

ARTICLE 5. SPECIAL DISTRICTS

ARTICLE 5. **SPECIAL PURPOSE DISTRICTS**

SECTION 5.0000. SPECIAL PURPOSE DISTRICTS

A special purpose district is an overlay district which may be combined with any portion of any zone as appropriate to the purpose of the district. The regulations of a special purpose district may add to or modify the requirements of the underlying zone and the regulations of the special purpose district and the zone shall all apply. Where the requirements of a special purpose overlay district and the underlying base zone conflict, the regulations that are more restrictive shall control. The boundaries of special purpose districts are shown on the Clatsop County Land and Water Development Map and Columbia River Estuary Resource Base Maps. These maps are hereby adopted by this reference as a part of this Ordinance.

Each special purpose district and the abbreviated designation suffix are listed in Table 5.1.

Table 5.1 Special Purpose Overlays, Abbreviations, and Boundaries

SPECIAL PURPOSE OVERLAY (ABBREVIATION)	BOUNDARY
Airport (AO)	
Aquifer Reserve (ARO)	
Beaches and Dunes (BDO)	All beach and dune landforms to the eastern limit of Highway 101.
Destination Resort (DRO)	
Dredged Material Disposal (DMD)	The area of Dredged Material Disposal identified on the Columbia River Estuary Resource Base Maps dated September 30, 1983.

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SPECIAL PURPOSE OVERLAY (ABBREVIATION)	BOUNDARY
Flood Hazard (FHO)	<p>The areas of flood hazards identified by the Federal Emergency Management Agency (FEMA) in reports entitled:</p> <ul style="list-style-type: none"> • <i>The Flood Insurance Study (FIS), #41007CV001B and #41007CV002B, dated June 20, 2018, Version Number 2.3.2.0, for unincorporated areas of Clatsop County and accompanying Digital Flood Insurance Rate Maps (DFIRM) and Flood Boundary and Floodway maps dated effective June 20, 2018; and</i> • <i>The Flood Insurance Study (FIS) #41007CV001A and #41007CV002A, dated September 17, 2010, for unincorporated areas of Clatsop County and Flood Boundary and Floodway maps dated effective September 17, 2010.</i>
Geologic Hazard (GHO)	<p>Areas identified by the Oregon Department of Geology and Mineral Industries (DOGAMI) as having a moderate, high or very high likelihood of landslide activity.</p>
Mitigation Site Reserve (MIT)	<p>The area of Mitigation identified on the Columbia River Estuary Resource Base Maps dated September 30, 1983.</p>
Planned Development (PDO)	
Quarry and Mining (QMO)	
Restoration Inventory Sites (RIS)	<p>The area of Restoration identified on the Columbia River Estuary Resource Base Maps dated September 30, 1983.</p>
Rural Community (RCO)	
Sensitive Bird Habitat (SBHO)	

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SPECIAL PURPOSE OVERLAY (ABBREVIATION)	BOUNDARY
Shoreland (SO)	<ul style="list-style-type: none"> • Elk Creek Estuary Coastal Shorelands boundary as identified on the Elk Creek Estuary Map of the Elk Creek Estuary section of the Estuarine Resources and Coastal Shorelands Element of the Clatsop County Comprehensive Plan dated September 30, 1983; and • Necanicum River Estuary Coastal Shorelands boundary as identified on the Elk Creek Estuary Map of the Elk Creek Estuary section of the Estuarine Resources and Coastal Shorelands Element of the Clatsop County Comprehensive Plan dated September 30, 1983; and • Columbia River Estuary Coastal Shorelands boundary as identified on the Columbia River Estuary Resource Maps dated July 2002; and • Coastal Shorelands boundary as identified on the Ocean and Coastal Lake Shorelands Maps of the Ocean and Coastal Lake Shorelands of the Estuarine Resources and Coastal Shorelands Element of the Clatsop County Comprehensive Plan dated September 30, 1983.

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SECTION 5.1000. FLOOD HAZARD OVERLAY (FHO)

Section 5.1010. Purpose

The purpose of the flood hazard overlay district is to identify those areas of the County subject to the hazards of periodic flooding and establish standards and regulations to reduce flood damage or loss of life in those areas. This district shall apply to all areas of special flood hazards within the unincorporated areas of Clatsop County as identified on Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps. In advancing these principles and the general purposes of the Clatsop County Comprehensive Plan, the specific objectives are:

- 1) To promote the general health, welfare and safety of the County;
- 2) To prevent the establishment of certain structures and land uses unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;
- 3) To minimize the need for rescue and relief efforts associated with flooding;
- 4) To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions;
- 5) To minimize damage to public facilities and utilities located in flood hazard areas;
- 6) To insure that potential home and business buyers are notified that property is in a flood area.

The areas of special flood hazard are identified in “The Flood Insurance Study (FIS) #41007CV001B and #41007CV002B, dated June 20, 2018, Version Number 2.3.2.0, for unincorporated areas of Clatsop County” and in “The Flood Insurance Study (FIS) #41007CV001A and #41007CV002A, dated September 17, 2010, for unincorporated areas of Clatsop County”.

Section 5.1020. Definitions

The following words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application:

“ACCESSORY STRUCTURE” means a structure on the same or adjacent parcel as a principal structure, the use of which is incidental and subordinate to the principal structure. A separate insurable building should not be classified as an accessory or appurtenant structure

“ALTERATION OF A WATERCOURSE” includes, but is not limited to, any dam, culvert, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area or capacity, which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

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“AREA OF SHALLOW FLOODING” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“AREA OF SPECIAL FLOOD HAZARD” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on FIRMs include the letters A or V. Also known as the Special Flood Hazard Area (SFHA)

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood”. Designation on maps always includes the letters A or V.

“BASE FLOOD ELEVATION (BFE)” means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1-foot.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“BELOW-GRADE CRAWLSPACE” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

“BREAKAWAY WALL” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“BUILDING” means a building or structure subject to building codes.

“BUILDING CODES” means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

“COASTAL HIGH-HAZARD AREA” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any

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other area subject to high velocity wave action from storms or seismic sources. The area is designated in the FIRM as Zone V1-V30, VE or V.

“CRITICAL FACILITIES” means those structures or facilities which produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials; hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and public and private facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

“DATUM” is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NAVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

“DEVELOPMENT” means any manmade change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“DIGITAL FIRM (DFIRM),” means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

“ENCROACHMENT” means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway which may impede or alter the flow capacity of a floodplain.

“ELEVATED BUILDING” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“EXISTING BUILDING OR STRUCTURE” means a structure for which the “start of construction” commenced before July 3, 1978.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Clatsop County’s floodplain management regulations July 3, 1978. The “construction of facilities includes, at a

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minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)” means the agency with the overall responsibility for administering the National Flood Insurance Program.

“FLOOD” or “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

“FLOOD HAZARD BOUNDARY MAP” means the official map used by the Federal Insurance Administrator where the boundaries of the areas of special flood hazard have been designated.

“FLOOD INSURANCE RATE MAP (FIRM)” means an official map of a community, on which the Federal Insurance administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY (FIS)” means the official report provided by the Federal Insurance Administrator that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

“FLOOD PROOFING” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“FLOODPLAIN ADMINISTRATOR” means the Community Development Director, or an individual or committee that is designated by the Director, to implement and administer the provisions of this ordinance.

“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“HIGHEST ADJACENT GRADE” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“HISTORIC STRUCTURE” means a structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary

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- of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) By an approved state program as determined by the Secretary of the Interior, or
 - (B) Directly by the Secretary of the Interior in states without approved programs.

“**LATERAL ADDITION**” means an addition that requires a foundation to be built outside of the foundation footprint of the existing building.

“**LETTER OF MAP CHANGE (LOMC)**” means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR)

A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area.

Letter of Map Revision Based on Fill – (LOMR-F)

A modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM), based on the placement of fill outside the existing regulatory floodway.

Conditional Letter of Map Revision (CLOMR)

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A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

“MANUFACTURED DWELLING” (aka manufactured housing) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured dwelling” does not include a recreational vehicle.

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“MEAN SEA LEVEL (MSL)” means the North American Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on the flood insurance rate map are referenced.

“NATURAL ELEVATION” means the elevation of natural grade, or the grade in existence before July 3, 1978.

“NEW CONSTRUCTION” means a structure for which the “start of construction” commenced after July 3, 1978 and includes subsequent substantial improvements to the structure.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by Clatsop County.

“RECREATION VEHICLE” means a vehicle which is (1) built on a single chassis, (2) four hundred (400) square feet or less when measured at the largest horizontal

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projection, (3) designed to be self-propelled or permanently towed by a light-duty truck, and (4) designed primarily not for use as temporary living quarters for recreational, camping, travel or seasonal use.

“SPECIAL FLOOD HAZARD AREA (SFHA)” means areas subject to inundation from the waters of a one-hundred-year flood.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE” means a walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50-percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “repetitive loss” or “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be:

- (1) the appraised value of the structure prior to the start of the initial repair or improvement, or

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- (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed. The term does not include either:
 - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

“**VERTICAL ADDITION**” means the addition of a room or rooms on top of an existing building.

“**WATERCOURSE**” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

“**WATER-DEPENDENT**” means a use or use and activity which can only be carried out on, in or adjacent to water areas because the use requires access to the waterbody for water-borne transportation, recreation, energy production, or source of water.

“**WATER SURFACE ELEVATION**” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Section 5.1030. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body, and;
- 3) Deemed neither to limit nor repeal any other powers granted under state statutes, including state building codes.

Section 5.1040. Floodplain Administrator Duties and Responsibilities

- 1) Permit Review
The Floodplain Administrator duties shall include, but not be limited to, the following:
 - (A) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard and to determine that all new development complies with the requirements of this ordinance;

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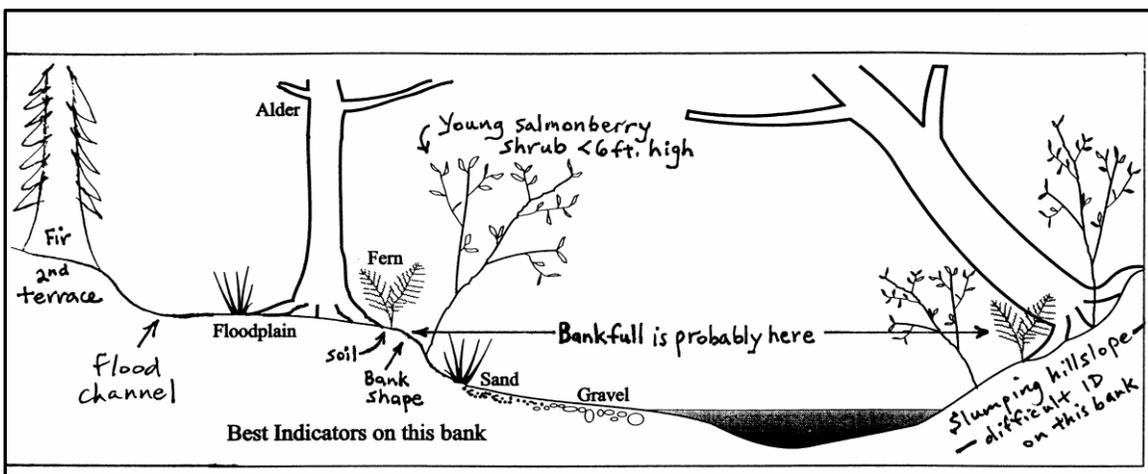
- (B) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance;
 - (C) Review proposed development to assure that necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. Copies of such permits shall be provided and maintained on file.
 - (D) Review all development permit applications for property in a Special Flood Hazard Area to determine if the proposed development is located in the floodplain or floodway, and if located in a floodway, ensure that the encroachment standards of Section 5.1140 are met.
 - (E) Issue floodplain development permits when the provisions of this ordinance have been met, or disapprove the same in the event of noncompliance;
 - (F) Coordinate with the Building Official to assure that applications for buildings permits comply with the requirements of this ordinance.
- 2) Use of Base Flood Data
- (A) Interpret flood hazard area boundaries, provide available flood hazard information, and provide base flood elevations, where they exist;
 - (B) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.
 - (C) When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.
- 3) Interpretation of FIRM Boundaries
- (A) Make interpretations, as needed, of the exact location of boundaries of the Areas of Special Flood Hazard, including regulatory floodways (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.1090.
- 4) Obtain and Maintain Information
- (A) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basements and below-grade crawlspaces, of all new construction or substantially improved buildings and structures.
 - (B) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no

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- BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;
- (C) Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of Community Development and shall be open for public inspection.
 - (D) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance;
 - (E) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure;
 - (F) Make Substantial Damage or Substantial Damage determinations based on criteria set forth in Section 5.1110 of this ordinance.

Section 5.1050. Alteration of Water Courses

- 1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.



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- 2) The applicant shall notify adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management Agency.
- 3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished.
- 4) The applicant shall meet the requirements to submit technical data in Section 5.1200 when the alteration of a watercourse, including the placement of culverts, results in the relocation or elimination of the special flood hazard area.

Section 5.1060. Non-Conversion of Enclosed areas below the Lowest Floor

To ensure that the areas below the BFE continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

- 1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;
- 2) Enter into a “NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS” or equivalent with Clatsop County. The agreement shall be recorded with the Clatsop County Clerk as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and
- 3) Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

Section 5.1070. Floodplain Inspection and Enforcement

- 1) The Administrator or designee shall make periodic inspections of floodplain areas to establish that development activities within the floodplain are being performed in compliance with an approved floodplain development permit. The Administrator or designee shall prepare a field report listing non-complying conditions to be delivered to the Code Compliance Officer within 5 business days.
- 2) Upon receipt of the report the Code Compliance Officer shall take action in accordance with Clatsop County Code of Regulations to effect the abatement of such violation.

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- 3) If the violation is not resolved through code enforcement the Floodplain Administrator shall request to the Administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited statute or local law, regulation or ordinance, pursuant to section 1316 of the National Flood Insurance Act of 1968 as amended.

Section 5.1080. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create a liability on the part of Clatsop County or by an officer, or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

Section 5.1090. Appeals

An appeal of a Floodplain Administrator decision pursuant to this chapter may be appealed in accordance with Section 2.2190. Appeals of a decision by the Hearings Officer pursuant to this chapter may be appealed in accordance with Clatsop County Code of Regulations.

Section 5.1100. Permit Procedures

A Floodplain Development Permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the Administrator or the Administrator's designee prior to starting development activities. Specifically, the following information is required:

- 1) Application Stage:
 - (A) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
 - (B) Delineation of flood hazard areas, floodway boundaries including base flood elevations, or flood depth in AO zones, where available;
 - (C) For all proposed structures, elevation in relation to the highest adjacent grade and the base flood elevation, or flood depth in AO zones, of the:
 1. lowest enclosed area, including crawlspace or basement floor;
 2. bottom of the lowest horizontal structural member in coastal high hazard areas (V Zones);

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3. top of the proposed garage slab, if any, and;
 4. next highest floor
 - (D) Locations and sizes of all flood openings;
 - (E) Elevation to which any non-residential structure will be flood-proofed;
 - (F) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the NFIP and building codes;
 - (G) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;
- 2) Construction Stage:
- (A) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction .
 - (B) Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.
- 3) Certificate of Occupancy
- (A) In addition to the requirements of the building codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer;
 1. For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (A zones), the elevation of the lowest floor, including basement or where no base flood elevation is available the height above highest adjacent grade of the lowest floor;
 2. For buildings and structures in coastal Areas of Special Flood Hazard (V zones), the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor.
 - (B) Failure to submit certification or failure to correct violations shall be cause for the Building Official to withhold a certificate of occupancy or delay a final building inspection until such deficiencies are corrected.
- 4) Expiration of Floodplain Development Permit
- (A) Floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion.
 - (B) Commencement of work includes start of construction, when the permitted work requires a building permit.

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Section 5.1110. Substantial Damage and Substantial Improvement Determination

For applications for permits to improve buildings and structures, including additions, repairs, renovations, and alterations, the Floodplain Administrator, shall:

- 1) Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred;
- 2) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (A) Except as indicated in subsections (D) and (E) below, all costs to repair substantial damage, including emergency repairs, must be included;
 - (B) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included;
 - (C) Except as indicated in subsections (d) and (e) below, the costs of complying with any county, state, or federal regulation other than those described in subsection (b) must be included;
 - (D) Costs associated with the following items are not included:
 1. The preparation and approval of all required plans, calculations, certifications, and specifications;
 2. The performance of surveys or other geotechnical or engineering studies and resulting reports;
 3. Permit and review fees;
 4. The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;
 - (E) Proposed alterations of a designated historic building or structure is not to be considered substantial improvement unless the alteration causes a loss of said designation.
- 3) The Floodplain Administrator shall make the final determination of whether the proposed improvement and/or repair constitutes a substantial improvement or substantial damage;
- 4) The Floodplain Administrator shall notify the applicant of the results of the determination by letter,
- 5) Applicant has the right to appeal the determination pursuant to Section 5.1090.

Section 5.1120. Variances

A request for a variance from a standard contained in this chapter shall be reviewed in

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accordance with the procedures of Section 2.8000-2.8030. The burden to show that the variance is warranted and meets the criteria is on the applicant.

