

Lane Code
CHAPTER 16 CONTENTS

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**PRIME WILDLIFE SHORELANDS COMBINING ZONE (/PW-RCP)
RURAL COMPREHENSIVE PLAN**

16.238 Prime Wildlife Shorelands Combining Zone (/PW-RCP).

(1) Purpose. The Prime Wildlife Shorelands Combining Zone (/PW-RCP) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Rural Comprehensive Plan as possessing areas of unique biological assemblages, habitats of rare or endangered species or a diversity of wildlife species. Lands in this zone serve to protect wildlife habitat, water quality, bank stability and provide flood control. The /PW RCP Zone is applied to areas of riparian vegetation and to the habitat limits of specific species of concern.

The /PW-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /PW-RCP Zone that require protection beyond that provided by the zone or zones with which the /PW-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /PW-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /PW-RCP Zone is combined. Where the requirements of the /PW-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /PW-RCP Zone by the Preliminary Investigation specified by LC 16.238(9) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section. The Forest Practices Act requirements for the maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat". These areas will be specially evaluated prior to approval of timber harvest plans to ensure the habitat has been adequately considered.

(a) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act as permitted by the zone or zones with which the /PW-RCP Zone is combined.

(b) Low-intensity grazing.

(c) Harvesting of wild crops.

(d) Low-intensity recreation.

(e) Dredged material disposal when the /PW-RCP Zone is used in conjunction with the /DMS-RCP Zone.

(f) Shore-secured floating moorages, mooring buoys, multipurpose-multifamily, piling-docks and piers, dolphins and other moorage facilities in adjacent lakes and Development Estuary Zone (DE-RCP).

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /PW-RCP Zone based on the results of the Preliminary Investigation specified by LC 16.238(9) below, the following specified uses and no others are subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria and determination that the use is consistent with protection of natural values specified in the Coastal Resources Management Plan.

(a) (i) Uses. Single-family homes, mobile homes and such accessory buildings as allowed in the underlying zone.

(ii) Criteria. All requirements set forth in LC 16.238(6), (7) and (8) below are met.

(b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /PW-RCP Zone is combined where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.238(6), (7) and (8) below.

(ii) Criteria and Conditions.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of the lot area.

(cc) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(dd) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

(ee) All otherwise applicable requirements of this section are met.

(c) (i) Uses. The following moorage facilities attached or connected to the shorelands and located in the estuary.

(aa) Public or commercial piling-type docks or piers.

(bb) Private, multifamily or multi-use piling-type docks or piers.

(cc) Mooring buoys which are permanently anchored to the estuary floor.

(dd) Dolphins.

(ii) Criteria.

(aa) The moorage facility is located within a Conservation Estuary Zone (CE-RCP).

(bb) The use is not in violation of the purposes of the respective zone or zones with which the /PW-RCP Zone is combined.

(cc) The use meets all criteria and conditions of the appropriate estuary zone.

(d) (i) Uses. All buildings and uses allowed as permitted uses, special uses or conditional uses in the respective zone or zones with which the /PW RCP Zone is combined, subject to the development, setback and area requirements of this section, except as expressly prohibited by LC 16.238(5) below.

(ii) Criteria.

(aa) Maintain the natural quality of surface and subsurface waters.

(bb) Maintain bank stability.

(cc) Avoid sedimentation of coastal waters.

(dd) Maintain a shore-front zone of riparian vegetation at least comparable to that required in LC 16.238(6), (7) and (8) below or greater, if necessary, to provide flood control and preserve important riparian wildlife habitat.

(ee) Avoid disturbance of the remainder of the vegetation cover beyond a point where the disturbance would be a detriment to the wildlife community which utilizes this area.

(ff) Any other applicable criteria provided within the respective zone with which the /PW-RCP Zone is combined.

(gg) All requirements set forth in LC 16.238(6), (7) and (8) below are met.

(e) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.

