

ORDINANCE NO. 306

AN ORDINANCE AMENDING COOS BAY COMPREHENSIVE PLAN 2000, VOLUME III, COOS BAY ESTUARY MANAGEMENT PLAN TO IMPLEMENT STATEWIDE PLANNING GOAL 17 AMENDMENTS AND TO FACILITATE FRONT STREET REDEVELOPMENT

The City of Coos Bay ordains as follows:

Section 1. The following definitions are hereby added in alphabetical order with the existing definitions, to Part 1, 3.2, Definitions:

1. **STRUCTURE OR FACILITY THAT PROVIDES WATER-DEPENDENT ACCESS:** Anything constructed or installed, regardless of its present condition, functionality or serviceability, that provides or provided water-dependent uses with physical access to the adjacent coastal water body. (Examples include wharves, piers, docks, mooring piling, boat ramps, water intake or discharge structures, or navigational aides.)
2. **WATER-DEPENDENT:** A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

A. The following definitions also apply:

1. Access: physical contact with or use of the water
2. Energy production: uses which need quantities of water to produce energy directly (e.g., hydroelectric facilities, ocean thermal energy conversion).
3. Recreation: water access for fishing, swimming, boating, etc. Recreational uses are water-dependent only if use of the water is an integral part of the activity.
4. Require: the use either by its intrinsic nature (e.g., fishing, navigation, boat moorage) or at the current level of technology cannot exist without water access.
5. Source of water: facilities for the appropriation of quantities of water for cooling processing or other integral functions.
6. Water-borne transportation: uses of water access:
 - i. which are themselves transportation (e.g., navigation);
 - ii. which require the receipt of shipment of goods by water; or
 - iii. which are necessary to support water-borne transportation (e.g., moorage, fueling, servicing of watercraft, ships, boats, etc., terminal and transfer facilities).

B. Typical examples of water-dependent uses include the following:

1. Aquaculture.
2. Certain scientific and educational activities which, by their nature, require access to coastal waters - estuarine research activities and equipment mooring and support.
3. Commercial - e.g., commercial fishing marinas and support; fish processing and sales; boat sales, rentals, and supplies.
4. Industrial - e.g., manufacturing to include boat building and repair; water-borne transportation terminals, and support; energy production which needs quantities of water to produce energy directly; water intake structures for facilities needing quantities of water for cooling, processing, or other integral functions.
5. Recreational - e.g., recreational marinas, boat ramps, and support.

Section 2. Coos Bay Estuary Management Plan, Part 1, 3.3, Bay-wide Policy 16 and Policy 16a are hereby combined and amended as follows:

#16 Protection of Sites Suitable for Water-Dependent Uses
and Special Allowance for New Non-Water-Dependent Uses
in Urban Water-Dependent (UW) Units

Local government shall protect shorelands in the following areas that are suitable for water-dependent uses, for water-dependent commercial, recreational and industrial uses:

- a. Urban or urbanizable areas;
- b. Rural areas built upon or irrevocably committed to non-resource use; and
- c. Any unincorporated community subject to OAR Chapter 660, Division 022 (Unincorporated Communities).

This strategy is implemented through Estuary Plan, which provides for water-dependent uses within areas that are designated as Urban Water-Dependent (UW) management units.

- I. Minimum Acreage. The minimum amount of shorelands to be protected shall be equivalent to the following combination of factors:
 1. Acreage of estuarine shorelands that are currently being used for water-dependent uses; and
 2. Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess structures or facilities that provide or provided water-dependent uses with access to the adjacent coastal water body. Examples of such structures or facilities include wharves, piers, docks, mooring piling, boat ramps, water intake or discharge structures and navigational aids.

- II. Suitability. The shoreland area within the estuary designated to provide the minimum amount of protected shorelands shall be suitable for water-dependent uses. At a minimum such water-dependent shoreland areas shall possess, or be capable of possessing, structures or facilities that provide water-dependent uses with physical access to the adjacent coastal water body. The designation of such areas shall comply with applicable Statewide Planning Goals.
- III. Permissible Non-Water-Dependent Uses. Unless otherwise allowed through an Exception, new non-water-dependent uses which may be permitted in “urban water-dependent (UW)” management units are a temporary use which involves minimal capital investment and no permanent structures, or a use in conjunction with and incidental and subordinate to a water-dependent use. Such new non-water-dependent uses may be allowed only if the following findings are made prior to permitting such uses:

Temporary use involving minimal capital investment and no permanent structures:

- a. The proposed use or activity is temporary in nature (such as storage, etc.); and
- b. The proposed use would not pre-empt the ultimate use of the property for water-dependent uses; and
- c. The site is committed to long-term water-dependent use or development by the landowner.