When considering a variance application, the deciding body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- 1) The danger that materials may be swept onto other lands to the injury of others;
- 2) The danger to life and property due to flooding or erosion damage;
- 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) The importance of the services provided by the proposed facility to the community;
- 5) The necessity to the facility of a waterfront location, where applicable;
- 6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- 7) The compatibility of the proposed use with existing and anticipated development;
- 8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- 11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Upon consideration of the factors identified above and the purposes of this ordinance, the deciding body may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

The floodplain administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

The following standards are applicable to a variance request, not those of Section 2.8010:

- 1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1-11 in Section 5.1120 have been fully considered. As the lot size

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- increases the technical justification required for issuing the variance increases
- 2) Variances shall only be issued upon:
 - (A) A showing of good and sufficient cause,
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - 3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - 4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 5) Variances may be issued for a water dependent use provided that
 - (A) The criteria of paragraphs (1) through (4) of this section are met, and;
 - (B) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - 6) Variances may be issued for the repair restoration or rehabilitation of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
 - 7) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
 - 8) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with building codes.
 - 9) When a variance is granted, the county shall give written notice to the property owner within five days after the decision is final. The notice shall state that:
 - (A) The structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and
 - (B) That the issuance of the variance to construct a structure below the base flood level will result in increased premium rates for flood insurance as high as twenty-five dollars for every one hundred dollars of insurance coverage, and
 - (C) Such construction below the base flood level increases the risk to life and property.

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- (D) The above notification shall be maintained with a record of all variance actions.
- 10) Variance Time Limit. Authorization of a variance shall conform to the requirements of Section 2.8030.

Section 5.1130. Development Standards

1) General Standards

In all areas of special flood hazards as presented on the FIRM, the following standards shall apply for all new construction and substantial improvements:

(A) Subdivisions:

1. All proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
2. Residential building lots shall have adequate buildable area outside of floodways.
3. All new development proposals and subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
4. Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.
5. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated and/or provided for subdivision proposals and all other proposed developments that contain at least 50 lots or five acres, whichever is less.
6. All new development in a subdivision shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
7. All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

(B) Coastal High Hazard Area:

In coastal high hazard areas (V Zones), alteration of sand dunes shall be prohibited unless it has been demonstrated by engineering analysis that the alteration will not increase potential flood damage.

(C) Tsunami Inundation Zone:

1. New essential and new special occupancy structures shall not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone may include V, A, and potentially other flood

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zones. If an exception is granted then the Coastal High Hazard Area construction standards in this ordinance shall apply to the building of these new structures in the Tsunami Inundation Zone.

- (D) Building Design and Construction:
 - 1. Buildings and structures, including manufactured dwellings, within the scope of the building codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to Section R322 of the Residential Specialty Code and Section 1612 of the Structural Specialty Code.
- (E) Construction Materials and Methods:
 - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - 2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - 3. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be elevated to one foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (F) Review of Development Permits:
 - 1. Where elevation data is not available, either through the flood insurance study or from other administrative source, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc. where available. Failure to elevate to at least two feet above grade in these zones may result in higher insurance rates.
- (G) Anchoring:
 - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - 2. All manufactured dwellings must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (H) Utilities:
 - 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 3. C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality regulations.
- (l) Foundation Protection: A registered professional civil engineer shall develop or review the structural design, specifications and plans for the foundation of the building and shall certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all building components during the base flood.
- 2) Specific Standards
- In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-A30, AH and AE) as set forth in this ordinance, the following provisions are required:
- (A) Manufactured Dwellings:
1. New and replacement manufactured dwellings are within the scope of the building codes; and,
 2. All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices which minimize flood damage and shall be securely anchored to prevent flotation, collapse and lateral movement during the base flood. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. Additional techniques may be found in FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 3. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 5.1130(1)(E), above.
 4. Electrical crossover connections shall be a minimum of 12 inches above BFE.
- (B) Critical Facilities:
- Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE

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(or depth number in AO zones) or to the height of the 0.2 percent (500-year) flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or persistent organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(C) Residential Construction:

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

(D) Non-Residential Construction:

New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be flood proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design,

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specifications and plans. Such certification shall be provided as set forth in Section 5.1060(2).

4. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
5. If construction will be elevated instead of floodproofed, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(E) Below-grade crawl spaces:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in 2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
2. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
3. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the

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BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

- Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must be either placed above the BFE or sealed from floodwaters.

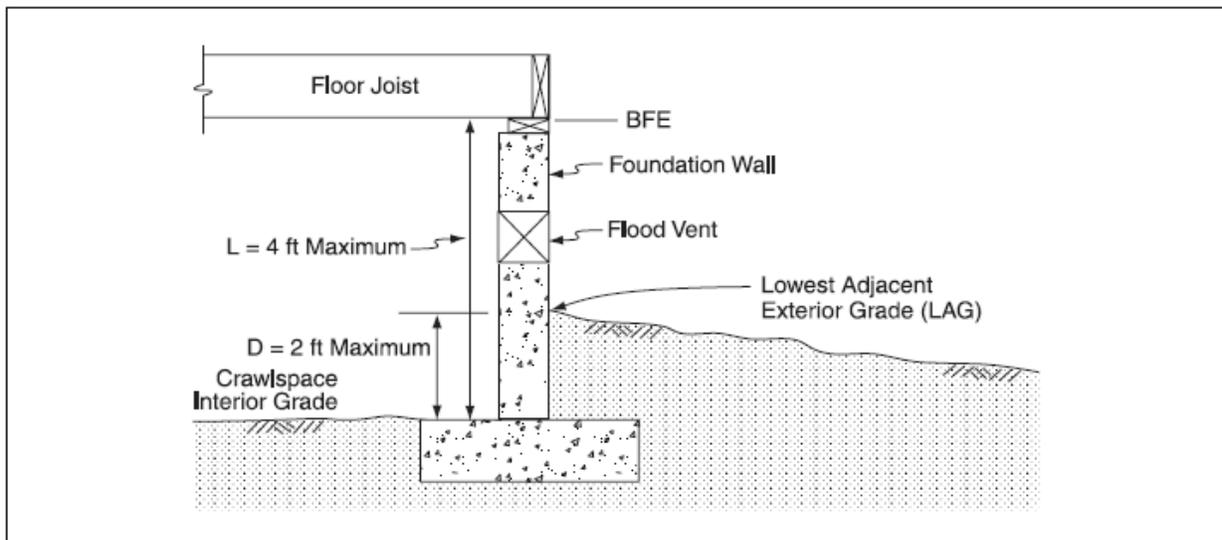


Figure 2: Requirements for below-grade crawlspace construction. (Provided by FEMA)

- The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- The crawlspace shall not be temperature controlled.
- The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

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9. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
 10. If the crawlspace provisions listed in 1) through 8) above are used written notice shall be given that the structure will be rated for flood insurance as having its lowest floor below the base flood elevation, and that the cost of flood insurance will be commensurate with that rating.
- (F) Fences and Walls:
1. New fencing shall be designed to collapse under conditions of the base flood or to allow the passage of water by having flaps or openings in the areas at or below the base flood elevation sufficient to allow flood water and associated debris to pass freely.
- (G) On-site Sewage Systems:
1. Soil absorption systems shall be located outside of flood hazard areas. Where suitable soil absorption sites outside of the flood hazard area are not available, the soil absorption site is permitted to be located within the flood hazard area provided it is located to minimize the effects of inundation under conditions of the base flood.
 2. Mound systems in flood hazard areas shall be prohibited.
- (H) Tanks:
1. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.
 2. Above-ground tanks in flood hazard areas shall be:
 3. Attached to and elevated to or above the base flood elevation (or depth number in AO zones) on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood; or be
 4. Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.
 5. Tank inlets, fill openings, outlets and vents shall be:
 - a. A minimum of 2 feet above BFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood; and
 - b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of

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buoyancy, during conditions of the design flood.

(I) Recreation Vehicle:

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must:

1. Be on the site for fewer than 180 consecutive days, and
2. Be fully licensed and highway ready; or
3. Be elevated and anchored.

(J) Accessory Structures:

1. Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 200 square feet and not exceeding one story in height. Such a structure must meet the following standards:
 2. The accessory structure is not temperature controlled;
 3. The accessory structure shall be located on property with a dwelling;
 4. The accessory structure shall not be used for human habitation and shall be used solely for parking of vehicles or storage of items having low damage potential when submerged.
 5. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than three feet above grade, unless confined in a tank installed in compliance with this ordinance;
 6. The accessory structure shall be constructed of flood resistant materials.
 7. The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
 8. The accessory structure shall be firmly anchored to prevent flotation;
 9. All service facilities, such as electrical and heating equipment associated with the accessory structure, shall be elevated or flood proofed to or above the flood protection elevation, and;
10. It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect, or
 - a. Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor

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- immediately below the opening;
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- (K) Temporary Structures, Storage, and Bridges:
1. A floodplain development permit is required for construction or placement of temporary structures, temporary storage associated with non-residential uses, and temporary bridges located in areas of special flood hazard:
 2. Temporary structures, not including bridges, shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant a one-time extension, not to exceed 45 days, for demonstrated cause; such cause shall reaffirm the temporary nature of the structure. Temporary structures shall be anchored to prevent flotation, collapse, or lateral movement.
 3. Temporary storage of materials shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant a one-time extension, not to exceed 45 days, for demonstrated cause; such cause shall reaffirm the temporary nature of the storage. Stored material shall be anchored or contained to prevent flotation or release outside the assigned storage area. Hazardous materials or materials deemed to be persistent organic pollutants by the Oregon Department of Environmental Quality shall not be stored in the floodway.
 4. Temporary encroachments in the floodway for the purposes of capital improvement projects (including bridges) require a floodplain development permit. No CLOMR/LOMR is required.

Section 5.1140. Development in Floodways

- 1) Except as provided in paragraphs (3) and (4), encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachments shall not result in any increase in base flood or floodway elevations when compared to pre-project conditions.
- 2) Any fill allowed to be placed in the floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.

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- 3) Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) before an encroachment in the floodway is permitted that will cause any increase in the base flood elevation. Applicants must obtain a Letter of Map Revision (LOMR) no later than six months after project completion.
- 4) Construction of new fencing is prohibited, unless the fencing is designed to collapse or break-away, and is anchored at one end and cabled together so as to not create debris. As an alternative to a break-away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwaters to pass freely.

Section 5.1150. Zones with Base Flood Elevation but no Floodway

- 1) In areas within Zones A1-30 and AE on the community's FIRM with a base flood elevation, or where a base flood elevation is developed according to Section 5.1130(2) but where no regulatory floodway has been designated, new construction, substantial improvements, or other development (including fill) shall be prohibited, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 2) Applicants of proposed projects that increase the base flood elevation more than one foot should obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. Applicants must obtain a Letter of Map Revision (LOMR) no later than six months after project completion.

Section 5.1160. Zones Without Base Flood Elevations

- 1) These standards apply in riverine areas of special flood hazard where no base flood elevation data have been provided (A Zones):
- 2) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data are not available from any source, only then subsection 3 shall apply.
- 3) Where the floodplain administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. Applicants must obtain a Letter of Map Revision (LOMR) no later than six months after project completion.
- 4) In special flood hazard areas without base flood elevation data, no encroachments, including structures or fill, shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless a base

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flood elevation is developed by a licensed professional engineer.

Section 5.1170. Coastal High Hazard Area

All other development in coastal high hazard areas (V Zones) for which specific provisions are not specified in this ordinance or building codes, shall:

- 1) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 - (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and
 - (B) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent change of being equaled or exceeded in any given year (100-year mean recurrence interval).
- 2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 1(A) and 1(B) of this section.
- 3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- 4) All new construction shall be located landward of the reach of mean high tide.
- 5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (A) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

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- (B) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- 6) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- 7) Prohibit the use of fill for structural support of buildings.
- 8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- 9) All manufactured homes to be placed or substantially improved within Zones V1-V30, V and VE that are:
 - (A) Outside of a manufactured home park or subdivision;
 - (B) In a new manufactured home park or subdivision;
 - (C) In an expansion to an existing manufactured home park or subdivision, or
 - (D) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a floodshall comply with the requirements of Section 5.1170(1)-(8). Manufactured homes placed or substantially improved on all other sites in an existing manufactured home park or subdivision shall comply with the requirements of Section 5.1130(2)(A).
- 10) Recreational vehicles places on sites within Zones V1-V30, V and VE shall:
 - (A) Be on the site for fewer than 180 consecutive days;
 - (B) Be fully licensed and ready for highway use, on its wheels or jacking systems and attached to the site only by quick disconnect type utilities and security devices, and have to permanently attached additions; or
 - (C) Meet the requirements of Section 5.1170(1)-(8).

Section 5.1180. Non-Coastal High Hazard Areas

- 1) All development in non-coastal high hazard areas (A zones) for which specific provisions are not specified in this ordinance or building codes, shall:
- 2) Be located and constructed to minimize flood damage;
- 3) Be designed so as not to impede flow of flood waters under base flood conditions;
- 4) If located in a floodway, meet the limitations of Section 5.1150 of this ordinance;
- 5) Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

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- 6) Be constructed of flood damage-resistant materials; and
- 7) Have electric service and or mechanical equipment elevated above the base flood elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.

Section 5.1190. Specific Standards for Areas of Shallow Flooding (AO and AH Zone)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- 1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- 2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - (A) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - (B) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 5.1130(2)(E).
- 3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- 4) Recreational vehicles placed on sites within AO zones on the community's FIRM either:
 - (A) Be on the site for fewer than 180 consecutive days, and
 - (B) Be fully licensed and ready for high use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (C) Meet the requirements of Section 5.1170(1)-(8).

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Section 5.1200. Requirement to Submit New Technical Data

- 1) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision (CLOMR) from FEMA, or whose development modifies floodplain boundaries, modifies base flood elevations, or alters a watercourse, shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.
- 2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- 3) Clatsop County shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

SECTION 5.2000. TSUNAMI INUNDATION ZONE

Section 5.2010. Review Required

Pursuant to OAR 632-05-050 Tsunami Inundation Zone, persons proposing new construction of or the conversion to essential facilities, hazardous facilities, major structures, or special occupancy structures are required to contact the Oregon Department of Geology and Mineral Industries (DOGAMI) at the earliest reasonable date for a consultation regarding the requirements of ORS 455.446 and 455.447 that pertain to their proposed facility or structure. As used in this section, “essential facility” means hospitals and other medical facilities having surgery and emergency treatment areas, fire and police stations, tanks or other structures containing housing or supporting water or fire suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures, emergency vehicle shelters and garages, structures and equipment in emergency-preparedness centers, standby power generating equipment for essential facilities, and structures and equipment in government communication centers and other facilities required for emergency response. As used in this section, “hazardous facility” means structures housing supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released. As used in this section, “special occupancy structure” means covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons, buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers, buildings for colleges or adult education schools with a capacity greater than 500 persons, medical facilities with 50 or more resident, incapacitated patients not included in facilities mentioned above, jails and detention facilities, and all structures and occupancies with a capacity greater than 5,000 persons.

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Section 5.2020. Verification of Review

Prior to the issuance of a development permit for a regulated structure or facility, the developer of that structure or facility shall present verification of consultation with DOGAMI, or verification of an exception.

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SECTION 5.3000. GEOLOGIC HAZARDS OVERLAY DISTRICT (/GHO)

Section 5.3005. Purpose

The intent of the geologic hazards overlay is to minimize building hazards and threats to life and property that may be created by landslides, ocean flooding and erosion, weak foundation soils, and other hazards as identified and mapped by the County. This purpose is achieved by basing County decisions on accurate geologic and soils information prepared by qualified professionals.

Section 5.3010. Applicability

This section applies to all development in the following potentially hazardous areas:

- 1) Areas subject to mass wasting including:
 - (A) Active landslides, inactive landslides, landslide topography and mass movement topography identified in the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletins 74 and 79;



Mass wasting. (Provided by geologyin.com)

- (B) Faults including definite, indefinite, inferred and concealed in the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletins 74 and 79;
 - (C) All areas identified in the report, "*A Field Inventory of Geologic Hazards from Silver Point to Cove Beach, Clatsop County, Oregon*", prepared by Martin Ross in 1978, as needing site specific investigations;
 - 2) Areas subject to wave attack, including:
 - (A) All oceanfront lots; and
 - (B) The beach and dune hazard area as defined in Section 5.4020.
 - 3) Areas with compressible soils identified in the Soil Survey of Clatsop County (SCS) and referenced in Clatsop County's Comprehensive Plan Background Report, Natural Hazards.

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- 4) The determination of whether a property is located in one of the above referenced potentially hazardous areas shall be made at the sole discretion of the Director. The mapping that forms the basis for the identification of the above areas may be generalized in nature. A specific site may not include the characteristics for which it is mapped. In these circumstances, the Director may grant a waiver from the requirements of Section 5.3000. The waiver shall be in the form of a written finding. The finding shall be based on a report, from a professional specified in Section 5.3020, detailing the basis for the determination that the site does not contain the identified potentially hazardous geologic condition.

Section 5.3015. Geologic Hazard Permit Requirements

All persons proposing any activity requiring a development permit on property located in potentially hazardous areas identified in Section 5.3010 shall obtain a geologic hazard permit.

- 1) Application for a geologic hazard permit shall be on forms provided by the County and shall include a geotechnical report prepared in conformance with the requirements of Section 5.3020.
- 2) Before a development permit can be issued, the geotechnical report must be approved as part of the development permit approval process.
 - (A) Where a geotechnical report recommends that additional site investigations, such as borings or test pits, are undertaken, application for geologic hazard permit will be deemed incomplete until the results of those investigations have been provided to the County.
 - (B) Where an application is made for a conditional use permit, a variance, a subdivision, a partition, or a planned development located in an area identified in Section 5.3010, a geotechnical report in conformance with Section 5.3020 shall be prepared. The Director may also require a geotechnical report in conjunction with a proposed zone change.
- 3) Application for a geologic hazard permit may be made concurrently with an application for a development permit.
- 4) The approved site investigation report shall be referred to in deed and other documents of sale and shall be recorded with the record of deeds.