- (ii) Criteria.
 - (aa) The stabilization is necessary to protect structures existing on or before October 7, 1977.
 - (bb) Natural bank stabilization methods are unfeasible or less appropriate.
 - (f) (i) Uses. Single-family, single-purpose, piling-type docks and piers.
 - (ii) Criteria.
 - (aa) No reasonable alternatives exist to the construction of a single-family, single-use pier. Alternatives shall include mooring buoys, public piers within a reasonable distance from the proposed use, cooperative use of existing private piers located within a reasonable distance or non-living type floating piers.
 - (bb) The dock or pier shall not be located within a Natural Estuary Zone (NE-RCP).
 - (cc) If located within the estuary, the use must meet all criteria and conditions of the appropriate estuary zone.
- (5) Prohibited Uses. If found subject to the requirements of the /PW-RCP Zone, based on the results of the Preliminary Investigations specified by LC 16.238(9) below, the following uses are specifically prohibited:
 - (a) Fill in coastal lakes.
 - (b) Fill in freshwater marsh areas as identified in Lane County Rural Comprehensive Plan.
 - (c) New piling-type piers of any descriptions when adjacent to a Natural Estuary Zone (NE-RCP).
 - (d) Dredged material disposal.
- (6) Site and Development Requirements. If found subject to the requirements of the /PW-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.238(9) below, the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /PW-RCP Zone is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /PW-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.
 - (a) No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, septic requirements and fire safety requirements.
 - (b) To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.
 - (c) Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in LC 16.238(6)(a) above. Where vegetation removal beyond that allowed in LC 16.238(6)(a) above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of indigenous species in order to maintain the natural character of the area.
 - (d) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /PW-RCP Zone is combined.
 - (e) No topographic modification is permitted within the 50-foot setback area specified by LC 16.238(7).

(f) The shoreward half of the setback area specified by LC 16.238(7) below must be left in indigenous vegetation, except where un-surfaced trails are provided.

(g) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.238(7) below.

(h) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.238(7) below.

(i) All trees must be retained within the setback area specified by LC 16.238(7) below, except where removal is subject to requirements of the Oregon Forest Practices Act.

(j) Structures shall be sited and/or screened with natural vegetation so as not to impair the aesthetic quality of the site.

(k) The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.

(l) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /PW-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from coastal lakes and the estuary measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.238(6)(e)-(h) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(8) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /PW-RCP Zone, based on the Preliminary Investigation in LC 16.238(9) below. These criteria are in addition to minimum area requirements of any zone combined with the /PW-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development:

(i) Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(ii) The use will not result in loss of significant wildlife habitat or aesthetic values as identified in the Coastal Resources Management Plan.

(iii) Minimum area requirements for the division of land shall be based on the minimum parcel size in the zone with which the /PW-RCP Zone is combined, or five acres, whichever is greater.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criteria, plus the following:

(i) There is a need which cannot adequately be accommodated on non-shoreland locations.

(ii) There is a lack of suitable shoreland areas within urban or urbanizable areas or within areas developed or committed to development.

(9) Preliminary Investigation. Any proposal for development within the /PW-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /PW-RCP Zone shall apply. The requirements of the /PW-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply.

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

- (i) Floodways and the floodway fringe.
- (ii) Land lying between the mean high, high water and mean low water mark of coastal water bodies.
- (iii) Dikes, dams, levees or steep embankments which control the coastal water body.
- (iv) Lands along the ocean coast at or below the 26-foot elevation line.

(b) Adjacent areas of geologic instability which are composed of:

- (i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.
- (ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.
- (iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone (LC 16.243) would be inadequate to protect water quality, water temperature or shoreland stability.

(c) Natural or human-made riparian resources. These lands are as follows:

- (i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:
 - (aa) Shading of coastal water body.
 - (bb) Stabilization of shoreline.
 - (cc) Habitat for rare or endangered wildlife species.
 - (dd) Significant riparian vegetation areas as identified in the

Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat, composed of:

- (i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.
- (ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.
- (iii) Habitat, other than that listed in LC 16.238(9)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(10) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(11) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /PW-RCP Zone and shall set forth the basis for the determination based on the criteria specified in LC 16.238(9) above.

