SECTION 3.090: SHORELAND OVERLAY ZONE (SH)

(1) PURPOSE: The purpose of the SHORELAND OVERLAY ZONE is to:

(a) Provide for development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies.

(b) Protect identified priority dredged material disposal and mitigation sites from uses which would prevent their ultimate use for dredged material disposal or mitigation;

(2) AREAS INCLUDED: The SHORELAND OVERLAY ZONE is designated on the Tillamook County Zoning Maps. Included in this zone are:

(a) Lands contiguous with the ocean estuaries and coastal lakes that contain the following features shown in the Coastal Shoreland Element of the Comprehensive Plan:

(1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake.

(2) Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.

(3) Riparian vegetation or other natural or man-made riparian resources necessary for shoreline stabilization or water quality maintenance.

(4) Significant shoreland and wetland biological habitats.

(5) Areas necessary for water-dependent and water-related uses.

(6) Shoreland areas of exceptional aesthetic or scenic quality.

(7) Coastal headlands.

(b) Priority Dredged Material Disposal (DMD-1) and Mitigation (MIT-1) sites.

(3) Categories of Coastal Shorelands: There are two categories of coastal shorelands included in the SHORELAND OVERLAY ZONE.

(a) Rural Shorelands are the first category of Coastal Shorelands. Rural Shorelands are those areas that are outside an urban growth boundary and do not fall within the second category of Coastal Shorelands.

(b) The second category are those shorelands identified in the Estuarine Element and Coastal Shorelands Element of the Comprehensive Plan as:

(1) Significant shoreland and wetland biological habitat.

(2) Exceptional aesthetic or scenic resources and coastal headlands.

(3) Priority dredged material disposal and priority mitigation sites.

(4) Beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping and interdune areas subject to ocean flooding.

(4) USES PERMITTED: Uses authorized by the underlying zone as outright or conditional uses are permitted, except at locations identified in (3) above.

(a) Rural Shorelands in General:

(1) Rural shorelands uses are limited to:

(a) Farm uses,

(b) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act,

(c) Aquaculture,

(d) Water-dependent recreational, industrial and commercial uses,

(e) Replacement, repair or improvement of existing state park facilities,

(f) Other uses are allowed only upon a finding by the County that such uses satisfy a need which cannot be accommodated at any alternative upland location, except in the following cases:

(1) In built and committed exception shoreland areas, where all uses permitted in the underlying zone are permitted, and

(2) In the F-1, F, SFW-20, and RM zones, where the Other Uses listed in Sections 8.4.e, 8.4.f, 8.4.g and 8.5.e, respectively of the Coastal Shoreland Element, are permitted, if no suitable non-shoreland locations exist on the parcel.

(b) Significant Shoreland and Wetland Biological Habitats (Identified in Section 3.2 of the Coastal Shorelands Element of the Comprehensive Plan).

(1) Only low intensity uses and developments such as hiking trails and platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted providing that such uses and developments will not act as a barrier to or result in major disturbances or displacement of fish or wildlife species. Maintenance of existing drainageways and drainage structures is permitted.

(2) In significant wetland biological habitats, no development is allowed except for the placement of a floating or pile supported dock or a boat ramp using less than 50 cubic yards of fill to allow boat access to a coastal lake providing that such developments are placed to minimize impacts on wetland habitats.

Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel providing the allowed development will not result in a major impact to adjacent significant wetland habitat.

(3) Dredging less than 50 cubic yards from a coastal lake to provide access to a public boat ramp or a public boat dock is allowed, subject to the approval of Tillamook County.

(4) Within the Neskowin Community Growth Boundary, only the following uses are allowed within significant shoreland and wetland biological habitat and within 25 feet of the upland edge of such habitat:

(a) Low-impact recreational uses consistent with Section 3.090(4)(b)(1);

(b) Existing park or golf course facilities which exist as of March 1, 1999, and maintenance of existing facilities. Improvements and additions, provided adverse impacts to shoreland and wetland habitat are not measurably increased, or are mitigated.

(c) Repair, replacement or maintenance of existing structures and drainage facilities, provided that size or capacity is not increased (unless necessary for improved fish passage);

(d) Bank stabilization;

(e) Vegetation management of non-native plants;

(f) maintenance and improvement of stream corridors for storm drainage purposes or for fish and wildlife enhancement;

(g) Stormwater discharge;

(5) The 25-foot setback requirement of Section 3.090(4)(b)(4) may be reduced through the provisions of Article VIII. In addition to the standard variance criteria, the variance request shall meet the following criterion: Encroachment on the shoreland or wetland biological habitat, along with any proposed mitigation, will not have negative impacts on the natural functions and values of the resource area.

(c) Exceptional Aesthetic or Scenic Resources and coastal Headlands (identified in Section 3.2 of the coastal Shorelands Element of the Comprehensive Plan).

(1) Rock quarries, mining and mineral extraction, industrial uses, communication and energy generation towers other then wind energy conversion systems, power transmission lines, landfills and airports are not permitted.