Section 5.3020. Exemptions [ORD. 23-12]

The following development activities are exempt from the requirement for a Geologic Hazard Permit:

- 1) Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;
- 2) Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;
- 3) Site evaluations, installation, and repair of onsite sewage disposal systems;

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- 4) Construction of structures for which neither a development permit or building permit would otherwise be required;
- 5) Excavation which is less than 30 inches in depth and which involves less than 30 cubic yards of volume;
- 6) Fill which is less than 30 inches in depth and which involves less than 30 cubic yards of volume;
- 7) Retaining walls up to 30 inches in height which do not support a building;
- 8) Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);
- 9) Mining operations subject to regulation by the Oregon Department of Geology and Mineral Industries (DOGAMI);
- 10) Maintenance and repair of public and private roads, streets, parking lots, driveways, culverts, and utility lines;
- 11) Maintenance and repair of utility lines, and the installation of individual utility service connections;
- 12) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard; and
- 13) Beachfront protective structures subject only to regulation by the Oregon Parks and Recreation Department under OAR Chapter 736, division 20.

Section 5.3025 Geotechnical Report Requirements [ORD. 23-12]

For areas identified in Section 5.3010(1) and 5.3010(2), the geotechnical report shall be prepared by a certified engineering geologist or a registered professional geologist. If a geotechnical report is prepared by a geologist and structural recommendations are incorporated into that report, those recommendations, must be made in consultation with an engineering geologist, structural engineer, or civil engineer.

- 1) For areas identified in Section 5.3010(1), the geotechnical report shall:
 - (A) Identify the hazards to life, public and private property which may be caused by mass movement (landsliding and sloughing), soil erosion or deposition, and earthquakes;
 - (B) Identify the hazards to life, public and private property, and the natural environment which may be caused by the proposed use and other human activities;
 - (C) Describe how the proposed development or use will be adequately protected from geologic hazards, including landsliding and sloughing, soil erosion or deposition, and earthquakes; and
 - (D) Describe how the proposed development is designed to minimize the adverse effects it might have on the site and adjacent areas.
- 2) For areas identified in Section 5.3010(2), and in addition to the standards identified in Section 5.3020(2), the geotechnical report shall identify the hazards to life, public and private property which may be caused by wind erosion or accretion, wave undercutting (erosion), and ocean overtopping (flooding,

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- including tsunami),
- 3) For areas identified in Section 5.3010(1) and 5.3010(2), the geotechnical report shall describe how the proposed development provides for temporary and permanent stabilization and the planned maintenance of new and existing vegetation. Existing stabilizing vegetation, particularly trees, shall not be removed on slopes of 20% or greater.
 - 4) For areas identified in Section 5.3010(1) and 5.3010(2), the geotechnical report shall be prepared in conformance with the document “Clatsop County – Geotechnical Report Content Standards”.
 - 5) For areas identified in Section 5.3010(3), the geotechnical report shall be prepared by a certified engineering geologist, soils engineer, or civil engineer. Geotechnical reports prepared for areas identified in Section 5.3010(3) shall incorporate specific construction and structural recommendations to address the soil characteristics of the site. Where pertinent, the discussion of specific construction and structural recommendations shall include: site preparation such as compaction or replacement of existing soils, bearing loads and the corresponding amount of settlement, steps to be taken with respect to ground and surface water, special foundation requirements, and foundation recommendations based on bearing capacity, design criteria, and the effect of adjacent loads.
 - 6) For all areas identified in Section 5.3010, the geotechnical report shall be prepared in conformance with the document “Clatsop County – Geotechnical Report Content Standards”.

Section 5.3030. Geologic Hazard Permit Review [ORD. 23-12]

An application for a geologic permit shall be reviewed under a Type I procedure.

- 1) A geologic hazard permit shall be approved by the Director if:
 - (A) The conclusions of the geotechnical report support a finding that there are no adverse effects of the site’s geologic characteristics on the proposed development and the proposed site modifications will not adversely affect geologic conditions and processes in the immediate area: or
 - (B) The conclusions of the geotechnical report support a finding that if specified actions are taken to address an identified potential hazard then the effects of the site’s geologic characteristics on the proposed development will be at an acceptable level and the effects of the proposed site modifications on the geologic conditions and processes in the immediate area are at an acceptable level.

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- 2) Specific recommendations contained in the geologic report shall be incorporated into the approved geologic hazard permit. Based on content, recommendations and conclusions of the geotechnical report, the Director may apply other conditions to the issuance of a geologic hazard permit.
- 3) The specific recommendations contained in the geotechnical report, and conditions applied to the geologic hazard permit shall be incorporated into the plans and specifications of the development which is the subject of the development permit.
- 4) Where there is not a concurrent application for a geologic hazard permit and a development permit for a specified development, the person(s) who prepared the geotechnical report shall submit a letter to the Director verifying that the proposed plans, details, and specifications of the proposed development have been reviewed and are in keeping with the recommendations contained in the geotechnical report that formed the basis for the issuance of the geologic hazard permit, or they shall make recommendations or changes that are needed in the proposed development in order to bring it into conformance with the recommendations contained in the geotechnical report.
- 5) When a geotechnical report submitted in conjunction with a development permit that is more than five (5) years old, a letter shall be submitted to the Director from the person(s) who prepared the report. The letter shall provide verification that the geotechnical report is still valid for the proposed project. [ORD. 23-12]

Section 5.3035. Independent Review [ORD. 23-12]

The Director, at his discretion and at the applicant's expense, may require an evaluation of a geotechnical report by another expert of his choosing. As part of its review of a land use application located in an area subject to Section 5.3010, the Hearings Officer, Planning Commission, or Board of Commissioners may also require, at the applicant's expense, an evaluation of a geotechnical report that was prepared in conjunction with the land use application. The results of that evaluation shall be used in making the final decision on the effected land use permit.

Section 5.3040. Standards [ORD. 23-12]

The review and approval of development permits in the geologic hazard overlay district shall be based on the conformance of the proposed development plans with the following grading standards. Conditions of approval may be imposed on the development permit to assure that the development plan meets the standards of this section and to prevent the creation of a hazard to public or private property.

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- 1) Site Plan Information Required. In addition to the information required for a development permit, the site plan shall show where clearing, grading, excavation or filling is to occur, the area where existing vegetative cover will be retained, the location of any streams and wetland areas on immediately adjacent to the property, and the general direction of slopes. A statement shall be provided summarizing the extent of land clearing and grading and the quantity of cut and/or fill material involved.
- 2) Preparation of Grading Plan Based on the findings and conclusions of the geotechnical report, or the nature of the proposed development, The Planning Director, at his sole discretion, may require that a grading plan prepared by a registered engineer be submitted with the application for a development permit. The Planning Director may require that such a grading plan, in addition to information required by Section 5.3035(1) include the following additional information:
 - (A) Existing and proposed contours of the property, at two-foot contour intervals;
 - (B) The location of the existing structures and building, including those within twenty- five feet of the property;
 - (C) The location of all surface and subsurface drainage devices to be constructed; and
 - (D) Design details of proposed retaining walls.
- 3) General Standards. The proposed development plans shall meet the following general standards:
 - (A) Natural vegetation will be protected and retained wherever possible;
 - (B) To the extent possible, roads and driveways shall follow the natural contours of the site; and
 - (C) An erosion control plan shall be prepared and implemented in conformance with the requirements of Section 3.2000.
- 4) Cuts. Proposed cuts shall meet the following standards:
 - (A) The site development shall be designed to minimize the need for cuts.
 - (B) The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;
 - (C) Cuts shall not remove the toe of any slope where a potential for landslide exists;
 - (D) Cuts shall be setback from property lines so as not to endanger or disturb adjoining property; and
 - (E) Retaining walls shall be constructed in accordance with the Oregon State Structural Specialty Code.
- 5) Fills. Proposed fills shall meet the following standards:
 - (A) The site development shall be designed to minimize the need for fill.

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- (B) The slope of fill surfaces shall not be steeper than is safe for the intended uses and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than two horizontal to one vertical.
 - (C) Fill shall be setback from property lines so as not to endanger or disturb adjoining property.
 - (D) The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill.
 - (E) Structural fill shall be designed by a registered civil engineer in accordance with standard engineering practices.
- 6) Drainage. The following standards shall be met:
- (A) Proposed grading shall not alter drainage patterns so that additional storm water is directed onto adjoining property.
 - (B) Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.
 - (C) The site grading and drainage improvements shall be designed to carry both concentrated water and surface sheet flow water to the nearest practical drainage way, as specified by the Planning Director.

5.3045. GEOLOGIC HAZARD REQUIREMENTS [ORD. 23-12]

5.3050. Special Requirements for Hazard Areas [ORD. 23-12]

The special requirements applicable in the Hazard maps in the Comprehensive Plan are set forth in Section 5.3040 to Section 5.3065. The general procedures and requirements for approving development in the district are contained in Sections 5.3000 through 5.3035 of this Ordinance. The standards in Section 5.3040 to Section 5.3065 shall be used in conducting such approvals.

5.3055. Preliminary Site Investigation [ORD. 23-12]

Subject to Sections 5.3000-5.3035.

5.3060. Detailed Site Investigation for Geologic Hazard Areas [ORD. 23-12]

Development in a Geologic Hazards Overlay District requires a detailed site investigation report if the preliminary site investigation report required in Section 5.3050 confirms existence of a geologic hazard area or is in a geologic hazard area identified by Martin Ross' report "*A Field Inventory of Geologic Hazards from Silver Point to Cove Beach, Clatsop County, Oregon*". The report shall contain the information listed below together with appropriate identification of information sources and the date of the information.

Before a development permit can be issued, the site investigation report must be

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approved as part of the development permit approval process. The approved site investigation report shall be referred to in the deed and other documents of sale and shall be recorded with the record of deeds.

- 1) Background Data in Report. The site investigation report shall contain the following background information:
 - (A) The methods used in the investigation and the approximate number of man-hours spent on the site.
 - (B) A general analysis of the local and regional topography and geology including the faults, folds, geologic and engineering geologic units and any soil, rock and structural details important to engineering or geologic interpretations.
 - (C) A history of problems on and adjacent to the site, which may be derived from discussions with local residents and officials and the study of old photographs, reports and newspaper files.
 - (D) The extent of the surface soil formation and its relationship to the vegetation of the site, the activity of the land form and the location of the site.
 - (E) The following ground photographs of the site with information showing the scale and date of the photographs and their relationship to the topographic map:
 1. A view of the general area.
 2. The site of the proposed development.
 3. Any features which are important to the interpretation of the hazard potential of the site.
 4. Unusual natural features and important wildlife habitat.
- 2) Topography Map. a topography base map of (1 to 100) scale and with a contour interval of (two feet) shall be prepared identifying the following features and shall be accompanied by references to the source and date of information used.
 - (A) The position of the lot line.
 - (B) The boundaries of the property.
 - (C) Species identification of major plant communities.
 - (D) Any springs, streams, marshy areas or standing bodies of water.
 - (E) Areas subject to flooding, including those shown on the flood hazard maps prepared under the HUD National Flood Insurance Program.
 - (F) Areas subject to stream erosion and areas exhibiting significant surface erosion due to improper drainage and runoff concentration.
 - (G) Geological information, including lithologic and structural details important to engineering and geologic interpretation.
- 3) Subsurface Analysis. If upon initial investigation it appears there are critical areas where the establishment of geologic conditions at depth is required, a subsurface analysis obtained by drill holes, well logs and other geophysical techniques shall be conducted by the person responsible for the site investigation report to include

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- the following data as appropriate.
- (A) The lithology and compaction of all subsurface horizons to bedrock.
 - (B) The depth, width, slope and bearing of all horizons containing significant amounts of silt and clay and any other subsurface waters.
 - (C) The depth, bearing and capacity of seasonal and permanent aquifers.
 - (D) Underlying areas of buried vegetation.
- 4) Development Proposal. The site investigation report shall include the following information on the proposed development as applicable. The information will be shown on the maps described above or appropriately referenced.
- (A) Plans and profiles showing the position and height of each structure, paved area and area where cut and fill is required for the construction.
 - (B) The percent and location of the surface of the site which will be covered by impermeable or semi-impermeable surfaces.
 - (C) Points to preserve for public access.
 - (D) a description of the impact of the development on any critical biological habitats.
 - (E) A stabilization program for the development describing:
 - 1. how much of the site will be exposed during construction and what measures will be taken to reduce erosion.
 - 2. a revegetation program designed to return open areas to a stable condition as soon as possible following construction.
 - 3. the time of commencement of revegetation planting.
 - (F) a description of safeguards that will be provided as part of the proposed development.
 - (G) For a logging or farming operation, areas to be protected from vegetation loss or groundwater pollution shall be identified and means for protection described.
- 5) Special Review for Water Supply or Sewerage. If a well or an on-site sewage disposal system is planned, the proposed location shall be described and the following shall be determined:
- (A) The maximum and minimum levels (seasonal extreme) in water table height.
 - (B) The expected water needs of the proposed development.
 - (C) The water supply capacity and the expected effect of the increased water consumption on the water table.
 - (D) Any detrimental contamination of the groundwater, lakes or marshes that may occur.
- 6) Conclusions in the Report.
- (A) The site investigation report shall contain conclusions stating the following:
 - 1. How intended use of the land is compatible with the existing conditions.
 - 2. The existing or potential hazards found during the investigation.

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3. The manner for achieving compliance with applicable development criteria and standards.
- (B) Recommended safeguards and mitigation for specific areas and hazards shall be specified.
- (C) Conclusions shall be based on data included in the report and the sources of information and facts shall be referenced.

5.3065. Site Investigation Report Review [ORD. 23-12]

The Community Development Director, Planning Commission or Board of Commissioners may want to have a technical site investigation report reviewed including the methods actually used to avoid hazards. The Community Development Director, Planning Commission or Board of Commissioners may request the owner or developed to pay for a portion or all of the review on behalf of the County.

5.3070. Qualifications [ORD. 23-12]

The site investigation report shall be conducted by a registered engineering geologist. The Department of Community Development shall maintain a list of qualified geologists.

SECTION 5.4000. BEACH AND DUNE OVERLAY DISTRICT (BDO)

Section 5.4010. Purpose

The intent of the beach and dune overlay is to regulate uses and activities in the affected areas in order to: ensure that development is consistent with the natural limitations of the oceanshore; ensure that identified recreational, aesthetic, wildlife habitat and other resources are protected; conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of beach and dune areas; and to reduce the hazards to property and human life resulting from both natural events and development activities.

Section 5.4020. Applicability

The beach and dune overlay (BDO) includes the following beach and dune areas:

- 1) The beach, which extends from extreme low tide landward to the Statutory Vegetation Line established and described in ORS 390.770, or the line of established upland shore vegetation, whichever is further inland;
- 2) The dune hazard area, which extends from the Statutory Vegetation Line established and described by ORS 390.770 or the line of established upland shore vegetation, whichever is further inland, landward to the construction setback line.
- 3) The construction setback line is established as follows:
 - (A) A line 570 feet landward of the Statutory Vegetation Line established and described by ORS 390.770 for the area north of Surf Pines to the Columbia River south jetty.
 - (B) The Pinehurst construction setback line, established and described in

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- Ordinance 92-90; and
- (C) The Surf Pines construction setback line, established and described in Ordinance 83-17 and extended north to include T7N, R10W, Section 16C, Tax Lot 300.
- 4) The dune construction area, which extends from the construction setback line as defined in the section above, landward to the eastern limit of Highway 101.

Section 5.4030. Relationship to the Underlying Zone

Uses and activities permitted in the Beach and Dune Overlay (BDO) are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this district and the underlying zone conflict, the provisions of this district shall apply.

Section 5.4040 State Parks and Recreation Department Regulated Uses

Uses and activities permitted on the beach, as defined in Section 5.4020(1) are those permitted subject to review and approval by the Oregon Parks and Recreation Department consistent with ORS 390.605-390.725 and OAR Divisions 20-30.

Section 5.4050. Permitted Development and Uses

The following developments and uses are permitted under a Type I procedure subject to specific development standards.

- 1) In the dune hazard area as defined in Section 5.4020(2),
 - (A) Maintenance and repair of existing structures, including roads and subsurface disposal systems.
 - (B) Land transportation facilities as specified in Section 4.0300.
 - (C) Drainage improvements, including storm water outfall.
 - (D) Foredune breaching, where:
 - 1. The breaching is required to replenish sand supply in interdune areas, or is undertaken on a temporary basis for emergency purposes such as fire control or the alleviation of a flood hazard.
 - 2. There are no other reasonable alternatives to alleviate the emergency.
 - 3. The breaching does not endanger existing development.
 - 4. The area affected by the breaching is restored according to an approved restoration plan prepared by a registered professional geologist or certified engineering geologist, where the restoration plan shall include appropriate revegetation; and
 - 5. At a minimum, foredunes shall be restored to a dune profile which provides flood protection equivalent to that prior to breaching.
 - (E) Remedial grading, in the following cases:
 - 1. Clearing of sand which is inundating houses or commercial buildings and their associated improvements. Sand may be graded up to thirty-five feet from a building's foundation subject to the

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following conditions:

- a. The area to be graded constitutes open sand dunes or the back slope of a foredune,
 - b. There is no modification to the crest of a foredune,
 - c. At a minimum, the area graded shall maintain the one hundred year flood elevation as established by the county's Flood Insurance Rate Map (FIRM), and
 - d. No grading shall occur seaward of the Statutory Vegetation Line, except for placement of material removed from the structure in question;
2. Excavation necessary for the purpose of placing a beachfront protective structure;
 3. Clearing of sand which is inundating a public street and is interfering with vehicular or pedestrian traffic, including clearing of sand from a public beach access parking lot.
 4. Excavation of sand necessary to alleviate storm water buildup;
 5. Minor reshaping of the forward portion of a dune necessary to provide an even slope for the planting of stabilizing vegetation; and
 6. Where feasible, all graded sand shall be placed on the beach or foreslope portion of the adjoining dune. Where not feasible, then sand shall be placed at a location approved by the county. In no event shall sand be removed from the beach and dune system.
- (F) Maintenance of existing riparian vegetation, including the planting of additional riparian vegetation.
- 2) In the dune construction area defined in Section 5.4020(3), any permitted uses allowed in the underlying zone subject to the applicable standards of that zone and the applicable general standards of Section 5.4090.