(12) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(13) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(14) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Proposals subject to special use approval or for building permits for uses otherwise allowed shall be forwarded in writing to the Oregon State Department of Fish and Wildlife within 14 days of final action to evaluate the impact upon habitats and to make recommendations concerning ways to avoid adverse impacts.

(e) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(15) Application of Zone to Federal Lands. The application of the /PW-RCP Zone shall be held in abeyance until such time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 7-91, 6.5.91; 5-96, 11.29.96; 6-10, 9.17.10; 7-10, 11.25.10)*

NATURAL RESOURCES CONSERVATION COMBINING ZONE (/NRC-RCP) RURAL COMPREHENSIVE PLAN

16.239 Natural Resources Conservation Combining Zone (/NRC-RCP).

(1) Purpose. The Natural Resources Conservation Zone (/NRC-RCP) is applied to those coastal area shorelands identified in inventory information as timber lands, agricultural lands or shorelands in dune areas. It is the purpose of the /NRC-RCP zone to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities

which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal waters.

The /NRC-RCP Zone is specifically designed to carry out the following purposes:

- (a) Conservation and maintenance of renewable resources, primarily silvicultural and agricultural.
- (b) Protection of such natural resources as soil and such natural systems as drainage courses and waterways.
- (c) Enhancement of renewable resources such as the coastal fisheries and timber industries.
- (d) Allow for recreation and public access to coastal waters.

The /NRC-RCP Zone provides a procedure by which to define the exact geographical boundaries of the shorelands within the /NRC-RCP Zone which require protection beyond that provided by the zone or zones with which the /NRC-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /NRC-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /NRC-RCP Zone is combined. Where the requirements of the /NRC-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /NRC-RCP Zone by the Preliminary Investigation specified by LC 16.239(8) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section. The Forest Practices Act requirements for the maintenance of riparian vegetation shall be enforced to provide shading filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat." These areas will be specially evaluated prior to approval of timber harvest plans to ensure the habitat has been adequately considered.

(a) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act as permitted by the zone or zones with which the /NRC-RCP Zone is combined.

(b) Agricultural activities and general farming uses and structures as permitted by the zone or zones with which the /NRC-RCP Zone is combined.

(c) Dredged material disposal when the /NRC-RCP Zone is in conjunction with the /DMS-RCP Zone.

(d) Shore-secured floating moorage facilities in adjacent water areas.

(e) Public, commercial or private, multifamily, multi-use piling-docks and piers in adjacent lakes and in estuary zones, subject to the requirements of the respective estuary zones.

(f) Boat launching ramps, except where adjacent to a Natural Estuary Zone (NE-RCP).

(g) Harvesting of wild crops.

(h) Low-intensity recreational activities.

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /NRC-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.239(8) below, the following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria.

(a) (i) Uses. Single-family dwelling units and mobile homes and such accessory buildings as allowed in the underlying zone.

(ii) Criteria. All requirements set forth in LC 16.239(5), (6) and (7) below are met.

(b) (i) Uses. Single family dwelling units and mobile homes as allowed in the zone or zones with which the /NRC-RCP Zone is combined where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.239(5), (6) and (7) below.

(ii) Criteria.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of lot area.

(cc) All applicable height restrictions are observed.

(dd) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(ee) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation criteria by LC 16.239(5) below is minimized.

(ff) All otherwise applicable requirements of this section are met.

(c) (i) Uses. Single-family, single-purpose docks and piers in adjacent coastal lakes or Development or Conservation Estuary Zones.

(ii) Criteria.

(aa) The applicant shall attest in writing that there are no viable alternatives to the construction of a private, single-family structure. Alternatives include dryland storage, mooring buoys, public piers or the cooperative use of existing private piers.

(bb) The size of the structure is limited to that required for the intended use.

(cc) All requirements of the respective estuary zones are met.

(d) (i) Uses. Removal of individual hazardous trees within the required 50-foot strip of shore-front vegetation specified by LC 16.239(5)(d) below.