Use in conjunction with and incidental and subordinate to a water-dependent use:

- a. Such non-water-dependent uses shall be constructed at the same time as or after the water-dependent use of the site is established, and must be carried out together with the water-dependent use.
- b. The ratio of the square footage of ground-level indoor floor space plus outdoor acreage distributed between the non-water dependent uses and the water-dependent uses at the site shall not exceed one to three (non-water-dependent to water-dependent).
- c. Such non-water-dependent uses shall not interfere with the conduct of the water-dependent use.

This policy shall be implemented through provisions in ordinance measures that require an administrative conditional use application be filed and approved, and the above findings be made, prior to establishing the proposed uses or activities.

Section 3. A new Policy 16a is hereby added to, Part 1, 3.3 Bay-wide Policies:

#16a. Minimum Protected Acreage Required for County Estuarine Shorelands

Local governments shall protect for water-dependent use at least the minimum acreage determined to be necessary under the standards of Statewide Planning Goal 17 for the protection of sites suitable for water-dependent uses and special allowance for new non-water-dependent uses in urban water-dependent units.

I. Coos County

1. As of January 1, 2000, there were 1,440.5 acres of Coos Bay estuary shoreland planned and zoned for water-dependent use in the unincorporated portions of Coos County.
2. 501.02 acres have been determined to be the minimum amount of acreage required to be protected for water-dependent use within the estuary shoreland units of the unincorporated portions of the Coos Bay estuary.
3. Any request to redesignate or rezone shoreland designated for water-dependent use within the unincorporated portions of the Coos Bay estuary will require a demonstration by the applicant that at least the minimum acreage amount of 501.02 acres will remain designated for water dependent use.

II. City of Coos Bay

1. As of January 1, 2000, there were 106.83 acres of Coos Bay estuary shoreland planned and zoned for water-dependent use in the city of Coos Bay.
2. It has been determined that 76.18 acres are the minimum amount of acreage required to be protected for water-dependent use within the

estuary shoreland units lying within the city of Coos Bay.
3. Any request to redesignate or rezone shoreland designated for water-dependent use within the portions of the Coos Bay estuary in the city of Coos Bay will require a demonstration by the applicant that at least the minimum acreage amount of 76.18 acres will remain designated for water dependent use.

This policy shall be implemented through provisions in ordinance measures that require that the above findings be made at the time an application for redesignation or rezoning is approved.

Section 4. Part 1, 5.0, Designation of Site-Specific Management Segment, 44-UW, Boundaries, to

reflect creation of new shoreland segment 44a-UW and 44b-UD within the City of Coos Bay is hereby amended .

BOUNDARIES:

This segment extends south from Menasha's property just south of Simpson Heights to a line extending east from Ivy Avenue. This segment also includes the area south from a line extending east from Commercial Avenue to a line extending east from Curtis Street in Coos Bay.

Section 5. A new shoreland segment, 44a-UW, is hereby added to Part 1, 5.0, Designation of Site-Specific Management Segments, Uses and Activities.

UPPER BAY - ISTHMUS SLOUGH

MANAGEMENT CLASSIFICATION - UW

SHORELAND SEGMENT 44a-UW

Boundaries: This segment includes everything from the northern boundary of the city to a line extending east from Curtis Street except that area designated 44b-UD.

Management Objective: This shoreland segment shall be managed primarily to protect existing uses and to allow new water-dependent /water related uses, recognizing that this ideal development is constrained by existing development patterns.

In particular, the following specific Management Objectives apply to the segment:

1. The city of Coos Bay's downtown waterfront development project (including a waterfront boardwalk) shall be allowed in order to encourage public observation of waterfront activities.
2. Non-water-dependent/non-water-related uses shall not otherwise be allowed, except as allowed in Policy #16 (III).
3. See also Exception #17.

A. Uses:

- | | |
|-----------------------------------|-----|
| 1. Agriculture | N/A |
| 2. Airports | N |
| 3. Aquaculture | A |
| 4. Commercial | A |
| 5. Dryland Moorage | A |
| 6. Industrial and Port Facilities | A |

| | | |
|-----|---------------------------------|-----|
| 7. | Land Transportation Facilities | A |
| 8. | Log Storage/Sorting Yard (land) | A |
| 9. | Marinas | A |
| 10. | Mining/Mineral Extraction | N |
| 11. | Recreational Facilities | A |
| | 1. Low-intensity | A |
| | 2. High-intensity | A |
| 12. | Residential | N |
| 13. | Solid Waste Disposal | A |
| 14. | Timber Farming/Harvesting | N/A |
| 15. | Utilities | |
| | a. Low-intensity | A |
| | b. High-intensity | A |