Section 5.4060 Development and Uses Permitted with Review

The following developments and uses are permitted under a Type II procedure, Sections 2.5000 to 2.5030, subject to the applicable general standards of Section 5.4090.

- 1) Beachfront protective structures seaward of the Statutory Vegetation Line established and described by ORS 390.770 or the line established upland shore vegetation, whichever is further inland require a permit from the Oregon Parks and Recreation Department and the County. The County's review of beachfront protective structures shall be coordinated with the Oregon Parks and Recreation Department.
- 2) The emergency placement of riprap on the beach, as defined above and in

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Section 5.4020(1) requires a permit from the Oregon Parks and Recreation Department (OPRD).

- 3) No construction is permitted prior to the issuance of an OPRD permit.
- 4) On the beach, as defined in Section 5.4020(1), and in the dune hazard area as defined in section 5.4020(2), and in the dune construction area as defined in section 5.4020(3):
 - (A) Pedestrian and Equestrian Trail.
 1. To minimize the loss of vegetation, fencing adjacent to the trail may be required in order to restrict traffic to the designated trail, an
 2. Subdivisions or other developments of ten or more dwelling units shall provide public trails to the beach.
 - (B) Structural shoreline stabilization.
 3. The priorities for beachfront protection, from highest to lowest, are:
 - a. Proper maintenance of existing vegetation.
 - b. Planting of riparian vegetation.
 - c. Rip-rap.
 - d. Bulkhead or seawall.
 4. Proposals for rip-rap, bulkheads, or seawalls shall demonstrate that:
 - a. The beachfront protective structure is located in an area where the county has identified that development existed on or before January 1, 1977.
 - b. The development is being threatened by erosion hazard.
 - c. Non-structural means of shoreline stabilization cannot provide adequate erosion protection.
 - d. The structure is the minimum necessary to provide for the level of protection that has been identified.
 - e. The structure is placed as far landward as is practical, consistent with maintaining existing riparian vegetation.
 - f. Potential adverse impacts on adjacent property are minimized.
 - g. Existing public access is preserved. The county may require that the shoreline stabilization incorporate steps or other improvements to enhance public access to the beach.
 - h. Visual impacts are minimized.
 - i. Any rip-rap shall be covered with sand and revegetated with beach grass, willow or other appropriate vegetation.
 - (C) Sand stabilization program
 1. The program shall be prepared by a qualified individual approved by the County.
 2. The program shall be based on an analysis of the area subject to accretion or erosion. The area selected for management shall be

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- found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.
3. The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.
 4. Fire-resistant species are the preferred stabilizing vegetation within twenty- five feet of existing dwellings or structures. Fire resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.
 5. Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose of the sand stabilization program. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.
- 6) In the dune construction area as defined in section 5.4020(3), any permitted uses allowed in the underlying zone subject to the applicable standards of that zone and the applicable standards of Section 5.4090.

Section 5.4070. Conditional Development and Use

The following developments and uses may be permitted under a Type IIa procedure Sections 2.4020 to 2.4040, subject to the applicable general of Section 5.4090.

- 1) On the beach, as defined in section 5.4020(1), and in the dune hazard area as defined in section 5.4020(2):
 - (A) Foredune grading

Foredune grading for view enhancement or to prevent sand inundation may be allowed only in foredune areas that were committed to development on or before January 1, 1977 and where an overall plan for foredune grading is prepared.

 1. A foredune grading plan shall be prepared by a qualified expert approved by the County.
 2. A foredune grading plan shall be based on a consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and the effects of beachfront protective structures and jetties.
 3. The foredune grading plan shall:
 - a. Cover an entire beach and foredune area subject to an

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- accretion problem, including adjacent areas potentially affected by changes in flooding, erosion or accretion as a result of dune grading;
 - b. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one hundred year flood elevation established by the FEMA flood insurance studies;
 - c. Identify and set priorities for low and narrow dune areas which need to be built up;
 - d. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and
 - e. Prohibit removal of sand from the beach-foredune system.
- 2) In the dune construction area as defined in section 5.4020(3), any conditional uses allowed in the underlying zone subject to applicable standards of that zone and the applicable general standards of Section 5.4090.

Section 5.4080. Prohibited Activitiesa

The following activities are prohibited in all areas within the beach and dune overlay (BDO) as defined in Section 5.4020:

- 1) Removal of sand from the beach or dune system.
- 2) Removal of stabilizing vegetation, except in conjunction with a permitted development or use.

Section 5.4090. General Development and Use Criteria

The following criteria are applicable to developments and uses in the BDO, in addition to those specific standards identified in Sections 5.4040 through 5.4070.

- 1) For development located in all areas in the BDO as defined by Section 5.4020, other than older stabilized dunes, findings shall address the following:
 - (A) The adverse effects the proposed development might have on the site and adjacent areas;
 - (B) Temporary and permanent stabilization proposed and the planned maintenance of new and existing vegetation;
 - (C) Methods for protecting the surrounding area from any adverse effects of the development;
 - (D) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.
 - (E) How the proposed development will not result in the drawdown of the groundwater supply in a manner that would lead to:
 1. The loss of stabilizing vegetation;
 2. The loss of water quality;

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3. Salt water intrusion into the water supply; or
 4. Significant lowering of interdune water level. Building permits for single- family dwellings are exempt from this requirement if appropriate findings are provided at the time of subdivision approval.
- 2) For development on the beach, as defined in section 4.4020(1), and in the dune hazard area as defined in section 5.4020(2) a geotechnical report in conformance with Section 5.3020, shall be required by the Planning Director prior to the issuance of a development permit.
 - 3) For development in the dune hazard area as defined in section 5.4020(2) and in the dune construction area as defined in section 5.4020(3) a wind erosion control plan shall be required by the Planning Director prior to the issuance of a development permit. The purpose of the wind erosion control plan is to maintain the stability of the site during periods when the vegetative cover is removed and to ensure that adjacent properties are not adversely affected. The plan shall:
 - (A) Identify areas where vegetation is to be removed and the type of vegetation to be removed;
 - (B) Describe any temporary sand stabilization measures to be used during construction;
 - (C) The proposed type of vegetation to be planted to stabilize the site after construction, including the density of planting, proposed fertilization, method of maintenance, and timing of the planting;
 - (D) The removal of vegetation shall be kept to a minimum during site preparation and construction; and
 - (E) No site clearing is permitted prior to the issuance of the development permit for the proposed development or use. Site clearing shall occur no sooner than is necessary prior to construction. The permanent revegetation of the site shall be started as soon as is practical, but in no event later than six months after the completion of construction.

SECTION 5.4100. SHORELAND OVERLAY DISTRICT (SO)

Section 5.4110. Purpose

The purpose of this district is to manage uses and activities in coastal shoreland areas which are not designated as a Shoreland Zone in a manner consistent with the resources and benefits of coastal shorelands and adjacent estuarine aquatic areas.

Section 5.4120. Designation of Shoreland Overlay District

This overlay district refers to areas described on official Clatsop County Zoning Maps. It does not include shoreland areas of the Columbia River Estuary designated Marine Industrial Shoreland, Conservation Shoreland, or Natural Shoreland. Included in this overlay district are:

- 1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or

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- within 50 feet of an estuary or a coastal lake.
- 2) Areas of geological instability in or adjacent to the shoreland boundary when the geologic instability is related to or will impact a coastal water body.
 - 3) Natural or man-made riparian resources, especially vegetation which function to stabilize the shoreline or maintain water quality and temperature necessary for the maintenance of fish habitat and spawning areas.
 - 4) Areas of significant shoreland and wetland biological habitats whose habitat quality is primarily derived from or related to the association with coastal and estuarine areas.
 - 5) Areas necessary for water-dependent and water-related uses, including uses appropriate for port facilities and navigation, dredged material disposal and mitigation sites, and areas suitable for aquaculture.
 - 6) Areas of exceptional aesthetic or scenic quality, where the quality is primarily derived from or associated with the coastal or estuarine areas.
 - 7) Areas of recreational importance or public access which utilize coastal waters or riparian resources.
 - 8) Locations of archaeological or historical importance associated with the estuary.
 - 9) Coastal headlands.
 - 10) Dikes and their associated inland toe drains.

Section 5.4140. Categories of Coastal Shorelands

There are two categories of Coastal Shorelands as described below:

- 1) Category 1:
 - (A) Those shorelands described in the Estuarine and Coastal Shoreland Element of the Comprehensive Plan as:
 1. Significant, non-estuarine marshes;
 2. Riparian resources;
 3. Significant fish and wildlife habitat;
 4. Exceptional aesthetic resources;
 5. Historical and archaeological sites.
- 2) Category 2:
 - (A) All shorelands which do not fall within 1(A) 1-5 and are not currently designated Marine Industrial Shorelands, Conservation Shorelands or Natural Shorelands are the second category of Coastal Shorelands.

Section 5.4150. Developments Permitted with Category 1 Coastal Shorelands

Only the following uses and activities are permitted under a Type I procedure (Section 2.1010) within shorelands defined in Section 5.4140(1)(A)1-5):

- 1) Low intensity, water-dependent recreation.
- 2) Existing and compatible farm uses and activities, excluding structures.
- 3) Forest operations only if natural values of the resource are protected, as

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determined by administration of the Oregon Forest Practices Act, where applicable, otherwise as determined by the Planning Division under a Type II procedure.

- 4) Research or educational activities which maintain or enhance the natural characteristics of the area and its resources.
- 5) Navigational aids.
- 6) Vegetative shoreline stabilization.
- 7) Maintenance and repair of existing and serviceable dikes.
- 8) New dikes.

Section 5.4160. Developments Permitted within Category 2 Coastal Shorelands

Within coastal shorelands defined in Section 5.4140(2) the following uses and activities are permitted if otherwise allowed in the underlying zone, and subject to the requirements and standards of the use in the underlying zone:

- 1) Uses allowed in Section 5.4150 above.
- 2) Single family dwellings, provided that, if possible, the dwelling is to be located on a portion of the property outside of the Coastal Shoreland boundary.
- 3) Limited home occupation.
- 4) Home occupation in an existing building.
- 5) Signs.
- 6) Water-dependent recreation.
- 7) Projects for the protection of habitat, nutrient, fish, wildlife and aesthetic resources.
- 8) Aquaculture.
- 9) Utilities as necessary for public service.
- 10) Water-dependent commercial and industrial uses.

Other uses and activities within Category 2 Coastal Shorelands are allowed under a Type IV procedure upon findings that such uses and activities are compatible with the objectives of the Comprehensive Plan to protect riparian vegetation and wildlife habitat.

Section 5.4170. Development Standards

- 1) All uses and activities in the Columbia River Estuary Shoreland Overlay District will satisfy applicable Columbia River Estuary Shoreland and Aquatic Area Use and Activity Standards contained in the Development and Use Standards Document.
- 2) If a proposal involves several uses, the standards applicable to each use shall be satisfied.
- 3) For parcels totally within the Coastal Shorelands Boundary, structures shall be sited according to lot line setbacks and Riparian Vegetation Standards in 6.5000 et seq.

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- 4) For parcels partially within and partially outside of the Coastal Shorelands boundary, structures shall be located outside the Boundary. This requirement may be waived by the Community Development Director only upon a showing that the portion of the site outside of the Boundary cannot accommodate the use or is of such value for resource purposes that the use would impact resource productivity less if located within Coastal Shorelands.
- 5) Proposed development in shoreland areas within identified hazards to development shall be evaluated prior to construction to assure that new hazards are not created or existing hazards are not worsened on adjacent property.

SECTION 5.4200. AQUIFER RESERVE OVERLAY DISTRICT (ARO)

Section 5.4210. Purpose

The purpose of the aquifer reserve overlay zoning district is to protect the aquifer as a future drinking water source by controlling activities which may occur on the ground surface. These sections apply as additional restrictions to the underlying zones. Should the regulations of this overlay district be in conflict with the underlying zone, the conflict shall be resolved by the application of the more stringent regulation.

Section 5.4220. Development and Uses Permitted

Unless otherwise listed in Section 5.4240, any use permitted in the underlying zone may be allowed within the boundaries of this special district.

Section 5.4230. Conditional Development and Use

Unless otherwise listed in Section 5.4240, any use conditionally allowed in the underlying zone may be allowed within the boundaries of this special district subject to the applicable standards of that zone.

Section 5.4240. Prohibited Development and Use

The following developments are prohibited in this district unless determined by the Planning Director as set out in Section 5.4250 below that such use will not adversely affect the aquifer:

- 1) Construction of subsurface sewage disposal systems.
- 2) Application of fertilizers in amounts and concentrations which would add nitrates to the groundwater.
- 3) Construction of oil and gas storage facilities unless they are adequately protected to prevent spillage from reaching groundwater.
- 4) Other activities which, in the opinion of the Community Development Director, would cause the degradation of groundwater as a potable water source.

Section 5.4250. Determination by the Community Development Director

Any activities which, in the opinion of the Community Development Director, would adversely affect the aquifer as a potable water source, are prohibited by Section 5.4240 above. To aid in this determination, the Community Development Director may require

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certification from a qualified professional engineer or hydrologist that a proposed activity will not cause such degradation.

SECTION 5.4300. MITIGATION SITE OVERLAY DISTRICT (MIT)

Section 5.4310. Purpose

The purpose of the Mitigation Site Overlay District is to protect identified mitigation sites in the Columbia River Estuary from incompatible and preemptive development uses and activities and implement mitigation and restoration actions in designated areas of the zone. There are three priority categories and four protection levels for mitigation sites in this district.

Section 5.4320. Designation of Mitigation Sites

Mitigation sites are described and identified on maps in the background report Mitigation and Restoration Plan for the Columbia River Estuary of the County's Comprehensive Plan. Revisions to mitigation site designations must be recorded by amendment to the Comprehensive Plan and Plan Map.

Section 5.4330. Developments Allowed in Mitigation Sites

The Priority and Level of protection for a designated mitigation site may be determined from the background report *A Mitigation and Restoration Plan for the Columbia River Estuary* of the County's Comprehensive Plan. The following uses are allowable in this overlay district:

- 1) Priority 1, Level 1:
 - (A) Uses allowed in the underlying zone that do not preempt the use of the site for mitigation purposes, subject to the underlying zone's development standards.
 - (B) Mitigation as a Review Use under a Type II procedure pursuant to Section 2.1020 and subject to the Mitigation and Restoration Standards in Section 6.4150.
 - (C) In an Exclusive Farm Use (EFU) zone, farm related structures that are valued at \$5,000 or less, subject to the development standards of the underlying zone.
- (D) Priority 1, Level 2:
 - (E) Uses allowed in the underlying zone that do not preempt the use of the site for mitigation purposes, subject to the underlying zone's development standards.
 - (F) Mitigation as a Review Use under a Type II procedure pursuant to Section 2.1020, and subject to the Mitigation and Restoration Standards in Section 6.4150.
 - (G) In an Exclusive Farm Use (EFU) zone, farm related structures that are valued at \$5,000 or less, subject to the development standards of the underlying zone.

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- (H) Topographical and structural preemptive uses allowed in the underlying zone and subject to the zone's policy and procedural requirements, under the additional conditions that:
 - 1. if diked, demonstration that a predetermined amount of dike frontage (established in the Plan or during new site designations) and contiguous diked area is retained for mitigation purposes; or
 - 2. if upland, demonstration that a predetermined amount of contiguous area (established in the Plan or during new site designation) is available for excavation to allow tidal influence or capable of being inundated through some water level control procedure.
- (I) Restoration, creation, or enhancement outside of the context of mitigation as a Conditional Use under the conditions that:
 - 1. if diked, demonstration that a predetermined amount of dike frontage and contiguous diked area is retained for mitigation purposes; or
 - 2. if upland, demonstration that a predetermined amount of contiguous area is available for excavation to allow tidal influence or capable of being inundated through some water level control procedure. If the underlying zone is Exclusive Farm Use (EFU), Forestry (F-80), and Agricultural/Forestry (AF), a goal exception shall be required to implement restoration, creation or enhancement outside of the context of mitigation.
- (J) Priority 2, Level 3:
- (K) Uses allowed in the underlying zone that do not preempt the use of the site for mitigation purposes, subject to the underlying zone's development standards.
- (L) Mitigation as a Review Use Under a Type II procedure pursuant to Section 2.1020, and subject to the Mitigation and Restoration Standards in Section 6.4150.
- (M) In an Exclusive Farm Use (EFU) zone, farm related structures that are valued at \$5,000 or less, subject to the development standards of the underlying zone.
- (N) Restoration, creation and enhancement outside of the context of the mitigation as a Conditional Use under a Type II procedure pursuant to Section 2.1020, and subject to the Mitigation and Restoration Standards in Section 6.4150. If the underlying zone is Exclusive Farm Use (EFU), Forestry (F-80), or Agricultural/Forestry (AF), a goal exception is required to implement restoration, creation, or enhancement outside of the context of mitigation.

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- (O) Preemptive uses allowed in the underlying zone, subject to the zone's development standards, under the additional condition that action on the application shall be suspended for 30 days from the date a complete application is filed. The period of suspension is to allow interested parties time to review the need and negotiate use of the site for mitigation. If at the close of the 30 day period no satisfactory means of preserving the site is established, the permit will be processed under the normal procedures.
- (P) Priority 3, Level 4:
- (Q) All uses allowed in the underlying zone, subject to the underlying zone's development standards.
- (R) Mitigation as a Review Use under a Type II procedure pursuant to Section 2.1020, and subject to the Mitigation and Restoration Standards in Section 6.4150.
- (S) Restoration, creation, and enhancement outside of the context of mitigation as a Conditional Use under a Type II procedure pursuant to Section 2.1020, and subject to the Mitigation and Restoration Standards in Section 6.4150. If the underlying zone is Exclusive Farm Use (EFU), Forestry (F-80), or Agricultural/Forestry (AF), a goal exception is required to implement restoration, creation, or enhancement outside of the context of mitigation.