(ii) Criteria. It can be clearly determined that the trees are a hazard to life or existing property.

(e) (i) Uses. All permitted buildings and uses, special uses or conditional uses allowed in the respective zone with which the /NRC-RCP Zone is combined, subject to the development, setback and area requirements of this section, except where expressly prohibited by this section.

(ii) Criteria.

(aa) All applicable criteria provided with the respective zone with which the /NRC-RCP Zone is combined are met.

(bb) All requirements set forth in LC 16.239(5), (6) and (7) below are met.

(cc) Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

(dd) The use will not adversely affect the resource use of adjacent timber or agricultural lands.

(f) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.

(ii) Criteria.

(aa) The stabilization is necessary to protect structures existing on or before October 7, 1977, or to protect public or private roads, bridges or railroads.

(bb) Natural bank stabilization methods are unfeasible.

- (g) (i) Uses. Fills in coastal lakes adjacent to the /NRC-RCP Zone.
(ii) Criteria and Conditions.

(aa) The applicant must submit an analysis of the physical and biological impacts of the proposed fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

(bb) Cumulative and direct impacts on water quality must be minimized.

(cc) The benefits of the proposed fill to long-term economic development or improved public recreational use shall outweigh the negative impacts on water quality.

(5) Site and Development Requirements. If found subject to the requirement of the /NRC-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.239(8) below, the below-specified development requirements shall be in addition to those provided by the respective zone or zones with which the /NRC-RCP is combined. These requirements shall not apply to timber harvesting activities. Timber harvesting activities, where permitted by the respective zone with which the /NRC-RCP Zone is combined, shall conform to Oregon Forest Practices Act rules.

(a) Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the proposed structure or structures, accessory buildings, necessary access, septic requirements and fire safety requirements.

(b) In all cases, vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of indigenous vegetation, unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

(c) Thirty feet of indigenous riparian vegetation shall be retained along all coastal water bodies. This shall be measured at right angles from the mean high waterline of the coastal water body.

(d) Existing trees must be retained with an area 50 feet in width measured at right angles from the mean high waterline of the coastal water body.

(e) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.239(6) below.

(f) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.239(6) below.

(g) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /NRC-RCP Zone is combined.

(h) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(6) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /NRC-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from the coastal lakes measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.239(5)(c)-(f) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(7) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /NRC-RCP Zone, based on the Preliminary Investigation in LC 16.239(8) below. These criteria are in addition to minimum area requirements of any zone combined with the /NRC-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development: Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criterion, plus the following:

(i) There is a need which cannot adequately be accommodated on non-shoreland locations.

(ii) There is a lack of suitable shoreland locations within urban or urbanizable areas or within areas developed or committed to development.

(8) Preliminary Investigation. Any proposal for development within the /NRC-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /NRC-RCP Zone shall apply. The requirements of the /NRC-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply:

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

(i) Floodways and the floodway fringe.

(ii) Land lying between the mean high, high water and mean low watermark of coastal water bodies.

(iii) Dikes, dam, levees or steep embankments which control the coastal water body.

(iv) Lands along the ocean coast at or below the 26-foot elevation line.

(b) Adjacent areas of geologic instability are composed of:

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone, LC 16.243, would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources. These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat, other than that listed in LC 16.239(8)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(9) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(10) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels, subject to the requirements of the /NRC-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.239(8) above.

(11) Appeal to Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(12) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(13) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use subject to special use approval, information required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Where applications for development are received for lands zoned for timber production, said applications shall be referred to the District Forester of the Oregon Department of Forestry. The District Forester shall have a 14-day "review and comment" period to evaluate the impact of the proposed development on the timber productivity of the parcel and adjacent lands.

(e) Improvements to ocean shore areas (as defined in ORS 390.065) are subject to a permit from the Oregon Department of Transportation.