B. ACTIVITIES:

| | | |
|-----|--|-----|
| 1. | Stream Alteration | N/A |
| 2. | Dikes | |
| | a. New Construction | A |
| | b. Maintenance/Repair | A |
| 3. | Dredged Material Disposal | * |
| 4. | Excavation to create New Water Surface | A |
| 5. | Fill | A |
| 6. | Shoreline Stabilization | |
| | a. Vegetative | A |
| | b. Rip-rap | * |
| | c. Retaining Wall | * |
| 7. | Navigation Aids | A |
| 8. | Mitigation | N |
| 9. | Restoration | |
| | a. Active | * |
| | b. Passive | A |
| 10. | Land Divisions | A |

GENERAL CONDITIONS

1. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
2. All uses shall be consistent with Policy #16 (III).

SPECIAL CONDITIONS

Activities

3. Dredge Material Disposal shall be allowed when consistent with Policy #20.

6b, c. These activities are only permitted subject to the general findings required by Policy #9, “Solutions to Erosion and Flooding Problems”.

9a. Active restoration shall be allowed only when consistent with Policy #22b.

Section 6. A new shoreland segment, 44b-UD, is hereby added to Part 1, 5.0, Designation of Site-Specific Management Segments, Uses and Activities.

UPPER BAY - ISTHMUS SLOUGH

MANAGEMENT
CLASSIFICATION - UD

SHORELAND SEGMENT 44b-UD

Boundaries:

Northern - A line extending east from Ivy Avenue

Southern - A line extending east from Commercial Avenue

Management Objective: This shoreland segment shall be managed to protect existing uses and to allow new water-dependent uses, water-related uses, and non-water-dependent uses consistent with a mixed-use emphasis, as allowed under the Waterfront Heritage (WH) zoning district.

A. Uses:

| | | |
|-----|---------------------------------|-----|
| 1. | Agriculture | N/A |
| 2. | Airports | N |
| 3. | Aquaculture | A |
| 4. | Commercial | A |
| 5. | Dryland Moorage | A |
| 6. | Industrial and Port Facilities | A |
| 7. | Land Transportation Facilities | A |
| 8. | Log Storage/Sorting Yard (land) | A |
| 9. | Marinas | A |
| 10. | Mining/Mineral Extraction | N |
| 11. | Recreational Facilities | A |
| | a. Low-intensity | A |
| | b. High-intensity | A |
| 12. | Residential | * |
| 13. | Solid Waste Disposal | N |
| 14. | Timber Farming/Harvesting | N/A |
| 15. | Utilities | |
| | a. Low-intensity | A |
| | b. High-intensity | A |

B. ACTIVITIES:

| | | |
|-----|--|-----|
| 1. | Stream Alteration | N/A |
| 2. | Dikes | |
| | a. New Construction | A |
| | b. Maintenance/Repair | A |
| 3. | Dredged Material Disposal | N |
| 4. | Excavation to Create New Water Surface | A |
| 5. | Fill | A |
| 6. | Shoreline Stabilization | |
| | a. Vegetative | A |
| | b. Rip-rap | * |
| | c. Retaining Wall | * |
| 7. | Navigation Aids | A |
| 8. | Mitigation | N |
| 9. | Restoration | |
| | a. Active | * |
| | b. Passive | A |
| 10. | Land Divisions | A |

GENERAL CONDITIONS

1. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.

SPECIAL CONDITIONS

Uses

1. Residential uses shall be allowed as provided in the W-H zoning district.

Activities

- 6b, c. These activities are only permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems".

- 9a. Active restoration shall be allowed only when consistent with Policy #22b.

Section 7. A new 5.14, Minimum Acreage Required to be Protected for Water-Dependent Uses, is hereby added to Part 2, Inventories and Factual Base, 5.0, Social and Economic Resources and Characteristics, and the remaining sections renumbered.

5.1.4 Minimum Acreage Required to be Protected for Water-Dependent Uses

In order to comply with 1999 Goal 17 amendments, it was necessary to compute the amount of acreage required to be protected for water-dependent uses. A 1999 study of shorelands designated as water-dependent was completed using Department of Revenue maps, aerial photography and on-site analysis. The following information resulted from the study:

| | |
|---|--------|
| Acreage <u>currently</u> in water-dependent use: | 46.90 |
| Acreage <u>formerly</u> in water-dependent use: | 30.36 |
| Still possesses a structure or facility that provides water-dependent access | 29.28 |
| No longer possesses a structure or facility that provides water-dependent access. | 1.08 |
| Acreage <u>never</u> in water-dependent use, although designated for such use: | 29.57 |
| Total acreage designated for Water-Dependent use: | 106.83 |

Under Goal 17, as amended in 1999, the city is required to protect a minimum acreage of suitable estuarine shorelands for water-dependent use. The minimum acreage amount is determined by adding the acreage of estuarine shorelands currently in water-dependent use (46.90) and the acreage of estuarine shorelands formerly in water-dependent use that still possess structures or facilities that provide or provided water-dependent uses with access to the adjacent water body (29.28). Based on the city's 1999 study of its shorelands, the city is required to protect a minimum of 76.18 acres of suitable estuarine shorelands for water-dependent use.