Section 5.4340. Removal of the Mitigation Site Overlay District

Removal of designated mitigation sites shall be subject to the following criteria:

- 1) Priority 1, Level 1:
 - (A) Removal of the Mitigation Site Overlay District shall be allowed for any portion of the site where a mitigation action has occurred. The site shall be removed by an amendment to the Comprehensive Plan.
 - (B) Removal of the Mitigation Site Protection Overlay District before the site has been used wholly or in part for mitigation shall be done by an amendment to the Comprehensive Plan only where:
 - 1. Provision is made for a replacement mitigation site of suitable characteristics; or
 - 2. The development need for which the mitigation site was initially designated as a compensating action is withdrawn or reevaluated.
 - (C) Priority 2, Level 2:
 - (D) Removal of the Mitigation Site Overlay District shall be allowed for any portion of the site where a mitigation action has occurred. The site will be removed by plan amendment during routine plan upkeep.
 - (E) Removal of the Mitigation Site Overlay District shall be allowed for any portion of the site where preemptive uses have been implemented, including restoration, creation or enhancement outside of the context of mitigation provided that:

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1. if diked, a demonstration that a predetermined amount of dike frontage and contiguous diked area is retained for mitigation purposes; or
 2. if upland, demonstration that a predetermined amount of contiguous area is available for excavation to allow tidal influence or capable of being inundated through some water level control procedure.
- (F) Removal of all or portions of the Mitigation Site Overlay District from the Comprehensive Plan before the site has been used wholly or in part for mitigation shall be done by Plan amendment and may only be approved if:
1. provision is made for a replacement of adequate mitigation area of suitable characteristics in another suitable location; or
 2. the development need for which the mitigation site was initially designated as a compensating action is withdrawn or reevaluated.
- (G) Priority 2, Level 3:
- (H) The Mitigation Site Overlay District shall be removed from any portion of a site where a mitigation action has occurred or preemptive uses have been implemented, including restoration, creation or enhancement outside of the context of mitigation. The site shall be removed by an amendment to the Comprehensive Plan.
- (I) Removal of the Mitigation Site Overlay District for all or portions of a designated mitigation site before the site has been used wholly or in part for mitigation shall be done by an amendment to the Comprehensive Plan and Zoning Ordinance where:
1. Provision is made for a replacement of adequate mitigation area of suitable characteristics in another suitable location; or
 2. The development need for which the mitigation site was initially designated for compensatory purposes is withdrawn or reevaluated.
- (J) Priority 3, Level 4:
- (K) The Mitigation Site Overlay District shall be removed from any portion of the site that a mitigation action has occurred or preemptive uses have been implemented, including restoration, creation or enhancement outside of the context of mitigation. The site will be removed by an amendment to the Comprehensive Plan.
- (L) After a mitigation site has been used for mitigation or restoration, creation, or enhancement action outside of the context of mitigation and all or a portion of the site is no longer available for mitigation, the Mitigation Site Overlay District designation shall be removed and the wetland or aquatic area created through the mitigation action shall be placed in the appropriate Aquatic designation. These changes shall be made by means of an amendment to the Comprehensive Plan.

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Section 5.4350. Preemptive Uses

Incompatible and preemptive use of mitigation sites includes the following:

- 1) Uses requiring substantial structural or capital improvements (e.g. construction of permanent building) but not including dike maintenance.
- 2) Uses that require extensive alteration of the topography of the site, thereby reducing the potential for mitigation (e.g. extensive site grading, elevation of the site by placement of fill materials).

SECTION 5.4400. SENSITIVE BIRD HABITAT OVERLAY DISTRICT (SBHO)

Section 5.4410. Purpose

The purpose of the Sensitive Bird Habitat Overlay District is to insure that habitat areas identified as critical for the survival of the Northern Bald Eagle, Great Blue Heron, Band-tailed Pigeon and Snowy Plover are protected from the effects of conflicting uses or activities. This objective shall be achieved through the development of site-specific management plans that are developed to ensure that proposed uses and activities will neither destroy or result in the abandonment of sensitive bird habitat areas.

Section 5.4420. Definition of Nest Sites

All Northern Bald Eagle nests and roosts, Great Blue Heron rookeries, Band-tailed Pigeon mineral springs and Snowy Plover nesting habitat identified in the Clatsop County Comprehensive Plan shall be subject to the requirements of the Sensitive Bird Habitat Overlay District. When additional sites are identified by the Oregon Department of Fish and Wildlife they shall be added to the Comprehensive Plan map titled "Open Space Resources of Clatsop County" and become subject to the requirements of the Sensitive Bird Habitat Overlay District.

Section 5.4430. Development and Uses Permitted

Uses permitted in the underlying zone(s) are permitted or conditionally permitted in the Sensitive Bird Habitat Overlay District subject to the additional procedure and requirements of Section 5.4440. The SBHO does not regulate forest practices, only those development and uses that would require a development on lands designated Conservation Forest Lands.

Section 5.4440. Development and Use Criteria

The following review procedure and criteria shall apply:

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- 1) The review procedure is initiated when Clatsop County receives a request for a development permit that may affect a sensitive bird habitat;
- 2) A proposed use or activity is considered to have the potential for affecting a sensitive bird habitat if it is located within a quarter mile of an eagle nest or roosting site, or an osprey nest or it is within 600 feet of a heron rookery, or band-tailed pigeon mineral spring or it is within 400 feet of snowy plover nesting habitat.
- 3) If a proposed use or activity meets the locational criteria of subsection 5.4440(2), Clatsop County or the Oregon Department of Forestry shall notify the Oregon Department of Fish and Wildlife.
- 4) Upon notification, the Oregon Department of Fish and Wildlife shall review the proposed use or activity and make a determination of whether the use or activity has the potential for adversely affecting a sensitive bird habitat area. In making this review and determination the Oregon Department of Fish and Wildlife shall consult with the affected landowner(s) and appropriate state agencies. The determination shall be completed within seven working days of the receipt of notice from Clatsop County.
- 5) A sensitive bird habitat will be considered affected by a use or activity if it is located within 660 feet of an eagle or osprey site or within 300 feet of a heron rookery or pigeon mineral spring, or within 200 feet of snowy plover nesting habitat. However, the Oregon Department of Fish and Wildlife may determine that uses and activities located further from the sensitive habitat also will affect the site because of unique site conditions such as topography. The basis for such a finding shall be spelled out in the Oregon Department of Fish and Wildlife's determination of impact.
- 6) If the Oregon Department of Fish and Wildlife determines that the sensitive habitat area will not be affected, Clatsop County may proceed with the processing of the permit application.
- 7) If the Oregon Department of Fish and Wildlife determines that the site would be affected, the Oregon Department of Fish and Wildlife shall work with the affected property owner. In the development of a site specific habitat protection plan, the plan shall consider nesting trees, critical nesting periods, roosting sites and buffer areas.
- 8) Clatsop County will not process a development permit or activities detailed in a notification of operation until the required management plan has been completed and submitted to Clatsop County or the Department of Forestry.

SECTION 5.4500. DREDGED MATERIAL DISPOSAL SITE RESERVATION OVERLAY DISTRICT (DMD)

Section 5.4510. Purpose

The intent of this district is to designate dredged material disposal sites in the County with respect to present and expected water-dependent development and navigational

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access requirements in the Columbia River Estuary and to protect these sites for dredged material disposal operations.

Section 5.4520. District Boundaries

The DMD Site Reservation District conforms to the description of dredged material disposal sites in the Columbia River Estuary Dredged Material Management Plan of the County's Comprehensive Plan. Revisions to the Columbia River Estuary Dredged Material Management Plan must be recorded by amendment to the Comprehensive Plan.

Section 5.4530. Dredged Material Disposal Sites

The purpose of site designations is to protect important dredged material disposal sites from incompatible and preemptive uses that may limit their ultimate use for the deposition of dredged material, and to ensure that an adequate number of sites will be reserved in order to accommodate dredged material disposal needs resulting from five years of existing and expected water-dependent development and navigation projects.

Section 5.4540. Uses Allowed in Dredged Material Disposal Sites

Dredged material disposal including beach nourishment designated in the Comprehensive Plan's background report Columbia River Estuary Dredged Material Management Plan is permitted with standards under a Type I procedure if the site is located upland or in the coastal shoreland boundary. Dredged material disposal including beach nourishment designated in the Comprehensive Plan and located in aquatic areas may be allowed as a Review Use under a Type II procedure. In addition, only those development uses and activities permitted, permitted with review or conditionally permitted in the underlying zone which are determined not to preempt the site's future use for dredged material disposal are allowed, subject to the policies and procedural requirements of the underlying zone.

Section 5.4550. Removal of Dredged Material Disposal Site Designation

Removal of a dredged material disposal site designation before a site has been filled to capacity shall only be approved if:

- 1) Provision is made for a replacement dredged material disposal site of suitable characteristics; or
- 2) The dredging need for which the site was initially designated for dredged material disposal is withdrawn or reevaluated.

Section 5.4560. Preemptive Uses

Incompatible and preemptive uses of dredged material disposal sites include the following:

- 1) Uses requiring substantial structural or capital improvements (e.g. construction of permanent buildings);
- 2) Uses that require extensive alteration of the topography of the site, thereby

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reducing the potential usable volume of the dredged material disposal area (e.g. extensive site grading, elevation by placement of fill materials other than dredged materials).

- 3) Uses that include changes made to the site that would present expeditious use of the site for dredged material disposal. Such uses would delay deposition of dredged materials on the site beyond the period of time commonly required to obtain the necessary federal, state and local dredging and material disposal permits (approximately 90 days).

SECTION 5.4600. QUARRY & MINING OVERLAY DISTRICT (QMO)

Section 5.4605. Purpose

The purpose and intent of the Quarry and Mining Overlay District (/QMO) is:

- 1) To allow the development and use of mineral and aggregate resources;
- 2) To provide uniform standards for extraction and processing of mineral and aggregate resources;
- 3) To balance conflicts between mining operations and new and existing surrounding conflicting uses;
- 4) To ensure the rehabilitation and restoration of mining sites; and
- 5) To protect mineral and aggregate resources for future use consistent with Comprehensive Plan goals and policies and Statewide Planning Goal 5.

Section 5.4610. Definitions

CONFLICTING USE -- A use authorized in the underlying zone, which, if allowed, could adversely affect operations at a significant mineral and aggregate resource site, or could be adversely affected by mining or processing activities at a significant site. For purposes of this chapter, another Goal 5 resource located on or adjacent to a significant site may be considered a conflicting use if that resource could be adversely affected by mining or processing at the site.

ESEE ANALYSIS -- The analysis of Economic, Social, Environmental and Energy consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County may determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

EXTRACTION AREA -- The area within which mineral and aggregate extraction, processing and storage may take place under the provisions of this Chapter (see Appendix A).

IMPACT AREA -- An area determined on a case-by-case basis through the ESEE analysis, within which sensitive uses are limited or regulated (see Appendix A).

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MINERAL AND AGGREGATE -- Includes soil, select fill, coal, metallic ore, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial or constructional use.

MINING -- All or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, blasting, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those pits developed for use in the construction of access roads for surface mining operations. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or maintenance of access roads, excavation or grading operations conducted in the process of farming or cemetery operations or road construction or other on-site construction, or the non-surface impacts of underground mines.

PROCESSING – Includes, but is not limited to, extraction, washing, crushing, milling, screening, handling, conveying, batching and blending into asphalt or Portland cement, and transportation of mineral and aggregate materials.

SENSITIVE USE -- A conflicting use or structure considered sensitive to dust, odor, vibration and/or noise, such as a residence, school, park or hospital. Industrial, agricultural and forestry activities are not sensitive uses unless the activity includes an accessory residential use.

SIGNIFICANT RESOURCE SITE -- Includes resource sites which meet or exceed location, quality and quantity criteria set forth under Section 5.4665 of this Chapter and are so designated by the County through a legislative or quasi-judicial process.

Section 5.4615. Application of Overlay Zone

The provisions of this Chapter shall apply to all lands zoned Quarry and Mining Overlay. Nothing in this Chapter shall constitute a waiver or suspension of the provisions of any underlying zone or concurrent overlay zone. Any conflicts between the provisions of this Chapter and the provisions of other chapters of this Ordinance, Comprehensive Plan Goals and Policies and the Statewide Planning Goals shall be resolved through the ESEE analysis.

The Quarry and Mining Overlay Zone consists of two distinct areas; the Extraction area and the Impact area.

- 1) **EXTRACTION AREA.** The mineral and aggregate extraction area shall be applied to any site where mining will be permitted and which has been identified as a significant resource area in the Comprehensive Plan Inventory. The area may consist of one or more tax lots or portion(s) of single tax lots, and may be

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applied to contiguous properties under different ownership. The size of the Extraction Area shall be determined by the Goal 5 process, but between any existing Sensitive Use and the extraction area boundary a general distance of 1,000 feet shall be applied. The exact distance may be varied through the planning process.

- 2) **IMPACT AREA.** The mineral and aggregate Impact Area shall be applied to properties or portions of properties adjacent to and immediately surrounding an Extraction Area. The width of the Impact Area shall be determined through the ESEE analysis prior to application of the QMO Overlay Zone, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area which may cause a larger or smaller area to be affected. The minimum width of the impact area shall be 1,000 feet from the Extraction Area boundary unless a reduced distance is justified, based on the ESEE analysis (see example in Appendix A).

Section 5.4620. Exemptions

The following activities are exempt from the requirements of this Chapter. Operators or owners claiming any of these exemptions may be asked to establish the validity of the exemption. Areas which are designated scenic resource areas in the County Comprehensive Plan are not exempt from this chapter.

- 1) In zones qualified under ORS 215 and Statewide Planning Goal 3, mining less than 500 cubic yards of material or excavation preparatory to mining of a surface area of less than one acre. In other zones, mining less than 1,000 cubic yards of material or activities affecting less than one acre of land within a period of 12 consecutive calendar months.
- 2) Forest related quarrying regulated under the Oregon Forest Practices Act.
- 3) Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant of a parcel for the primary purpose of reconstruction or maintenance of on-site access roads.
- 4) Excavation or grading operations conducted in the process of farming, forestry or cemetery operations.
- 5) On-site road construction or other on-site construction or non-surface impacts of underground mines.

Section 5.4625. Pre-Existing and Non-Conforming Uses

Mineral and aggregate sites which have a valid County permit on the effective date of this District shall be considered pre-existing sites. Pre-existing sites may continue to operate under the standards of Section 3.1000. However, any expansion of a mineral and aggregate activity on a pre-existing site beyond the boundaries of the surface mining area covered by the County permit or zone, or any activity requiring a new County permit or zone, shall require a new Conditional Use Permit in accordance with Section 2.4000 of this Ordinance. The lawful use of any building, structure or land on

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the effective date of this Chapter shall be considered a non-conforming use. Any enlargement, alteration or other change in use, or cessation of the nonconforming use shall be in accordance with Section 3.1000.

Section 5.4630. Permitted Uses - Extraction Areas

Any permitted use or conditional use allowed in the underlying zone, except Sensitive Uses as defined in Section 4.404, may be permitted in the QMO Extraction Area subject to the underlying zone criteria and as otherwise authorized by the ESEE analysis.

The following uses may be permitted in the QMO Extraction Area subject to site plan approval in accordance with Section 5.4645:

- 1) Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.
- 2) Stockpiling and storage of mineral and aggregate materials.
- 3) Processing of:
 - (A) Materials, including crushing, washing, milling, screening, sizing, batching of Portland cement; and
 - (B) Batching or blending of mineral and aggregate into asphaltic concrete.
 - (C) Buildings, structures and equipment directly related to the above permitted uses.
- 4) One temporary manufactured home or recreational vehicle for a caretaker or watchman in conjunction with a mineral and aggregate activity. The manufactured home shall meet the setbacks of the underlying zone, and shall be removed when the aggregate operation ceases, unless allowed in accordance with the requirements of the underlying zone.
- 5) Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.
- 6) Sale of products extracted and processed on-site from a mineral and aggregate operation.