(14) Application of Zone to Federal Lands. The application of the /NRC-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 7-91, 6.5.91; 5-96, 11.29.96; 7-10, 11.25.10)*

**RESIDENTIAL DEVELOPMENT SHORELANDS COMBINING ZONE (/RD-RCP)
RURAL COMPREHENSIVE PLAN**

16.240 Residential Development Shorelands Combining Zone (/RD-RCP).

(1) Purpose. The Residential Development Combining Zone (/RD-RCP) is applied to coastal shorelands areas suited to residential development within urbanizable areas and to lands outside of urbanizable areas which have been committed to residential use by their development pattern, including actual development and the platting of subdivision lots. Within these areas, the /RD-RCP Zone is designed to ensure:

- (a) Development in a manner that will protect water quality.
- (b) Preservation and enhancement of riparian vegetation.
- (c) Provision of recreational use of shorelands.
- (d) Diversification of shorelands uses. The /RD-RCP Zone provides a

procedure by which to define the exact geographical boundaries of the shorelands within the /RD-RCP Zone that require protection beyond that provided by the zone or zones with which the /RD-RCP Zone is combined and imposes additional development requirements within these boundaries.

(2) Intent. The requirements imposed by the /RD-RCP Zone shall be in addition to those imposed by the respective zone or zones with which the /RD-RCP Zone is combined. Where the requirements of the /RD-RCP Zone conflict with the requirements of the zone or zones with which it is combined, the more restrictive requirements shall apply.

(3) Permitted Uses. In areas found subject to the requirements of the /RD-RCP Zone by the Preliminary Investigation specified by LC 16.240(9) below, the following structures and uses and no others are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section:

- (a) Shore-secured floating moorage facilities in adjacent estuaries and lakes.
- (b) Private multifamily, multi-use type docks and piers in adjacent lakes and estuarine areas, if permitted by the respective estuary zone.
- (c) Dredged material disposal when the /RD-RCP Zone is used in conjunction with the /DMS-RCP Zone.
- (d) Commercial or public docks and piers; provided such uses conform to the purposes of the zone or zones with which the /RD-RCP Zone is combined and provided such uses conform to the requirements of the respective estuary zone.

(e) Boat launching ramps, except where adjacent to a Natural Estuary Zone (NE-RCP).

(f) Harvesting of wild crops.

(g) Low intensity recreational activities.

(4) Special Uses Approved by the Planning Director. If found subject to the requirements of the /RD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.240(9) below, the following specified uses and no others are permitted, subject to approval by the Planning Director pursuant to LC 14.100, upon satisfaction of the applicable criteria.

(a) (i) Uses. Single-family homes, mobile homes and such accessory buildings as allowed in the underlying zones.

(ii) Criteria. All requirements set forth in LC 16.240(6), (7) and (8) below are met.

(b) (i) Uses. Single-family dwelling units and mobile homes as allowed in the zone or zones with which the /RD-RCP Zone is combined, but where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in LC 16.240(6), (7) and (8) below.

(ii) Criteria and Conditions.

(aa) The said parcel existed prior to July 24, 1980.

(bb) The structures shall not occupy more than 30 percent of the lot area.

(cc) All applicable height restrictions are observed.

(dd) The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

(ee) Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

(ff) All otherwise applicable requirements of this section are met.

(c) (i) Uses. All buildings and uses allowed as permitted uses, special uses or conditional uses in the respective zone or zones with which the /RD-RCP Zone is combined, subject to the development, setback and area requirements of this section, except as expressly prohibited by LC 16.240(5) below.

(ii) Criteria.

(aa) All applicable criteria provided within the respective zone or zones with which the /RD-RCP Zone is combined are met.

(bb) Surface, subsurface and aquifer waters are protected from pollution and sedimentation. The Lane County Water Pollution Control Division shall be the proper consulting agency in this regard.

(cc) All requirements set forth in LC 16.240(6), (7) and (8) below are met.

(d) (i) Uses. Single-family, single-purpose docks and piers in adjacent coastal lakes and estuary. (No piling-type piers are permitted in the Natural Estuary Zone (NE-RCP)).

(ii) Criteria.

(aa) The applicant shall attest in writing, subject to confirmation by the Planning Director, that there are no viable alternatives to the construction of a private, single-family pier or dock structure. Alternatives include dryland storage, mooring buoys, public piers or the cooperative use of existing private piers.

