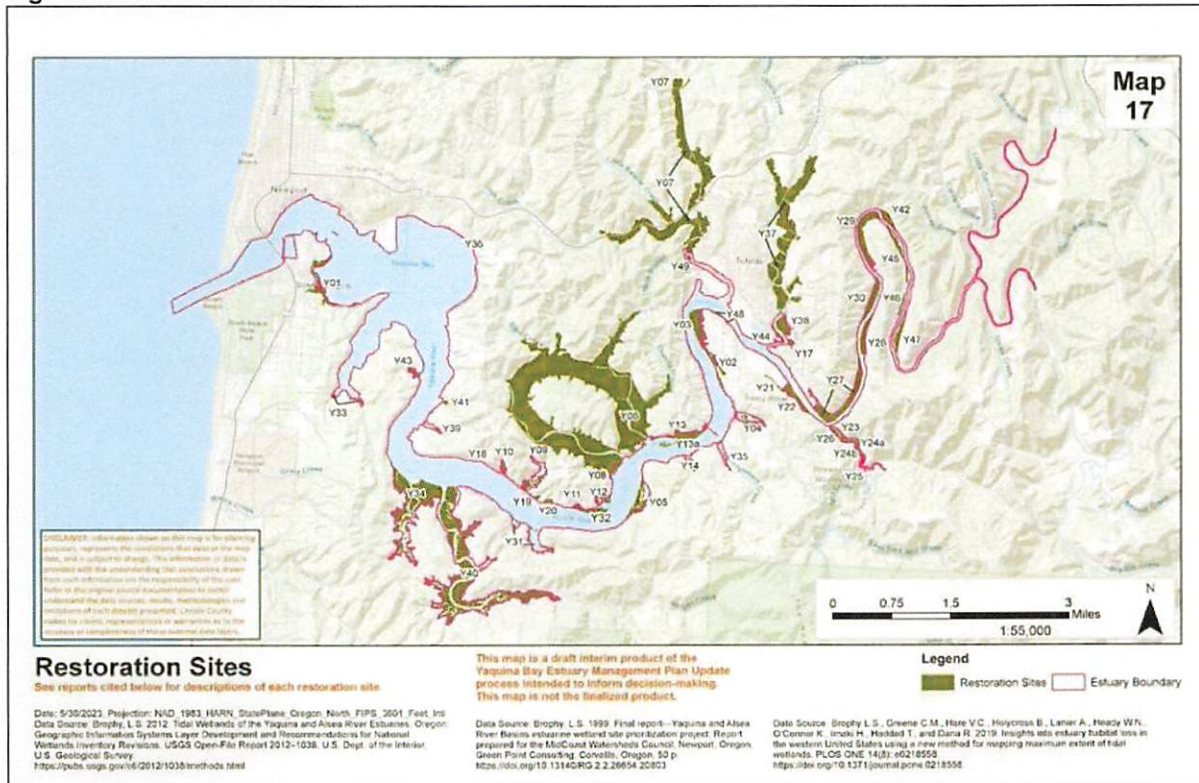
- > **Resource Capability:** Resources within Management Unit 12 are subject to periodic major alterations a result of maintenance dredging activities. Authorized uses in this unit are not subject to resource capability requirements.
- > **Management Objective:** Management Unit 12 shall be managed to maintain navigational access to upriver areas above the turning basin.
- > **Special Policies:** Bridge crossing construction shall be permitted only for maintenance or replacement of the existing Butler Bridge crossing.

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.
- Require Impact Assessments for actions that would potentially alter the estuarine ecosystem. Such assessments 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.

(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 Plan¹³).

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

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 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.

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.

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 and 10. 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.

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.

¹⁷ Wilsey & Ham, Yaquina Bay Resource Inventory, 1977.

¹⁸ Benkendorf and Associates, Inventory of Coastal Beach Access Sites, 1989.

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 OSU 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.