Section 5.4635. Development Standards - Extraction Area

A development plan shall be submitted to the County Planning Division for any activity allowed in Section 5.4630. The development plan shall provide the necessary documents, permits, and maps to demonstrate compliance with the following standards and requirements:

- 1) Screening and Buffering:
 - (A) An earthen berm and buffer of existing or planted trees or vegetation shall be maintained to fully screen the view of any mineral and aggregate activity and all related equipment from any public road, public park, or residence within 1,000 feet. Where screening is shown through the ESEE analysis to be unnecessary because of topography or other features of the site, the screening requirements may be waived by the Community

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- Development Director.
- (B) Sight obscuring fencing or approved barrier type shrubs shall be required to eliminate any safety hazards that use of the site may create. Fencing, if required, shall be sight obscuring and a minimum of 6 feet high.
- 2) Access:
- (A) All private access roads from mineral and aggregate sites to public roads shall be paved or graveled. If graveled, the access road shall be graded and maintained as needed to minimize dust.
- (B) Improvements of fees in lieu of improvements of public roads, County roads and State highways may be required when the Community Development Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rated share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.
- (C) Any internal road at a mineral and aggregate site within 250 feet of a Sensitive Use shall be paved or graveled, and shall be maintained at all times to reduce noise and dust in accordance with County or DEQ standards specified in the ESEE analysis.
- (D) An effective vehicular barrier or gate shall be required at all access points to the site.
- 3) Hours of Operation:
- (A) Blasting shall be restricted to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays, or any recognized legal holiday.
- (B) Mineral and aggregate extraction, drilling, processing and equipment operation located within 1,000 feet or as established by the ESEE analysis of any Sensitive Use is restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, and 8:00 a.m. to 5:00 p.m. Saturday. All other sites are limited to operating hours of 7:00 a.m. to 10:00 p.m. Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.
- (C) An increase in operating time limits shall be granted for all activities except blasting if:
1. There are no Sensitive Uses within 1,000 feet of the mining site; or if
 2. There are Sensitive Uses within 1,000 feet, the increased activity

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- will not exceed noise standards established by the County or DEQ;
and
3. The operator shall notify the owners and occupants of all Sensitive Uses within 1,000 feet or the distance established by the ESEE analysis by first class mail which is mailed at least 96 hours prior to the date and approximate time of the activity for which the operator receives an exception.
 - (D) The operating time limits may be waived in the case of an emergency as determined by the County governing body.
 - 4) Environmental Standards:
 - (A) DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all applicable environmental standards of the County and State. Any crusher, asphalt, concrete, ready-mix or other machinery shall submit an approved DEQ permit(s) at the time of development plan application.
 - (B) DOGAMI Standards. Mineral and aggregate extraction, processing, other operations and site reclamation shall conform to the requirements of the Department of Geology and Mineral Industries (DOGAMI).
 - (C) Permits Required. Mining shall not commence until all applicable State and Federal permits, if any, are provided to the County.
 - (D) Equipment Removal: All surface mining equipment, machinery, vehicles, buildings, man-made debris and other material related to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.
 - 5) Performance Agreement:
 - (A) The operator of a mineral and aggregate site shall provide the County with annual notification of DOGAMI permits.
 - (B) Mineral and aggregate operations shall be insured for \$500,000.00 against liability and tort arising from production activities or operations incidental thereto conducted or carried on by virtue of any law, ordinance or condition, and such insurance shall be kept in full force and effect during the period of such operations. A prepaid policy of such insurance which is effective for a period of one year shall be deposited with the County prior to commencing any mineral and aggregate operations. The owner of operator shall annually provide the County with evidence that the policy has been renewed.
 - (C) Significant Resource Area Protection: Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, and ecologically and scientifically significant natural areas and scenic areas protected by the Clatsop Plains Community Plan or other provision of the County Comprehensive Plan,

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- shall be balanced as determined by the site-specific ESEE analysis.
- (D) Site Reclamation: A reclamation plan shall be submitted concurrently with the development plan required in Section 5.4645. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone consistent with the site specific Goal 5 program, and shall meet DOGAMI requirements.
- 6) Water Management:
- (A) Surface water shall be managed in a manner which meets all applicable DEQ, DOGAMI, and ODFW water quality standards. Approval may be conditioned upon meeting such standards by a specified date. Discharge across public roads shall be prohibited. Existing natural drainages on the site shall not be changed in a manner which substantially interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams.
 - (B) Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.
 - (C) All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to any site operation.
- 7) Floodplain:
- (A) Any QMO Extraction Area located wholly or in part in a Special Flood Hazard Area as shown on the Federal Insurance Rate Map (FIRM) shall receive approval in accordance with Section 5.1000 of this Ordinance prior to any site operation.

Section 5.4640. Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 5.4630, and before any expansion of a pre-existing or non-conforming site. The applicant shall provide the following at the time of application:

- 1) A development plan demonstrating that the development standards required in Section 5.4635 can be met, including:
 - (A) Screening and fencing;
 - (B) Access;
 - (C) Hours of operation;
 - (D) Environmental standards;
 - (E) Equipment removal;

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- (F) Performance agreement;
- (G) Significant resource area protection;
- (H) Site reclamation;
- (I) Water management; and
- (J) Floodplain.
- (K) A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

Section 5.4645. Site Plan Review

- 1) Site plan review is required prior to commencement of mining. Application shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 5.4635 and any requirements adopted as part of the Goal 5 process.
- 2) Applications for site plan approval of surface mining operations and activities authorized by Section 5.4620 in accordance with ORS 215.425 and ORS 917.195.
- 3) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 5.4635 and other requirements adopted as part of the Goal 5 process.
- 4) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

Section 5.4650. Impact Area - Uses and Standards

Any permitted use or conditional use allowed in the underlying zone, including Sensitive Uses, subject to Section 5.4655, may be allowed in the QMO Impact Area subject to the underlying zone criteria and as otherwise authorized by the ESEE analysis.

Section 5.4655. Sensitive Uses

- 1) The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall state that if the owner (or successors) of the new noise sensitive use object to the allowed mineral and aggregate activities on the adjacent QMO Extraction Area, the owner (or successors) of the new sensitive use shall indemnify the County and the resource owner and operator against all lost cost and expense including attorney's fees arising out of remonstrance proceeding. The Aggregate Operation Easement, Waiver of Remonstrance and Indemnity shall run with the land, until such time as the operation ends and the

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site has been reclaimed in accordance with the approved reclamation plan. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.

- 2) The use will not interfere with or cause any adverse impact on a mineral and aggregate activity allowed under Section 5.4630; and
- 3) The use will not prevent the adjacent mineral and aggregate activity from meeting the standards and conditions set forth in Section 5.4645.

Section 5.4660. Designation of Overlay Zone

The Quarry and Mining Overlay zone may be applied through the initial legislative planning process, the plan update process or through individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area. Designation shall be carried out in accordance with the LCDDC Goal 5 rule, OAR 16, Division 16. Preparation of the ESEE analysis shall be the responsibility of the applicant.

Section 5.4665. Determination of Significance

Only sites deemed significant shall be zoned Quarry and Mining (/QMO) Overlay. Mining and processing activities at sites not zoned QMO may be allowed after conditional use approval under the criteria of Section 2.4000. All sites which have not been evaluated for significance shall be classified "1-B" on the County inventory for purposes of Goal 5. The following criteria shall be used in determining significance:

- 1) Significant Aggregate Resources. An aggregate resource shall have at least 250,000 cubic yards of reserve and meet at least two of the following minimum requirements:
 - (A) Abrasion: Loss of not more than 35% by weight;
 - (B) Oregon Air Degradation: Loss of not more than 35% by weight;
 - (C) Sodium Sulphate Soundness: Not more than 17% by weight.
 - (D) Other mineral resources. Significance of non-aggregate resources shall be determined on a case-by-case basis after consultation with DOGAMI.

Section 5.4670. Termination of QMO Zone

The Quarry and Mining Overlay zone designation shall be removed by the owner or the County through the zone change process when:

- 1) The owner of the mineral and aggregate site submits evidence showing a significant resource no longer exists on the site;
- 2) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
- 3) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this ordinance.

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SECTION 5.4700. DESTINATION RESORT OVERLAY DISTRICT (DRO)

Section 5.4705. Purpose and Intent

The purpose of the Destination Resort Overlay District is to recognize sites that are suitable and appropriate for the location of recreation oriented tourist and vacation resorts, and to establish standards to guide the development of such facilities. The Destination Resort Overlay District is intended to insure the compatibility of tourist and vacation resorts with the natural resources of the County.

Clatsop County recognizes that ocean shorelands and major rivers (Nehalem and Columbia) constitute outstanding natural scenic and recreational resources. Therefore, the Destination Resort Overlay District is provided for and may be applied only to lands some part of which are on or have a view of ocean or major river shorelines.

When a Destination Resort is requested and it is determined that an Exception is necessary to a Statewide Planning Goal an Exception shall be taken to the appropriate Goal or Goals.

Section 5.4710. General Provisions

- 1) This district may be requested where identified on the Comprehensive Plan/Zoning Map or in the text of the Plan. The establishment of this district requires a public hearing by the Planning Commission in conjunction with a Conceptual Plan.

The developer has three (3) years from the date of approval for the district change and Conceptual Plan to complete a Development Plan and be issued a building permit for a primary use. In the event that the developer has not been issued a building permit prior to the expiration date, the district change and Conceptual Plan are null and void. The Director shall then amend the Comprehensive Plan/Zoning Map to remove the /DRO District.

- (A) The Director may, upon written request by the applicant, grant an extension of the expiration date of up to one year upon the findings that:
- (B) Unforeseen circumstances or conditions have caused the delay;
- (C) The applicant has demonstrated reasonable diligence in attempting to meet the time limits imposed; and
- (D) Facts upon which the approval was based have not changed to an extent sufficient to warrant refileing.

Section 5.4715. Development and Use Permitted

The following developments are permitted subject to the approved Development Plan and to applicable development standards:

- 1) Developed recreation facilities, self-contained development and visitor oriented accommodations as part of one Destination Resort.

Section 5.4720. Application of the District and Procedure

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Application of the zone to a specific property is accomplished through a zone map change. Approval of a zone map change to Destination Resort Overlay District signifies that the affected property is suitable for development pursuant to Section 5.4700 through 5.4760 and subject to the Conceptual Plan approved at the time of zone change, but does not authorize development. The Conceptual Plan may contain phases of development. The zone district or districts applicable to the property preceding the change will be retained on the zoning map. If a proposed Development Plan (at least Phase I if the development is to be phased) is not submitted for a site within three years of the zone change to Destination Resort Overlay District, the Destination Resort Overlay District designation shall be extinguished. The Community Development Director shall then remove the Destination Resort Overlay District from the Comprehensive Plan/Zoning Map.

While the Destination Resort Overlay District is applicable to certain property, no development or use of the property shall occur, except as provided in Sections 5.4700 to 5.4760, in the underlying zone district or districts retained on the zoning maps and except for pre-existing uses which may be continued.

Development pursuant to this Destination Resort Overlay District shall be reviewed and approved without reference to the provisions of the underlying zone or zones except to the extent that the proposed development includes uses permitted in those zones and not otherwise permitted in the Destination Resort Overlay District. The requirements of other applicable overlay districts and supplemental standards shall apply. A proposed zone change from Destination Resort Overlay District to a district or districts other than the underlying zone or zones retained on the Comprehensive Plan/Zoning Map shall be evaluated as a change from such underlying district or districts.

- 1) **Zone Change:** An amendment to the Comprehensive Plan/Zoning Map to apply the Destination Resort Overlay District may be initiated by the Board of Commissioners, by the Planning Commission or by application of the property owner. The procedure shall be as provided in Section 2.8100 through 2.8120 but the matters to be included in an application and considered on review shall be as set forth in Section 5.4725 and the criteria for approval of the change shall be as set forth in Section 5.4730. A Conceptual Plan for the site shall be approved as a part of the zone change. The Conceptual Plan will identify any areas of the site that are not available for development and the general categories of development permissible on the remainder of the site. If development as identified on the Conceptual Plan requires one or more exceptions to Land Conservation and Development Commission Goals 3, 4, 17 or 18, the Goal 2 exception process shall be complied with at the time of the zone change.
- 2) **Conceptual Plan:** A Conceptual Plan shall determine the nature, location and phasing, if any, of development on property in the designated Destination Resort Overlay District. A property owner may initiate a request for approval of a

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Conceptual Plan by filing an application with the Department of Community Development. The procedure shall be as provided in Section 5.4720(3) but the matters to be included in an application and considered on review shall be as set forth in Section 5.4735 and the criteria for approval shall be as set forth in Section 5.4745.

- 3) Development Plan: A Development Plan shall include the elements provided in Section 5.4750 and shall be the authority for issuance of building and other required development permits. The proposed Development Plan shall be submitted to the Planning Division and approved or denied by the Director pursuant to the criteria set forth in Section 5.4755. If the proposed development will include subdivision or major partition of the property, preliminary approval shall be obtained prior to approval of the Development Plan. If the Conceptual Plan authorized phased development, the Development Plan may be for one or more of the phases. If a Development Plan is not submitted within three years of approval of the Conceptual Plan, the latter shall expire and a new Conceptual Plan shall be required unless prior to the end of the three year period, the property owner submits and receives a one-year extension.
- 4) Pre-application Conference: Prior to submitting a zone change application or a Conceptual Plan application, the property owner shall confer with the Community Development Director regarding the proposal and the requisites of the applications.

Section 5.4725. Application for Destination Resort Overlay District Zone Change

The following information shall be provided as part of the application for a zone change to the Destination Resort Overlay District:

- 1) The completed application form.
- 2) A site map, drawn to scale, showing the subject property and all property within 250' of the boundaries of the subject property.
- 3) A vicinity map showing the area and land uses within ½ mile of the property.
- 4) A site inventory and map including the following information as is available in the Comprehensive Plan or other readily available published inventories:
 - (A) SCS soils classifications.
 - (B) Forest site classifications.
 - (C) Goal 5 resources inventoried in the Comprehensive Plan.
 - (D) The shorelands boundary and shorelands resources inventoried in the Comprehensive Plan.
 - (E) Outstanding natural features not included within (C) or (D) above.
 - (F) Beach and dunes land form classifications.
 - (G) Geologic hazards.
 - (H) Areas of the Clatsop Plains Groundwater Aquifer including areas where the greatest amount of water may be withdrawn without damage of salt water intrusion, loss of stabilizing vegetation, loss of water quality or result

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- in a significant and permanent drawdown of the groundwater table.
- (I) A Conceptual Plan, including phases if the project is to be developed in phases, based on the site inventory and showing the general categories of development proposed for the site. The site shall be divided into units having common characteristics for the purpose of the plan. Any areas not suitable for development shall be designated.
 - (J) A legal description of the subject property as it appears on the deed or deeds.
 - (K) Assessor's maps of the subject property and all property within 250'.
 - (L) A written statement providing justification for the proposed zone change according to the approval criteria stated in Section 5.4730.
 - (M) A detailed determination of how the site is suitable for the proposed resort development considering:
 - 1. Natural amenities of the site;
 - 2. The type and extent of development proposed, and its direct and indirect on- site and off-site environmental, social and energy impacts;
 - 3. Access to adequate transportation facilities;
 - 4. The physical limitations for development of the site, including natural hazards such as flooding and steep slopes; and
 - 5. Whether or not the effects of the development can be limited to avoid interference with continued resource use of surrounding lands including intensive farming operations, highly sensitive natural resource sites; and
 - 6. Orderly and economic provision of key facilities (water, sewer, fire) assuming full development of the subject site.
 - (N) An economic and fiscal impact assessment showing whether or not there are net benefits to the County as a whole. Such an assessment should examine and consider:
 - 1. Changes in employment and income to the area and the County
 - 2. Changes in local revenues and demands for new or increased levels of public facilities and services
 - 3. Indirect economic impacts on the surrounding area including the effect of the loss of resource land
 - (O) Types, amounts and ownerships of units to be constructed.

Section 5.4730. Approval Criteria for Destination Resort Overlay District Zone Change

A zone change to Destination Resort Overlay District shall be approved upon findings that the following criteria are satisfied:

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- 1) The property has beach access or offers substantial views of ocean or major river shorelines.
- 2) The proposed site is suitable to accommodate a variety of amenities in conjunction with the living accommodations, or is located to take advantage of a specific scenic, natural or recreational resource that will constitute a special attraction for vacationers.
- 3) The proposed development of the property in accordance with the Conceptual Plan can be accomplished without substantial interference to or significant adverse effects upon identified sensitive or unique natural areas or ecological features.
- 4) The proposed development of the property can be accomplished in accordance with the Conceptual Plan in a manner than will be compatible with adjacent lands.
- 5) Suitable access exists or can be provided to serve development of the proposed site.
- 6) Adequate public services can be provided to serve full development of the property.
- 7) Required findings for needed Goal exceptions have been made.
- 8) The requirements of Section 5.4725(4)(M) and (N).

Section 5.4735. Contents of Application for Conceptual Plan

The information required as part of the Conceptual Plan shall be as stated in Sections 2.9000 through 2.9300 of the Land and Water Development and Use Ordinance.

Section 5.4740. Development Standards

- 1) Land Coverage Limitation (Density): Living units, enclosed recreation, entertainment or commercial facilities, off loading facilities, parking, roads and streets may occupy a maximum of 35% of the gross land area of the development.
- 2) Destination resorts shall be served by on-site sewage and water systems approved by the DEQ, except in cases where it is beneficial to connect to an existing or previously planned system serving adjacent or surrounding lands and there are no significant adverse consequences therefrom.
- 3) Adequate fire protection shall be available through an existing fire district or provided on site.
- 4) A Destination Resort proposal shall not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the permitted use of the surrounding properties. A Destination Resort proposal shall not force a significant change in or significantly increase the cost of farm or forest practices on nearby lands devoted to farm or forest uses.
- 5) To the greatest extent possible, significant vegetation and natural features on the property shall be preserved.

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- 6) All requirements of other applicable County ordinance provisions shall be satisfied. Commercial services provided as a part of the Destination Resort shall be contained within the development.
- 7) Commercial buildings shall be designed to be compatible in appearance with the living accommodations, and shall be constructed of similar materials. The commercial services provided shall be in scale with the overall development.
- 8) A majority of the units must be visitor oriented accommodations. Availability of the units shall be assured by the agreement of the applicant imposed as a condition of Development Plan approval and by restrictive covenants recorded in the County deed records binding living units sold separately pursuant to an approved subdivision or condominium.
- 9) The Final Plan shall be consistent with the Conceptual Plan approved for the property.
- 10) Trash receptacles, and parking lots shall be screened from view from public places and neighboring properties, through the use of features such as berms, fences, false facades, and dense landscaping.
- 11) There shall be a 50 foot wide landscaped area in the boundary area containing trees and shrubs with a fence or a berm.
- 12) Long expanses of fence or wall along public streets or roads shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials.
- 13) To reduce building scale along the perimeter of the development site, earth sculpturing and other techniques shall be used.
- 14) The building arrangement shall provide for open space linkages in such a way that the required open space extends from the street into the interior of the site.
- 15) Access shall be designed to cause minimum interference with traffic movement on abutting streets or roads. Where necessary, additional right-of-way shall be dedicated to maintain adequate traffic circulation.
- 16) Metal siding and roof surfaces shall be covered and maintained with a non-reflective paint.
- 17) Artificial lighting shall be so arranged and constructed as to not produce direct glare on adjacent residential properties or otherwise interfere with the use and enjoyment of any property.