(bb) The size of the structure is limited to that required for the intended use.

(cc) All requirements of the respective estuary zone are met.

(e) (i) Uses. Removal of individual hazardous trees within the required 50-foot strip of shore-front vegetation specified by LC 16.240(6).

(ii) Criteria. It can be clearly determined that the trees are a hazard to life or existing property.

(f) (i) Uses. Artificial bank stabilization adjacent to estuaries and lakes.

(ii) Criteria.

(aa) Natural erosion processes threatening a water-dependent use(s) or threatening non-water-dependent or non-water-related uses where it has been demonstrated that the parcel is unsuited for water-dependent or water-related uses.

(bb) Natural bank stabilization methods are unfeasible or less appropriate.

(5) Prohibited Uses. The following uses or activities are expressly prohibited in the /RD-RCP Zone: Fills in coastal lakes adjacent to the /RD-RCP Zone.

(6) Site and Development Requirements. If found subject to the requirements of the /RD-RCP Zone, based on the results of the Preliminary Investigation specified by LC 16.240(9) below, the below specified development requirements shall be in addition to those provided by the respective zone or zones with which the /RD-RCP Zone is combined. These requirements shall not apply to timber harvest activities where the underlying zone allows timber harvesting as a permitted use. In such areas, timber harvesting activities shall conform to Oregon Forest Practices Act rules.

(a) Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the structures, necessary access, septic requirements and fire safety requirements.

(b) In all cases vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of indigenous vegetation, unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

(c) Within the setback area specified under LC 16.240(7) below, all indigenous riparian vegetation, except that removed to provide paths to the water body, shall be retained within an area 30 feet in width measured at right angles from the mean high waterline of the water body. For the remainder of the required setback area, brush may be removed, but trees shall be retained.

(d) Where riparian vegetation does not exist along the shoreline of the estuary or coastal lakes, an area 30 feet in width, measured at right angles to the shoreline, shall be planted in indigenous vegetation or other vegetation which will aid in bank stabilization and prevent sedimentation of the water body. Areas necessary for access to the water body are exempted from this requirement. Continued maintenance of this vegetation shall be the responsibility of the landowner.

(e) Cornices, canopies and eaves may extend two feet into the setback area specified by LC 16.240(7) below.

(f) Decks, uncovered porches, stairways and fire escapes may extend a distance of 10 feet into the setback area specified by LC 16.240(7) below.

(g) The requirements for parking and vision clearance shall be as provided by the respective zone or zones with which the /RD-RCP Zone is combined.

(h) Where public ownerships in the form of existing rights-of-way which provide access to coastal waters are involved in development subject to the regulations of this section, those ownerships shall be retained where possible, or replaced where not possible, upon the sale or disposal of the rights-of-way. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) Additional Setback Requirements. Setbacks shall be as required in the zone or zones with which the /RD-RCP Zone is combined, except for the additional below-specified setback requirements.

(a) Structures shall be set back 50 feet from coastal lakes and the estuary measured at right angles to the high waterline. Use of this 50 feet shall be as specified in LC 16.240(6)(c)-(f) above.

(b) Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure.

(8) Special Land Division Requirements. The following criteria shall be met for land divisions on property within the /RD-RCP Zone, based on the Preliminary Investigation in LC 16.240(9) below. These criteria are in addition to minimum area requirements of any zone combined with the /RD-RCP Zone.

(a) For lands within urban or urbanizable areas or lands developed or committed to development: Land divisions must be consistent with shoreland values as identified in the Coastal Resources Management Plan, not adversely impact water quality, and not increase hazard to life or property.

(b) For lands outside urban or urbanizable areas or lands developed or committed to development, the above criterion, plus the following:

(i) There is a need which cannot adequately be accommodated on non-shoreland locations.

(ii) There is a lack of suitable shoreland locations within urban or urbanizable areas or within areas developed or committed to development.