Section 8. Part3, Exception 17 is hereby amended to reflect the portion of shoreland segment 44-UW that has been redesignated as shoreland segment 44-b-UD.

EXCEPTION #17 - Shoreland Segments 27 UW, 44 UW, 44a-UW, 54 UW, 61 UW, and 66 UW - Eastside, Coos Bay, North Bend, Empire and Charleston Waterfronts.

- A) The Proposal: To permit water-related uses in these segments as well as water-dependent uses, as existing, except in the case of 27 UW [Eastside Port property] where marine construction and support development [including water-related] are proposed on a vacant site.
- B) The Exception: During the application of the Coastal Shorelands Goal (17) to the plan through the 'Linkage' process, it was not possible to apply the goal to these particular areas. Therefore, an exception must be taken. An exception is required to permit water-related uses in an area which is "especially suited to water-dependent development (ESWD)".
- C) The Findings
 - (i) Why these uses should be provided for

Segments 44 UW, 44a UW (Coos Bay/North Bend Waterfront), 54 UW (Empire docks), 61 UW (Hanson's Landing) and 66 UW (Charleston) currently contain a mixture of water-dependent and water-related uses. For example, the Coos Bay waterfront contains machine shops, and the North Bend waterfront has a marine supply business, which are "water-related" rather than "water-dependent" [see Definitions]. The Charleston and Empire areas contain a similar mixture of uses. These water-related uses rarely occupy the immediate shoreline, but are located within a block or so within an area which is generally "especially suited to water-dependent uses". These support facilities need to be in close proximity to the water-dependent uses which they serve in order to perform their essential function. It is therefore rational to permit continuation and expansion of these uses within the ESWD area; land values on the immediate waterfront tend to be high enough to exclude new water-related uses in favor of water-dependent uses. Market forces are adequate in this case to bring about the most efficient distribution of land uses within the ESWD area.

Conclusion - It is necessary to locate certain water-related uses in ESWD areas either because they have historically existed alongside water-dependent uses or because they are needed as essential support to marine construction and repair.

(ii) Alternative Locations

There are essentially no alternative locations for expansion of existing water-related uses in Segments 44 UW, 44a UW, 54 UW, 61 UW and 66 UW, except to relocate altogether outside the Coastal Shorelands Boundary. Considering that such businesses are established, this is an unreasonable expectation unless insufficient land is available for expansion.

Conclusion - There are no practical alternative locations for existing water-related uses unless there is no space for expansion. The sole alternative site for water-related marine repair and storage uses is more suitable for other uses and will only be used as a secondary location if insufficient land is available at the Eastside site.

(iii) Consequences

a) Social and Economic

The effect of permitting water-related uses in these ESWD areas is to perpetuate the traditionally close ties, both functionally and spatially, between them and water-dependent uses. The effect of not permitting such uses would be to gradually displace them, as they find that there is no opportunity to expand, to locations outside the Coastal Shorelands Boundary. In many cases, no doubt, they would try to locate as close as possible, but might have difficulty in finding available sites. This could eventually have the effect of reducing the quality of service that these uses would provide to

water-dependent uses. The consequence at the Eastside site would be to reduce the amount of flexibility in site plan design and reducing efficiency by forcing water-related uses to locate an undue distance from the waterfront in the non-ESWD part of the site.

b) Environmental

There are no significant environmental consequences of allowing the proposed uses.

c) Energy

The energy consequences relate chiefly to the energy savings associated with locating service industries in close proximity to the water-dependent uses. However, these savings are not significant.

Conclusion - The social/economic consequences of permitting these uses are positive. There are no significant environmental or energy consequences.

(iv) Compatibility

As shown by the above discussion, water-related uses are highly compatible with adjacent water-dependent uses in these management segments, because of the historical interdependence between them.

Conclusion - These water-related uses are compatible with adjacent uses.

Section 9. Severability. The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 1st day of May, 2001.

Yes: Mayor Joe Benetti and Councilors Anna Marie Larson, Jeff McKeown, Cindi Miller, Don Spangler, and Judy Weeks

No: None

Absent: Councilor Kevin Stufflebean

Joe Benetti
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Joyce Jansen, Deputy Recorder