Section 5.4745. Conceptual Plan

The Conceptual Plan for a Destination Resort development permitted under Sections 5.4700 through 5.4755 may be approved upon finding that the following criteria have been met:

- 1) The proposed development has been designed to function as an attraction for vacationers and other visitors, and an adequate level and variety of amenities is available in relation to the living accommodations provided to accomplish this purpose.

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- 2) The development has been designed to include beach access or views of the ocean or major river shorelands as a major feature of the project.
- 3) The proposed type and level of development is appropriate to the site, meets the development standards contained herein, and will be compatible with the existing uses of the adjacent lands as well as the potential future uses as indicated by the current Comprehensive Plan and zoning designations.
- 4) The proposed means of external and internal circulation is adequate to provide for the safe movement of vehicles and pedestrians.
- 5) Adequate public services will be available to serve the development, including water supply, sewage disposal, electric power, telephone service, police and fire protection.
- 6) Significant vegetation and natural features on the property have been substantially preserved.
- 7) The commercial services proposed as a part of the development, if any, are in keeping with the overall scale of the project and have been located and designed to be compatible with the primary purpose of resort development.
- 8) A detailed determination of how the site is suitable for the proposed resort development considering:
 - (A) Natural amenities of the site;
 - (B) The type and extent of development proposed, and its direct and indirect on-site and off-site environmental, social and energy impacts;
 - (C) Access to adequate transportation facilities;
 - (D) The physical limitations for development of the site, including natural hazards such as flooding and steep slopes; and
 - (E) Whether or not the effects of the development can be limited to avoid interference with continued resource use of surrounding lands including intensive farming operations, highly sensitive natural resource sites; and
 - (F) Orderly and economic provision of key facilities (water, sewer, fire) assuming full development of the subject site.
 - (G) An economic and fiscal impact assessment showing whether or not there are net benefits to the County as a whole. Such an assessment should examine and consider:
 - (H) Changes in employment and income to the area and the County
 - (I) Changes in local revenues and demands for new or increased levels of public facilities and services
 - (J) Indirect economic impacts on the surrounding area including the effect of the loss of resource land.

Section 5.4750. Development Plan Contents

The information required as a part of the Development Plan shall be as stated in the Clatsop County Land and Water Development and Use Code.

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Section 5.4755. Development Plan Approval Criteria

The Development Plan for the site, or for a phase of development if applicable, shall be approved if it contains the information required under Section 5.4750, is consistent with the approved Conceptual Plan and if all other applicable County requirements have been met.

Section 5.4760. Conditions

Clatsop County shall require conditions necessary and sufficient to ensure that the development is compatible with continued resource use of surrounding lands. These measures may include, but are not limited to:

- 1) Limiting the number of dwelling units;
- 2) Limiting the overall density of the development;
- 3) Limiting the location of structures, roads and physical alterations, or otherwise restricting layout to protect important natural features or to buffer the resort from adjacent or nearby uses; and
- 4) Additional planning and zoning controls on nearby land to reduce or manage pressures of off-site development created by the destination resort.

SECTION 5.4800. PLANNED DEVELOPMENT OVERLAY DISTRICT (PDO)

Section 5.4805. Purpose

It is the intent of the Planned Development special district to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision. In this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses; the economy of shared service and facilities; compatibility of surrounding areas; and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working. Specifically, it is the purpose of this section to promote and encourage:

- 1) Comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development.
- 2) Appropriate mixtures of housing types and designs.
- 3) Appropriate mixture of uses.
- 4) More attractive and usable open space.
- 5) Advances in technology, architectural design, functional land use design.
- 6) Recognition of the problems of population density, distribution, and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives.
- 7) Flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potential of sites characterized by special features of geography, topography, size or shape.

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It is also not the intention of this section to be a bypass of regular zoning provisions solely to allow increased densities nor is it a means of maximizing densities on parcels of land which have unbuildable or unusable areas.

Section 5.4810. Applicability

A Planned Development may be located in any of the following zones provided that a Planned Development (PDO) suffix has been added to the underlying zone and provided the development is in accordance with the criteria, standards and provisions of this section: AC-RCR, KS-RCR, RCR, RCMFR, RSA- SFR, RSA-MFR, CR, SFR-1, RA-1, RA-2, RA-5, RA-10, RCC, GC, TC RCC-LI, RCI, and LI (except in the Clatsop Plains planning area).

Section 5.4815. Approval Criteria

In addition to the development standards and procedures specified in this special district, the Planning Commission shall require that the following criteria are met prior to approval of a Planned Development:

- 1) The location, size and type of development are consistent with the County Comprehensive Plan.
- 2) Commercial developments part of Planned Developments shall be limited in size and service to that appropriate to serve the neighborhood of which the Planned Development is an integral part and shall be designed to provide goods and services primarily to the residents of the Planned Development.
- 3) The location, size and design are such that the development can be well integrated with its surroundings with little if any impact on adjacent properties and development.
- 4) The location, size and type of development are such that traffic generated can be accommodated safely and conveniently on existing or planned arterial or collector streets or on improved roads.
- 5) The development will be adequately served by existing or planned facilities and services.
- 6) Any deviation from the standards of the underlying zone are warranted by the design and amenities incorporated in the development plan and program.
- 7) Adequate provision is made for the preservation of natural resources such as bodies of water, significant vegetation and special terrain features.
- 8) Sufficient financing exists to assure that the proposed development will be substantially completed within four (4) years of approval.
- 9) Permanent common open space as part of subdivisions or planned development adjoining one another shall be integrated and continuous whenever possible. Open space can follow ridge tops, deflation plains or shorelands, forest land (as a buffer) and other resource lands.

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Section 5.4820. General Development and Use Standards and Requirements.

- 1) Size:
 - (A) Planned developments may be established in residential districts on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of Section 5.4800. For those planned developments which are located in the RSA-SFR, RSA-MFR, CR, SFR-1, RA-1, GC, TC, and LI zones, the site shall include not less than four acres of contiguous land. For those located in a RA-2 the site shall include not less than eight acres of contiguous land, and for those located in a RA-5 the site shall include not less than twenty acres of contiguous land, unless the Planning Commission or Board of commissioners, upon appeal, find that property of less than the requirement above is suitable by virtue of its unique historical character, topography, or other natural features, or by virtue of its qualifying as an isolated problem area.
 - (B) Combination residential-commercial-industrial developments may be established in residential, commercial and light industrial zones on parcels of land which are suitable for and of a sufficient size to be planned and developed in a manner consistent with the purpose and objectives of Section 5.4800.
- 2) Ownership:
 - (A) The tract or tracts of land included in a proposed planned development must be in one ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase or any governmental agency or redeveloper under contract with a governmental agency, shall be deemed the owner of such land for the purposes of this section.
 - (B) Unless otherwise provided as a condition of approval of a planned development permit the permittee may divide and transfer units of any development. The transferee shall use and maintain each such unit in strict conformance with the approved permit and development plan.
- 3) Professional Design:
 - (A) The applicant for all proposed planned developments shall certify that the talents of the following professional will be utilized in the planning process for development: (1) an architect licensed by the state, (2) a landscape architect licensed by the state, and (3) a registered engineer or land surveyor licensed by the state. The Planning Commission may waive this requirement provided the applicant can show that equivalent and acceptable design talents have been utilized in the planning process.
 - (B) One of the professional consultants chosen by the applicant from the above group shall be designated to be responsible for conferring with the Department of Community Development with respect to the concept and

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- details of the plan.
- (C) The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the Department of Community Development or the Commission.
- (4) General Information. The planning process for development shall include:
 - (A) Plot plan of land in area to be developed indicating location of adjacent streets and all private rights-of-way existing and proposed.
 - (B) A legal boundary survey.
 - (C) Existing and proposed finish grades of the property with all drainage features.
 - (D) Location of all proposed structures, together with the usage to be contained therein and approximate location of all entrances thereto and height and gross floor area thereof.
 - (E) Vehicular and pedestrian circulation features within the site and on adjacent streets and alleys.
 - (F) The extent, location, arrangement and proposed improvements of all off-street parking and loading facilities.
 - (G) The extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
 - (H) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
 - (I) Number of units proposed.
 - (J) Contour lines at 2-foot intervals.

Section 5.4825. Development and Use Standards

In addition to, or as a greater requirement to the regulations normally found in the district, the following guidelines and requirements shall apply to all developments for which a planned development permit is required:

- 1) Outdoor living area guidelines: In all residential developments, or in combination residential-commercial-industrial developments, 40 percent of the total area should be devoted to outdoor living area. Of this area, 25 percent of said outdoor living area may be utilized privately by individual owners or users of the planned development; however, 75 percent of this area should be common or shared outdoor living area.
- 2) Height guidelines: The same restrictions shall prevail as permitted outright in the district in which such development occurs, except that the Commission may further limit heights:
 - (A) Around the site boundaries, and/or
 - (B) To protect scenic vistas from encroachments.
 - (C) Underground utilities: In any development which is primarily designed for or occupied by dwellings all electric and telephone facilities, fire alarm, conduits, street light wiring, and other wiring, conduits and similar facilities

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- shall be placed underground by the developer.
- 3) Density guidelines:
 - (A) The density of a planned development shall not exceed the density of the parent zone, except as more restrictive regulations may be prescribed as a condition of a planned development permit. When calculating density, the gross area is used in the total area including street dedications.
 - (B) Areas of public or semi-public uses may be included in calculating allowable density.
 - 4) Distribution of facilities without reference to lot lines: Individual buildings, accessory buildings, off-street parking, and loading facilities, open space, and landscaping and screening may be located without reference to lot lines, save the boundary line of the development, except that required parking spaces serving residential uses shall be located within 200 feet of the building containing the living units served.
 - 5) Waiver or reduction of yard and other dimensional requirements: Except as otherwise provided, the minimum lot area, width and frontage, height and yard requirements otherwise applying in the district shall not dictate the strict guidelines for development of the planned development but shall serve to inform the designers of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood.
 - 6) Dedication and maintenance of facilities: The Planning Commission, or on appeal, the Board of Commissioners, may, as a condition of approval for any development for which a planned development permit is required, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:
 - 7) Recreation facilities: The Planning Commission or Board of Commissioners, as the case may be, may require that suitable area for parks, playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the development.
 - (A) Outdoor living area: Whenever private outdoor living area is provided, the Planning Commission or Board of Commissioners shall require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such Articles of Incorporation and Bylaws and adopt and impose such Declaration of Covenants and Restrictions on such outdoor living area and/or common areas that are acceptable to the Commission. Said association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said outdoor living areas for the purposes intended. The period of existence of such association shall be not less than 20 years, and it shall

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continue thereafter and until a majority vote of the members shall terminate it.

- (B) Streets: The Planning Commission or Board of Commissioners may require that the right-of-way width of such other streets necessary to the proper development of adjacent properties be dedicated to the County.
- (C) Easements: Easements necessary to the orderly extension of public utilities may be required as a condition of approval.
- (D) Developments shall be allowed only if services or public facilities (water, sewer, fire protection) are capable of supporting increased loads. Phasing of development may be allowed if improvement of public facilities is assured by the time of construction and the additional loads are anticipated.
- (E) If water, sewer or public utility systems are utilized either in the development of a subdivision or the building of individual residences, the provider of the services shall approve and show intentions to install services to the new structure(s) prior to the issuance of either plat approvals or development permits.
- (F) All new development shall install underground utilities such as electric, telephone and television cable.

Section 5.4830. Application Procedures

There shall be a three-stage review process for planned developments consisting of Pre-application Conference (Stage One), Preliminary Approval (Stage Two), and Final Approval (Stage Three).

- 1) Pre-application Conference (Stage One): The owner, or his authorized agent, shall submit to the Department of Community Development the following information:
 - (A) A schematic drawing, drawn to a minimum scale of one inch equals 200 feet (1"=200'), showing the general relationship contemplated among all public and private uses and existing physical features.
 - (B) A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, dwelling types, non-residential uses, lot layout, public and private access, height of structures, lighting, landscaped areas to be devoted to various uses, and population densities per net acre and per gross acre contemplated by the applicant.

The developer and the Department of Community Development shall meet together and determine whether the requirements of Section 5.4810 of this Ordinance have been complied with. If there is disagreement on this issue, the applicant, by request, or the Department of Community Development, may take this pre-application information to the Planning Commission for their determination of whether this site qualifies for the contemplated planned

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development.

The applicant must indicate to the Department of Community Development or Commission his professional design team, as outlined in Section 5.4810(1) during Stage One, and should also designate who is to be his professional coordinator.

The professional coordinator shall be responsible for presenting the developer's plan in all of the broad professional aspects to the Planning Division. If the Department of Community Development and applicant reach a satisfactory agreement the applicant may proceed to prepare data for Stage Two-Preliminary Approval.

2) Preliminary Approval (Stage Two):

(A) Applicants for planned developments, preliminary approval, shall be made by the owner of all affected property or his authorized agent, and shall be filed on a form prescribed by the Department of Community Development and filed with said department. Applications shall be accompanied by the following information:

4. Four (4) copies of a preliminary development plan of the entire development, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and approximate dimensions of structures, utilization of structures, including activities and the number of living units; major landscaping features; relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space. Such development plan shall include maps and information on the surrounding area within 400 feet of the development. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor, plus contour information, shall also be submitted.

The elevations of all points used to determine contours shall be indicated on the preliminary plan and said points shall be given true elevation above mean sea level as determined by the County Engineer. The base data used shall be clearly indicated and shall be compatible to County datum, if bench marks are not adjacent. Two-foot contour intervals are required.

All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact.

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2. A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.
 3. A stage development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion.
 4. It is proposed that the final development plan will be executed in stages, a schedule thereof will be required.
- (B) An application for a planned development permit shall be considered by the Planning Commission under a Type III procedure. After such hearing, the Commission shall determine whether the proposal conforms to the planned development regulations in Sections 5.4800 through 5.4850, and may approve or disapprove in concept the application and the accompanying preliminary development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. Should a decision not be rendered within 60 days after filing, the application and preliminary development plan shall be deemed approved in concept unless said time has been extended by the Commission.
- 3) Final Approval (Stage Three):
- (A) Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file with the Planning Division a final plan for the entire development or, when submission in stages has been authorized pursuant to Section 5.4810(2) for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan plus the following: the location of water, sewerage and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required by the Commission for dedication or reservation of public facilities, or for the creation of a non-profit homeowner association, shall also be submitted.
 - (B) Within 30 days after the filing of the final development plan, the Commission shall forward such development plan and the original

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application to the County Road Department for review of public improvements, including streets, sewers and drainage. The Commission shall not act on a development plan until it has first received a report from the County Road Department or until more than 30 days have elapsed since the plan and application were sent to the County Road Department, whichever is the shorter period.

- (C) Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine whether it conforms in all substantial respects to the previously approved planned development permit, or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary insure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.
- (D) After final concept approval by the Planning Commission, the planned development application will be sent to the Board of Commissioners for consideration for final approval. A public hearing shall be held on each such application. After such hearing, the Board of Commissioners shall determine whether the proposal conforms to the permit criteria set forth in the planned development regulations in Sections 5.4800 through 5.4850 and may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to insure conformity to said criteria and regulations. The decision of the Board of Commissioners shall be final.

Section 5.4835. Limitation on Resubmission

Whenever an application for a planned development permit has been denied, no application for the same plan or any portion thereof shall be filed by the same applicant within six months after the date of denial.

Section 5.4840. Adherence to Approved Plan and Modification Thereof

- 1) The applicant shall agree in writing to be bound, for himself and his successors in interest, by the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Zoning and Subdivision Administrator if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.
- 2) A performance bond shall be required, in an amount to be determined by the

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Planning Commission, to ensure that a development proposal is completed as approved and within the time limits agreed to.

Section 5.4845. Violation of Conditions

Failure to comply with the final development plan, any condition of approval prescribed under Section 5.4810(3), or to comply with the stage development schedule, shall constitute a violation of this Ordinance. In this event, the Board of Commissioners may, after notice and hearing, revoke a planned development permit.

Section 5.4850. Common Open Space

Maintenance of common open space shall be subject to Section 3.3060.

SECTION 5.5000. NORTH CLATSOP PLAINS OVERLAY DISTRICT (NCP)

Section 5.5010. Purpose

The North Clatsop Plains overlay district NCP implements provisions of the Clatsop Plains Community Plan specific to the North Clatsop Plains Sub-Area. It is intended to provide for the planned and orderly growth of the North Clatsop Plains Sub-Area while protecting and maintaining natural resource values and preserving the semi-rural characteristics of the area. It is further intended to maintain compatibility between land uses in the vicinity of Camp Rilea while maintaining landowners' rights to reasonable use of their land.

Section 5.5020. Applicability

The North Clatsop Plains overlay district (NCP) applies to areas designated NCP on the Clatsop County Zoning Map.



View of elk on the Clatsop Plains

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Section 5.5030. Development and Uses Permitted

Development and uses permitted in the underlying zoning district are permitted in the North Clatsop Plains overlay district (NCP).

Section 5.5040. Conditional Development and Use

Developments and uses conditionally allowed in the underlying zoning district are conditionally allowed in the North Clatsop Plains overlay district (NCP), pursuant to procedures outline in Article 2 of this ordinance.

Section 5.5050. Development and Use Standards

- 1) Increases in residential density in the NCP overlay district through zone changes and density transfers are prohibited.
- 2) Notwithstanding the provisions of Development Standards Section 3.3040, where common open space is required to be designated within the North Clatsop Plains Sub-Area, the location and configuration of such open space shall be prioritized based on the following criteria; open space areas meeting more than one criterion are preferred:
 - (A) Open space buffers between residential uses and Camp Rilea;
 - (B) Wildlife corridors;
 - (C) Trail corridors;
 - (D) Ridge tops, deflation plains, and shorelands.
- 3) New dwellings within the NCP overlay shall comply with the noise attenuation construction standards of Title 15 of the Clatsop County Code of Regulations.
- 4) Notwithstanding the provisions of Section 3.3050, Density Transfer Standards within the NCP district are subject to the following requirements and exceptions:
 - (A) Density may be transferred more than once from a single density transfer sending site within the /NCP overlay until all density is removed from the site;
 - (B) All density transfer receiving sites shall be located outside the NCP overlay district;
 - (C) Density transfer credits need not be applied to a receiving site at the time of transfer but may be saved in a Density Transfer Bank maintained by Clatsop County.