(9) Preliminary Investigation. Any proposal for development within the /RD-RCP Zone shall require a Preliminary Investigation by the Planning Director to determine the specific area to which the requirements of the /RD-RCP Zone shall apply. The requirements of the /RD-RCP Zone shall apply in an area in which the Planning Director determines that one or more of the criteria specified below apply.

(a) Lands which limit control or are directly affected by the hydraulic action of the coastal waterways. These lands are composed of the following:

(i) Floodways and the floodway fringe.

(ii) Land lying between the mean high, high water and mean low watermark of coastal water bodies.

(iii) Dikes, dams, levees or steep embankments which control the coastal water body.

(iv) Lands along the ocean coast at or below the 26 foot elevation line.

(b) Adjacent areas of geologic instability which are composed of:

(i) Areas of geologic instability in which the instability is attributable to the hydraulic action of the water body.

(ii) Areas of geologic instability which have a direct impact on water quality, water temperature or on shoreline stability.

(iii) Shorelands in dunal areas in which the enforcement of the use restrictions of the /BD-RCP Zone, LC 16.243, would be inadequate to protect water quality, water temperature or shoreline stability.

(c) Natural or human-made riparian resources. These lands are as follows:

(i) Extend from 10 to 65 feet landward from the mean high water, within which area the existing vegetation serves one or more of the following functions:

(aa) Shading of coastal water body.

(bb) Stabilization of shoreline.

(cc) Habitat for rare or endangered wildlife species.

(dd) Significant riparian vegetation areas as identified in the Lane County Coastal Inventory.

(d) Areas of significant shoreland and wetland biological habitat composed of:

(i) Freshwater marshes identified in the Lane County Rural Comprehensive Plan.

(ii) Areas currently identified by Nature Conservancy and included in the Lane County Coastal Inventory as significant natural areas or other areas which the Lane County Board of Commissioners may deem significant natural areas based on new inventory information.

(iii) Habitat, other than that listed in LC 16.240(9)(c)(i)(cc) above, which supports rare or endangered species.

(e) Areas necessary for water dependent and water related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities and areas having characteristics suitable for aquaculture. These are as identified in the Lane County Rural Comprehensive Plan.

(f) Areas identified in the Lane County Rural Comprehensive Plan as having exceptional aesthetic or scenic quality derived from or related to the association with coastal water areas.

(g) Coastal headlands identified in the Lane County Coastal Inventory.

(10) Fees for Preliminary Investigation. To partially defray the expense in performing the Preliminary Investigation, a fee to be based on the scale of development proposal shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(11) Notification of Preliminary Investigation Determination. The Planning Director shall notify the applicant of the determination of the Preliminary Investigation by mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at an appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the /RD-RCP Zone, and shall set forth the basis for the determination based on the criteria specified in LC 16.240(9) above.

(12) Appeal to the Hearings Official. An applicant may appeal to the Hearings Official the determination of the Preliminary Investigation, and the manner for such appeal shall be as provided by LC 14.500.

(13) Exceptions to Nonconforming Uses. If damaged or destroyed, piling-type docks or piers may be rebuilt, but not expanded, notwithstanding the provisions of LC 16.251.

(14) Uses Subject to State and Federal Permits.

(a) When State or Federal permits, leases, easements or similar types of authorization are also required for a use, subject to special use approval, information

required as part of the State or Federal permit process may be required to be made available to the County for the determination that applicable criteria are satisfied.

(b) Applicants shall make application for all requisite State and/or Federal permits, leases, easements or similar type of authorization within 10 days following application for a special use approval in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary for special use review.

(c) Any use authorized by the provisions of this zone shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

(d) Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the Oregon Department of Transportation.

(15) Application of Zone to Federal Lands. The application of the /RD-RCP Zone shall be held in abeyance until such a time as these lands or portions of these lands may pass into private, State or County ownership. The Rural Comprehensive Plan designation shall provide appropriate Federal agencies with local recommendation for proper use of these lands. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 7-91, 6.5.91; 5-96, 11.29.96; 7-10, 11.25.10)*

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