Potential Development of Bay Front Areas: 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, and shall utilize resource inventories developed by those agencies and others when applying the policies in this section, many of which can be found in the Yaquina Bay Estuary Goal 16 Resource Inventory Bibliography, dated July 15, 2024, as amended.

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. 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.

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 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 or tribal cultural resources or practices; and;
- 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 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.

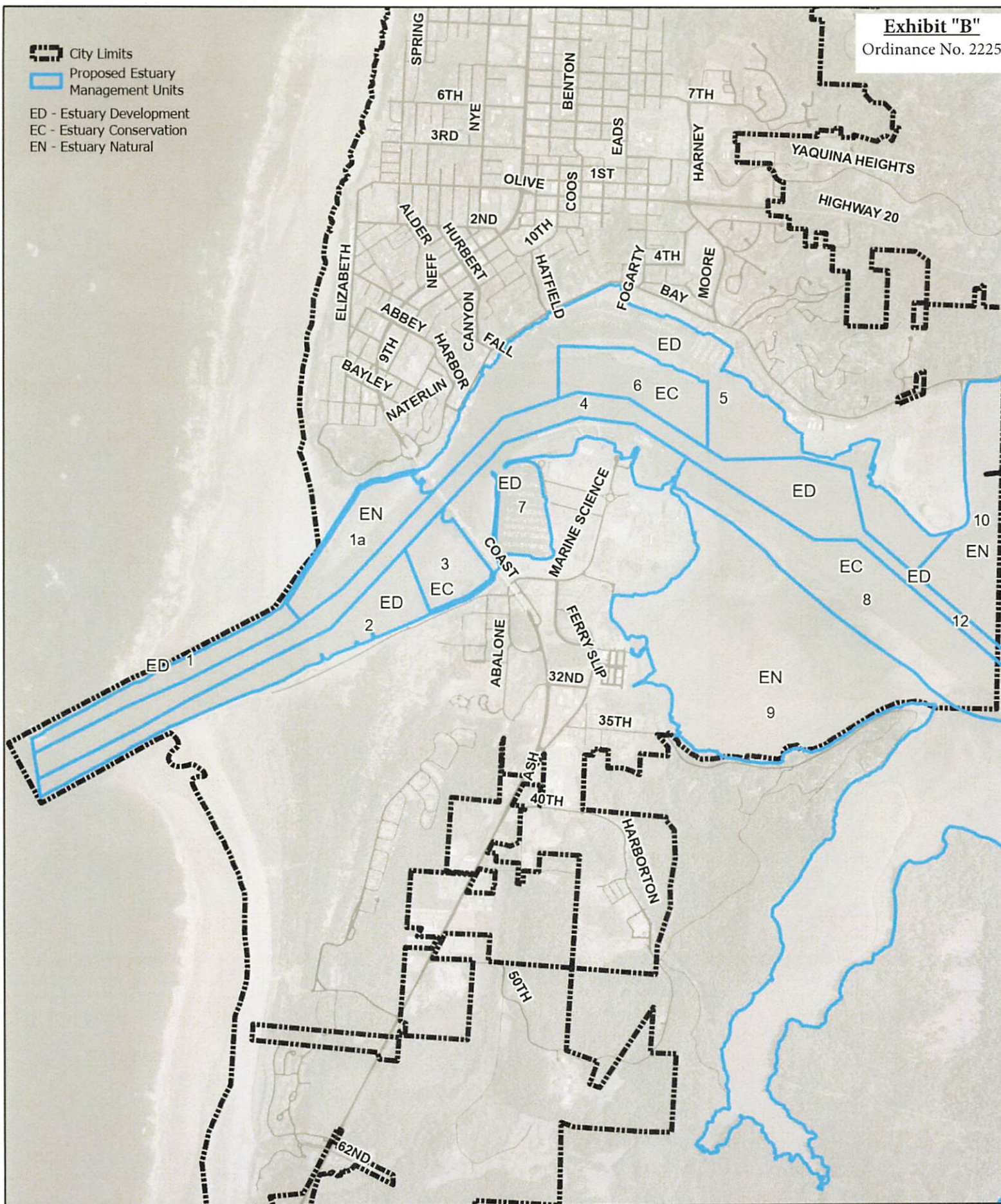
Temporary alterations require a resource capability determination to ensure that:

- > 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: Uses Permitted Outright in Estuary Development Zones. New development or redevelopment that will not alter an aquatic area within an Estuary Development Zone, 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 outright permitted uses that do not require estuarine review. The addition of outright permitted uses to the Newport Zoning Ordinance shall be accompanied by findings demonstrating that the use is consistent with the objectives of the Development Management Units in the Newport subarea of Yaquina Bay Estuary and Policy 14.

-  City Limits
-  Proposed Estuary Management Units
- ED - Estuary Development
- EC - Estuary Conservation
- EN - Estuary Natural



City of Newport
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169 SW Coast Highway
Newport, OR 97365
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Proposed Estuary Management Units

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Image Taken July 2018
4-inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

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8.16.24

(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**

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:

Alteration (estuary). means any human-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.

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

Revisions to NMC Chapter 14 Implementing Relevant
Provisions of the Updated Yaquina Bay Estuary Plan

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

Revisions to NMC Chapter 14 Implementing Relevant
Provisions of the Updated Yaquina Bay Estuary Plan

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.

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, which 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. There has been significant discussion, and competing definitions, offered for "Significant Adverse Impact." This draft eliminates the definition. Any City definition of the term would not be binding

on state and federal permitting authorities. Eliminating the definition gives local decision-makers flexibility to interpret the term based upon the body of evidence and provides the applicant the opportunity to both make their case and to seek alignment in how all of the permitting authorities view the term. A reference to "sea levels" has been added to the definition of climate change per the Commission's request.

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:

Abbreviated Zone Designation

<u>Estuary Conservation Zone</u>	<u>(E-C)</u>
<u>Estuary Development Zone</u>	<u>(E-D)</u>
<u>Estuary Natural Zone</u>	<u>(E-N)</u>
Low Density Residential	(R-1)
Low Density Residential	(R-2)
High Density Residential	(R-3)
High Density Residential	(R-4)
Retail Commercial	(C-1)
Tourist Commercial	(C-2)
Highway Commercial	(C-3)
Light Industrial	(I-1)
Medium Industrial	(I-2)
<u>Heavy Industrial</u>	<u>(I-3)</u>
Water Dependent	(W-1)
Water Related	(W-2)
<u>Management Unit 1</u>	<u>(Mu-1)</u>
<u>Management Unit 2</u>	<u>(Mu-2)</u>
<u>Management Unit 3</u>	<u>(Mu-3)</u>
<u>Management Unit 4</u>	<u>(Mu-4)</u>
<u>Management Unit 5</u>	<u>(Mu-5)</u>
<u>Management Unit 6</u>	<u>(Mu-6)</u>

Revisions to NMC Chapter 14 Implementing Relevant Provisions of the Updated Yaquina Bay Estuary Plan

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.

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 (45) basic classifications and ~~thirteen~~eighteen (1318) 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.

Revisions to NMC Chapter 14 Implementing Relevant
Provisions of the Updated Yaquina Bay Estuary Plan

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. Non-water related uses may also be permitted in this district.

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.

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.

Revisions to NMC Chapter 14 Implementing Relevant Provisions of the Updated Yaquina Bay Estuary Plan

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

“X” = Not Allowed.