5.5100. STANDARDS FOR FLOATING RESIDENCES AND FLOATING RECREATIONAL CABINS

Section 5.5110. Floating Residences & Floating Recreational Cabins

- 1) Except as provided in this Section, floating recreational cabins and floating residences are not allowed in Clatsop County. Existing structures that meet criteria described in this Section shall be allowed subject to the nonconforming use and structure provisions of this Ordinance.
- 2) Floating residences and floating recreational cabins are subject to applicable provisions of the Standards Document of Clatsop County Ordinance 80-14.

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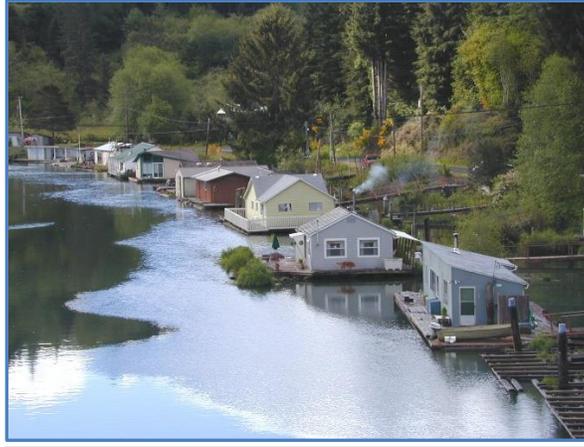
- 3) New floating residences and floating recreational cabins are allowed only in zones that specifically allow floating residences and floating recreational cabins by approved County permit.
- 4) Any floating residence or floating recreational cabin in existence and lawfully moored prior to January 1, 2000, that complies with applicable County standards may be considered a legal nonconforming structure, and will be allowed, subject to the provisions of this Section. A property owner wishing to obtain nonconforming structure status shall provide documentation that substantiates that the floating residence or recreational cabin:
 - (A) Was in existence and lawfully moored prior to January 1, 2000;
 - (B) Complies with applicable rules and regulations of the Oregon Division of State Lands; and
 - (C) Complies with applicable rules and regulations of the Oregon Department of Environmental Quality.
 - (D) Acceptable forms of documentation include but are not limited to, lease agreements, legal ownership records on file with the County Clerk, tax records, dated aerial photography, sworn affidavits and/or written reports.
 - (E) A lawfully moored floating residence or recreational cabin in existence prior to January 1, 2000, that does not comply with County standards shall have until January 1, 2006 to demonstrate compliance with those standards and qualify for legal nonconforming status.

5.5120. Standards for Floating Residences and Floating Recreational Cabins

Floating residences and recreational cabins shall demonstrate and maintain at all times:

- (1) Lawful moorage;
- (2) Compliance with rules and regulations of the Oregon Division of State Lands in existence on the date the structure was approved by Clatsop County; and
- (3) Compliance with rules and regulations of the Oregon Department of Environmental Quality in existence on the date the structure was approved by Clatsop County.

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Floating residences along John Day River.

5.5130. Access and Parking Standards

The owner of a floating residence or recreational cabin must demonstrate and at all times maintain lawful access to the structure. In addition, the owner must demonstrate at all times not less than two (2) lawful parking spaces. The parking spaces must be at the normal and customary location at which users park their vehicles to access the structure.

5.5140. Failure to Comply with Floating Residence and Floating Recreational Cabin Standards

If it is determined by the Code Compliance Specialist that the owners or users of a floating residence that is a lawful nonconforming structure are in violation of County standards, the Code Compliance Specialist shall, in addition to any other remedy allowed by law or ordinance, revoke the owner's right to maintain the floating residence.

SECTION 5.5200. PARK MASTER PLAN ZONE (PMP)

Section 5.5210. Purpose

The purpose of this zone is to provide for the long term protection, management and enjoyment of natural, cultural, scenic, open space and recreational resources within publicly-owned or managed parks. Through the implementation of adopted park master plans, this zone provides for the development of park facilities and the support of recreational uses in a manner that is consistent with defined park management objectives, the County's Comprehensive Plan, and the Statewide Planning Goals.

Section 5.5220. Applicability

This zone will be applied only to public parks which has master plans adopted by Clatsop County pursuant to OAR 660 Division 34. For state parks, the master plans shall also have adopted by the Oregon Parks and Recreation Department (OPRD) pursuant to OAR 736 Division 18. The adoption of this zone for a park shall supersede

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all previously adopted zones and overlay districts for the subject park property for as long as the property remains in public ownership or management and is used for public park purposes. In the event that such park property is transferred to private ownership or ceases to be managed or used for park purposes, a Comprehensive Plan and Zoning Map amendment shall be applied for and approved, consistent with the Statewide Planning Goals, prior to the approval of any development permits for the subject property.

Section 5.5230. Park Development and Uses Allowed

Park uses and facilities that are consistent with a park master plan adopted pursuant to OAR 660 Division 34, and with applicable development standards, are allowed through the review procedures specified below:

- 1) Uses and facilities described in the park master plan are allowed through the review procedures specified in the master plan for the described projects.
- 2) Minor variations from the uses and facilities described in the park master plan are allowed through the review procedures specified in the master plan for the described projects, unless the master plan language specifically precludes such variations. The standards in Section 3.195 of this ordinance shall be used to determine whether a proposed variation from a planned use or facility is minor.
- 3) Accessory uses and facilities which are incidental and customarily appurtenant to the uses and facilities described in this park master plan are allowed through Type I procedures.
- 4) The repair and renovation of existing park facilities are allowed through Type I procedures.
- 5) The replacement, in the same location and size, of existing park facilities is allowed through Type I procedures.
- 6) The replacement, with minor location changes, of park facilities that existed on the effective date of this ordinance (October 26, 2001) is allowed through Type 2 procedures. The standards in Section 3.916 of this ordinance shall be used to determine whether a proposed location change for an existing park facility is minor.
- 7) The minor expansion of park uses and facilities that existed on the effective date of this ordinance (October 26, 2001) is allowed through Type 2 procedures. The standards in Section 3.916 of this ordinance shall be used to determine whether a proposed expansion of an existing use or facility is minor.
- 8) Road construction, construction, and maintenance only as provided in paragraph (a) through (c) of this section.
 - (A) A road may be constructed or reconstructed if it is determined through a Type III process that one of the following circumstances exists:
 1. A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or to conduct a natural resource restoration

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- action under CERCLA, Section 311 of the Clean Water Act, or the Oil Pollution Act;
2. A road is needed pursuant to reserved or outstanding rights, of as provided for by state statute or treaty;
 3. Road realignment is needed to prevent irreparable resource damage that arises from the design, location, use or deterioration of an existing road that cannot be mitigated by road maintenance. Realignment may occur under this paragraph only if the road is deemed essential for public or private access, natural resource management or public health or safety;
 4. Road reconstruction is needed to implement a road safety improvement project on an existing road determined to be hazardous on the basis of accident experience or accident potential on that road.
- (B) A road may be constructed or reconstructed if the Oregon Parks and Recreation Department, in consultation with Clatsop County, determines that a road is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event, that, without intervention, would cause the loss of life or property.
- (C) Maintenance of existing roads is permissible.
- 9) Proposed park uses and facilities that are not provided for in subsections 1 through 8 of this section shall require an amendment to the park master plan adopted through the Plan Amendment process described under OAR 660 Division 34.

Section 5.5240. Park Master Plan

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Each park master plan implemented through this ordinance shall include:

- 1) Findings that describe the park issues regarding the constraints, needs, and opportunities related to the use and development of the park and the protection, management, and interpretation of park resources.
- 2) Maps that adequately illustrate the locations of park resources that are important to the use and development of the park and to the protection, management, and interpretation of resources, including maps that depict significant habitat, protected species, significant plant communities, water features, natural hazards, cultural resource sites, and scenic resources.
- 3) Goals for park use and development for the protection, management, and interpretation of park resources.
- 4) Narrative descriptions, site plans, and illustrations as necessary to adequately describe the types, locations, sizes, capacities, and site designs of the existing and planned park uses and facilities.
- 5) Guidelines for the management of the park's natural, cultural and scenic resources.
- 6) Standards for the development of planned park facilities in identified sensitive resource areas, including riparian areas, wetlands, estuarine areas, coastal lakes, significant upland habitat, coastal dune hazard areas, and flood hazard areas.
- 7) Findings that demonstrate that the park master plan is in compliance with the Statewide Planning Goals.
- 8) Any additional information that the Community Development Director deems necessary to adequately assess the compliance of the park master plan with the Statewide Planning Goals.

Section 5.5250. Standards for Reviewing Proposed Variations from Park Master Plans.

The following standards shall be used to determine whether a proposed variation from a planned park use or facility is minor. A proposed variation may be determined to be minor if it is not expected to cause significant impacts on adjacent land uses, other uses in the park, local public services, transportation systems, or important natural, cultural, or scenic resources. Further:

- 1) A proposed location change for a planned park facility may be determined to be minor if it does not cause the facility to serve a different park use area.
- 2) The following limitations shall apply to determinations involving minor expansions of planned park facilities:
 - (A) A maximum of 20 percent increase in the floor area of any planned permanent building, provided that this limitation shall not apply to the following: toilet and shower buildings, garbage and recycling collection buildings; campground registration and storage buildings; and any other accessory building that does not exceed 120 square feet after expansion;

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- (B) A maximum of 20 percent increase in the number of planned bedrooms in any lodge, inn, bed and breakfast, barracks or bunkhouse, or group of cabins, or in any park use area;
 - (C) A maximum of 20 percent increase in the number of planned camp sites in any general or group camping area;
 - (D) A maximum of 20 percent increase in the number of planned parking spaces in any parking lot or park use area;
 - (E) A maximum of 20 percent increase in the surface area of any planned road for purposes of improving safety, realignment or widening; or
 - (F) Extension of a road to provide access to a planned use that is expanded or relocated under the provisions of this section may be considered minor only to the extent needed to serve the expanded or relocated use.
- 3) A proposal for a different kind or location of park use area from those in the adopted master plan shall not be considered a minor variation.
 - 4) Within an existing or planned park use area, a proposal for a park facility that is different from the kind of park facilities in that park area in the adopted master plan shall not be considered a minor variation, except that proposals for the following different facilities may be considered minor variations: toilet and shower buildings, garbage and recycling facilities; campground registration and storage buildings; any other accessory structure not exceeding 120 square feet; alternative camping structures such as yurts, camper cabins, tepees and covered wagons in planned or existing tent and RV sites; picnic shelters in day use area; and trails.
 - 5) Outside of existing and planned park use areas, new trails located at least 300 feet from the nearest park boundary may be considered minor variations from adopted master plans.

Section 5.5260. Standards for Review Proposed Location Changes and Expansions of Existing Park Uses and Facilities

The following standards shall be used to determine whether a proposed location change or expansion of an existing park use or facility is minor. A proposed location change or expansion may be determined to be minor if it is not expected to cause significant impacts on adjacent land uses, other uses in the park, local public services, transportation systems, or important natural, cultural, or scenic resources. Further:

- 1) A location change for an existing park facility may be determined to be minor if it does not cause the facility to serve a different park use.
- 2) The following limitations shall apply to determinations involving minor expansions of existing park uses and facilities;

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- (A) A maximum of 20 percent increase in the floor area of any permanent building, provided that this limitation shall not apply to the following: toilet and shower buildings, garbage and recycling collection buildings; campground registration and storage buildings; and any other accessory building that does not exceed 120 square feet after expansion;
- (B) A maximum of 20 percent increase in the number of planned bedrooms in any lodge, inn, bed and breakfast, barracks or bunkhouse, or group of cabins, or in any park use area;
- (C) A maximum of 20 percent increase in the number of planned camp sites in any general or group camping area;
- (D) A maximum of 20 percent increase in the number of planned parking spaces in any parking lot or park use area; and
- (E) A maximum of 20 percent increase in the surface area of any road for purposes of improving safety, realignment or widening; or
- (F) Extension of an existing road to provide access to a that is expanded or relocated under the provisions of this section may be considered minor only to the extent needed to serve the expanded or relocated use.

SECTION 5.5300 AIRPORT OVERLAY ZONE (AO)

Section 5.5310. Purpose

In order to carry out the provisions of this overlay zone, there are hereby created and established certain zones which include all of the land lying beneath the Airport Imaginary surfaces as they apply to the airport in the (city/county). Such zones are shown on the current airport Airspace and Runway Approach Zone drawings.

Further, this overlay zone is intended to prevent the establishment of airspace obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety, and welfare of the people of the (city/county).

Section 5.5320. Special Definitions

AIRPORT APPROACH SAFETY ZONE. The land that underlies the approach surface, excluding the RAZ

AIRPORT HAZARD. Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

AIRPORT IMAGINARY SURFACES. Those imaginary areas in space which are defined by the Approach Surface, Transitional Surface, Horizontal Surface, and Conical Surface and in which any object extending about these imaginary surfaces is an obstruction.

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APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1,250 feet for utility runway having only visual approaches; 1,500 feet for a runway other than a utility runway having only visual approaches; 2,000 feet for a utility runway having a non-precision instrument approach; 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; 4,000 feet for a non-precision instrument runway having visibility minimums as low as three-fourths statute mile; and 16,000 feet for precision instrument runways. The Approach Surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward to each foot upward (20:1) for all utility and visual runways; 10,000 feet at a slope of 34 feet outward for each foot upward (34:10 for all non-precision instrument runways other than utility; and for all precision instrument runways extends for a horizontal distance of 10,000 feet at a slope of 50 feet outward for each foot upward (50:1); thence slopes upward 40 feet outward for each foot upward (40:1) an additional distance of 40,000 feet.

CONICAL SURFACE. Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each of the Primary Surface of each visual and utility runway or 10,000 feet for all non-precision instrument runways other than utility at 150 feet above and airport elevation) and upward extending to a height of 350 feet above the airport elevation.

HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging runways 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and 10,000 feet from the center of each end of the Primary Surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.

NOISE SENSITIVE AREA. Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 DNL.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.

PLACE OF PUBLIC ASSEMBLY. Structure of place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.

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PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MLS), Global Positioning Satellite (GPS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is not indicated by a FAA approved airport layout plan; any other FAA or state planning document, or military service airport-planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the primary Surface is 250 feet for utility runways having only visual approaches, 5,000 feet for utility runways having non-precision instrument approaches, 5,000 feet for other than utility runways having only visual approaches or non-precision instrument approaches with visibility minimums greater than three-fourths of a mile and 1,000 feet for non-precision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.

RUNWAY APPROACH ZONE (RAZ). An area off the runway end (formerly the clear zone) used to enhance the protection of people and property on the ground. The RAZ is trapezoidal in shape and centered about the extended runway centerline. It begins 200 feet (60m) beyond the end of the arcs usable for takeoff or landing. The RAZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.

TRANSITIONAL SURFACE. Extend seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface)

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VISUAL RUNWAY. A runway that is intended solely for the operation of aircraft using visual approach procedures when no instrument approach procedures have been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.

Section 5.5330. Permitted Uses Within the Runway Approach Zone (RAZ)

While it is desirable to clear all objects from the RAZ, some uses are permitted, provided they do not attract wildlife, are below the approach surface and do not interfere with navigational aids.

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- 1) Agricultural operations (other than forestry or livestock farms.)
- 2) Golf courses (but not club houses).
- 3) Automobile parking facilities

Section 5.5340. Conditional Uses Within the Airport Approach Safety Zone

- 1) A structure or building accessory to a permitted use.
- 2) Single family dwellings, mobile homes, duplexes, and multifamily dwellings, when allowed by the underlying zone, provided the landowner signs and records in the deed and mortgage records of (city/county) a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and the (city/county) Planning Departments.
- 3) Commercial and industrial uses, when allowed by the underlying zone, provided the use does not result in:
 - (A) Creating electrical interference with navigational signals or radio communication between the airport and aircraft.
 - (B) Making it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.
 - (C) Impairing visibility.
 - (D) Creating bird strike or other wildlife hazards.
 - (E) Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use airport
 - (F) Attracting a large number of people
- 4) Buildings and uses of public works, public service, or public utility nature.

Section 5.5350. Procedures

An applicant seeking a conditional use shall follow procedures set forth in the urban growth management plan/agreement between the (city/county). Information accompanying the application shall also include the following:

- 1) Property boundary lines as they relate to the Airport Imaginary Surfaces.
- 2) Location and height of all existing and proposed buildings, structures, utility lines, and roads.

In accordance with OAR Chapter 738 Division 100, City or County Planning Authority shall notify the owner of the airport and Aeronautics Section on land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of instrument airport so as to provide Oregon Aeronautics Section an opportunity to review and comment.

Section 5.5360. Limitations

- 1) To meet the standards established in FAA Regulations, Part 77 and OAR Chapter 738 Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined above.
- 2) No place of public assembly shall be permitted in the Airport Approach Safety

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Zone or RAZ.

- 3) No structure or building shall be allowed within the RAZ.
- 4) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- 5) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.
- 6) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed, and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries), the permit application shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL. The planning and building department will review building permits or noise sensitive developments.
- 7) No development that attracts or sustains hazardous bird movements from feeding, watering, or roosting across the runways and/or approach and departure patterns of aircraft. Planning authority shall notify Oregon Aeronautics of such development (e.g., waste disposal sites and wetland enhancements) within the airport overlay zone so as to provide Oregon Aeronautics Section an opportunity to review and comment on the side in accordance with FAA AC 150/5200-33.