(2) In the Cascade Head Scenic Research Area, and the Oswald West, Nahalem Bay, Cape Meares, Cape Lookout, Cape Kiwanda and Nestucca Spit State Parks, forest uses shall be limited to those allowed by the respective management plans for these areas. In other exceptional aesthetic or scenic resource areas or on coastal headlands, forest uses are limited to fire, insect and disease control, reforestation and hazard tree removal as long as the resource remains substantially unaltered.

(3) Buildings may be allowed only if they and the land preparation which precedes them preserves the natural topography and unique scenic features and does not substantially alter the scenic character or the natural vegetative cover of the area.

(4) Signs shall be constructed of wood and shall be limited to interpretive and directional signs having an area no greater than 16 square feet.

(e) Priority Dredged Material Disposal and Priority Mitigation sites (identified by the symbols DMD-1 and MIT-1 respectively on the Estuary Zoning Maps).

(1) Uses shall not preclude the ultimate use of the site as a dredged material disposal or mitigation site.

(2) Structures or other improvements shall be of a temporary nature, easily moved or of low value, so that demolition or removal of these structures can be easily accomplished in order to accommodate dredged material

disposal or mitigation. On priority mitigation sites only structures or other improvements which can be completely removed from the site are allowed.

(3) Fill is permitted only where it is necessary to maintain or repair existing structures and facilities such as dikes. In priority mitigation sites there shall be no land grading which will reduce the potential of using the site for mitigation.

(5) CONDITIONAL USES:

(a) Aquatic and shoreland disposal of dredged material shall be allowed only at approved sites listed in the Comprehensive Plan, unless the disposal is part of an approved fill project. Dredged material disposal is subject to the standards of Section 3.140 (4).

(b) Mitigation actions shall be allowed only at approved sites listed in the Comprehensive Plan, unless the mitigation is part of an approved dredge or fill project. Mitigation actions are subject to the standards of Section 3.140 (12).

(c) Estuarine restoration actions (as defined in Section 6.12 of the Estuarine Resources Element of the Comprehensive Plan) shall be allowed only at approved sites listed in the Comprehensive Plan, unless the restoration action is approved as part of a mitigation project. Restoration actions are subject to the standards of Section 3.140 (15).

(6) STANDARDS: Uses within the SHORELAND OVERLAY ZONE are subject to the provisions and standards of the underlying zone and of this section. Where the standards of the SHORELANDS OVERLAY ZONE and the underlying zone conflict, the more restrictive provisions shall apply.

(a) Riparian vegetation shall be protected and retained according to the provisions outlined in Section 4.080, REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION.

(b) Development in flood hazard areas shall meet the requirements of Section 3.060, FLOOD HAZARD OVERLAY ZONE.

(c) Development in beach and dune and other geologic hazard areas shall meet the requirements of Section 3.085, BEACH AND DUNE OVERLAY ZONE and Section 4.070, DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS.

(d) Forestry operations shall be consistent with the protection of the natural values of major marshes, significant wildlife habitat and riparian vegetation. A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into

by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.

(e) The productivity of resource land on Rural Shorelands shall be considered when determining the location of "Other Uses" within a given land parcel in the F-1, F, and SFW-20 zones. "Other Uses" within these zones shall be located so that the productivity of resource land is maintained.

(f) Existing public ownerships, rights of way and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) ADMINISTRATIVE PROVISIONS:

(a) All applications for developments in the SHORELANDS OVERLAY ZONE shall be reviewed for compliance with the requirements of the underlying zone and the requirements of the SHORELANDS OVERLAY ZONE.

(b) All applications shall be accompanied by a plot plan identifying the location of the parcel and its boundaries, the location of existing uses on the property, the proposed location of developments and uses and the location of any waterbodies, watercourses and wetlands in the vicinity of the proposed developments. Developments involving contiguous parcels under separate ownerships may be considered in a single application, provided that all affected property owners sign the final application.

(c) In the following instances, public agencies shall be notified of applications for development in the SHORELANDS OVERLAY ZONE.

(1) Significant Wetland Biological Habitats: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U. S. Fish and Wildlife Service,Environmental Protection Agency and U. S. Army Corps of Engineers shall be notified.

(2) Other Significant Shoreland Habitats: The Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development, and U. S. Fish and Wildlife Services shall be notified.

(3) Coastal Headlands and Exceptional Aesthetic and Scenic Resources: The Oregon Parks and Recreation Division and Oregon Department of Land Conservation and Development shall be notified.

(4) Priority Dredged Material Disposal and Mitigation Sites: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U. S. Army Corps of Engineers and the locally affected Port District shall be notified.

(5) Public Access Projects: The Oregon Parks and Recreation Division and the Oregon Department of Land Conservation and Development shall be notified.

(d) Notification Procedure

(1) If a development application involves regulated activities (for definition see Section 3.120), notice will be mailed within 7 days of County receipt of the State or Federal permit notice. The Planning Department shall consider any comments received no later than seven days before the closing date for comments on the State or Federal permit notice.

(2) If a development application involves a conditional use or a variance, notification procedures shall be those of Articles VI or VIII respectively.

(3) In all other instances, notice will be mailed within seven days of the receipt of a completed application. The Planning Department shall consider all comments received within ten days after notice has been mailed.