		<u>E-C</u>	<u>E-D</u>	<u>E-N</u>
	<u>Management Units</u>	<u>3, 6, and 8</u>	<u>1, 2, 4, 5, 7, and 12</u>	<u>1a, 9, and 10</u>

<u>1.</u>	<u>Active restoration of fish and wildlife habitat, water quality, or estuarine productivity.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>2.</u>	<u>Aquaculture requiring dredge, fill or other alteration of estuarine aquatic area.</u>	<u>C¹</u>	<u>P³</u>	<u>X</u>
<u>3.</u>	<u>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.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>4.</u>	<u>Boat ramps for public use not requiring dredge or fill.</u>	<u>C</u>	<u>P⁴</u>	<u>C¹</u>
<u>5.</u>	<u>Bridge crossing support structures and dredging necessary for their installation.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>6.</u>	<u>Bridge crossing spans that do not require the placement of support structures within an E-C or E-N zone.</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>7.</u>	<u>Commercial boat basins and similar moorage facilities.</u>	<u>X</u>	<u>C</u>	<u>X</u>
<u>8.</u>	<u>Communication facilities.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>9.</u>	<u>High intensity water dependent recreation, including, but not limited to, boat ramps and marinas, and including new and maintenance dredging for such uses.</u>	<u>C¹</u>	<u>C</u>	<u>X</u>
<u>10.</u>	<u>Installation of tide gates in existing functional dikes.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>11.</u>	<u>In-water disposal of dredged material.</u>	<u>X</u>	<u>C</u>	<u>X</u>
<u>12.</u>	<u>Marine terminals.</u>	<u>X</u>	<u>C</u>	<u>X</u>
<u>13.</u>	<u>Mining and mineral extraction, including dredging necessary for such extraction.</u>	<u>C¹</u>	<u>P³</u>	<u>X</u>
<u>14.</u>	<u>Minor navigational improvements.</u>	<u>C¹</u>	<u>P³</u>	<u>X</u>
<u>15.</u>	<u>Navigation activities and improvements.</u>	<u>X</u>	<u>C</u>	<u>X</u>
<u>16.</u>	<u>Navigation aids such as beacons and buoys.</u>	<u>C</u>	<u>P³</u>	<u>C</u>
<u>17.</u>	<u>On-site maintenance of existing functional tide gates and associated drainage channels, including, as necessary, dredging and bridge crossing support structures.</u>	<u>C</u>	<u>P³</u>	<u>C</u>

Revisions to NMC Chapter 14 Implementing Relevant Provisions of the Updated Yaquina Bay Estuary Plan

<u>18.</u>	<u>Other water dependent uses requiring the occupation of estuarine surface area by means other than fill</u>	<u>C¹</u>	<u>P³</u>	<u>X</u>
<u>19.</u>	<u>Passive restoration activities.</u>	<u>P²</u>	<u>P³</u>	<u>P²</u>
<u>20.</u>	<u>Pipelines, cables and utility crossings including incidental dredging necessary for their installation.</u>	<u>C</u>	<u>P³</u>	<u>C¹</u>
<u>21.</u>	<u>Projects for the protection of habitat, nutrient, fish, wildlife, and aesthetic resources.</u>	<u>P²</u>	<u>P³</u>	<u>P²</u>
<u>22.</u>	<u>Research and educational observations.</u>	<u>P²</u>	<u>P³</u>	<u>P²</u>
<u>23.</u>	<u>Riprap for the protection of uses existing as of October 7, 1977.</u>	<u>C</u>	<u>P³</u>	<u>C</u>
<u>24.</u>	<u>Riprap for the protection of unique resources, historical and archeological values, and public facilities.</u>	<u>C</u>	<u>P³</u>	<u>C</u>
<u>25.</u>	<u>Temporary alterations.</u>	<u>C¹</u>	<u>P³</u>	<u>C¹</u>
<u>26.</u>	<u>Undeveloped low intensity recreation.</u>	<u>P²</u>	<u>P³</u>	<u>P²</u>
<u>27.</u>	<u>Water dependent commercial uses.</u>	<u>X</u>	<u>P⁴</u>	<u>X</u>
<u>28.</u>	<u>Water dependent industrial uses.</u>	<u>X</u>	<u>P⁴</u>	<u>X</u>
<u>29.</u>	<u>Uses allowed conditionally in an adjacent water-dependent or water-related zone district</u>	<u>X</u>	<u>C</u>	<u>X</u>
<u>30.</u>	<u>Water storage of products used in industry, commerce, or recreation.</u>	<u>X</u>	<u>C</u>	<u>X</u>

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

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

14.04.020 Outright Permitted 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 piles associated with an in-water structure within a 12 month period.
3. In-kind replacement of a floating structure.
4. Underwater welding.

Staff: The phrase “Exempt Uses” has been replaced with “Outright Permitted Uses,” addressing a concern raised by the Oregon Shores Conservation Coalition.

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

Revisions to NMC Chapter 14 Implementing Relevant
Provisions of the Updated Yaquina Bay Estuary Plan

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 used 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;
 - 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.
 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:

Revisions to NMC Chapter 14 Implementing Relevant
Provisions of the Updated Yaquina Bay Estuary Plan

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

- A. Dredging, filling, or other alterations of the estuary shall be allowed only:
1. In conjunction with a use authorized in accordance with a use listed in NMC 14.03.120;
 2. If a substantial public benefit is demonstrated;
 3. If the use or alteration does not substantially interfere with public trust rights or tribal cultural resources or practices;
 4. No feasible alternative upland locations exists; and
 5. If adverse impacts are minimized or mitigated. 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.

6. Dredging, filling, or both is not permitted in conjunction
with water related or non-water related commercial and
industrial uses.

B. Restoration in the E-D Zone shall be undertaken only if it
is likely that the project will not conflict with or be destroyed
by existing or subsequent development.

*Staff: Added "or mitigated" under criterion #5 above per
DLCD's recommendation. It provides clarity as to how
impacts could be minimized.*

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 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.

- B. 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 is consistent with the resource capabilities of the Management Unit and the applicant demonstrates:
 - 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 to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education. In this context, "protect" means to save or shield from loss, destruction, or injury or for future intended use.

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

Staff: Clarified the language in sub-section 3 (above).

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 and the applicant demonstrates:
 - 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.

Staff: Clarified the language in sub-section 3 (above).

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; and-
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 subsection.

14.04.070 Dredged Material Disposal Standards

A. 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 E-D zoned areas.

B. 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.

C. 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.

D. 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.

E. The timing of disposal activities shall be coordinated with the Department of Environmental Quality and the Department of Fish and Wildlife for the 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.

F. 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.

G. Revegetation of disposal sites shall occur as soon as is practical in order to stabilize the site and retard wind erosion.

H. 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.

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)

CHAPTER 14.13 DENSITY LIMITATIONS

14.13.010 Density Limitations

NMC 14.13.020

Table "A"

Zone District	Min. Lot Area (sf)	Min. Width	Required Setbacks ^{3, 7}			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per Unit (sf))
			Front/2 nd Front ¹	Side	Rear			
R-1	7,500 sf	65-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft & 8-ft	15-ft	54 %	30-ft	SFD - 7,500 sf ² Duplex - 3,750 sf ²
R-2	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD - 5,000 sf ² Duplex - 2,500 sf ² Townhouse - 2,500 sf ³
R-3	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft	1,250 sf ³

Revisions to NMC Chapter 14 Implementing Relevant Provisions of the Updated Yaquina Bay Estuary Plan

R-4 ⁴	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft	1,250 sf ^{3, 5}
C-1	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-2 ⁴	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-3	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
I-1	5,000 sf	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-2	20,000 sf	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-3	5 acres	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
W-1	0	0	0	0	0	85-90% ⁶	40-ft ⁶	n/a
W-2	0	0	0	0	0	85-90% ⁶	35-ft ⁶	n/a
<u>E-C, E-D, and E-N MU-1 to MU-10 Mgmt. Units</u>	0	0	0	0	0	100%	40-ft ⁶	n/a
P-1	0	0	0	0	0	100%	50-ft	n/a
P-2	0	0	0	0	0	100%	35-ft	n/a
P-3	0	0	0	0	0	100%	30-ft	n/a

Staff: This change reflects the shift to the new zoning classifications. No material changes have been made to the density limitations.

CHAPTER 14.34 CONDITIONAL USES

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.

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

14.52.060 Notice

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.

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