

THE BAY CITY DEVELOPMENT ORDINANCE

- b. Land in this zone shall not be used as part of density calculations for development in adjacent areas.

Section 1.830 Shoreland Zone 2 Standards

Section 1.831 Purpose: The purpose of the Shoreland 2 Zone is to manage shoreland areas which are especially suited for water-dependent industrial, commercial, or recreational use. Water-dependent uses have the highest priority, followed by water-related uses. Uses which are not water-dependent or water-related may be provided for when they do not preclude or conflict with existing or probable future water-dependent uses of the site.

Section 1.832 Water Dependent Zone Standards

Section 1.833 Maximum Lot Coverage none

Section 1.834 Minimum Open Space none

Section 1.835 Minimum Landscaped Open Area

A minimum of 5% of the total lot area shall be maintained in landscaped open area.

Section 1.836 Minimum Lot Size none

Section 1.837 Maximum Building Height

A maximum building height of 24 feet.

Section 1.838 Uses Allowed

Refer to the Use Matrix, Section 1.3

Section 1.839 Overall Use Criteria

No use or activity will be allowed in the Shoreland 2 Zone unless it meets one of the following criteria:

- a. It is water-dependent, which means that it is a use or activity which can be carried out only on, in, or adjacent to water areas because the use required access to the water body for water-borne recreation, energy production, or source of water.
- b. It is water-related, which means that it provides goods and/or services that are directly associated with a water-dependent use (supplying materials to, or using products of, or offering commercial or personal service to

water-dependent uses); and if not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality shall involve a subjective consideration of economic, social, and environmental consequences of the use).

- c. Uses that are not water-dependent shall be shown not to preclude or conflict with existing or probable future water-dependent use on the site or in the vicinity.
- d. A temporary use which invokes minimal capital investment and no permanent structures, or a use in conjunction with and incidental to a water-dependent use.

Section 1.840 Setback Requirements none

Section 1.841 Parking Requirements

Refer to Section 3.5

Section 1.842 Sign Requirements

Refer to Section 3.8

Section 1.843 Estuary and Shoreland Standards

All uses and activities shall satisfy the applicable Estuary and Shoreland Standards in Section 2.22.

Section 1.844 Additional Standards

a. Public access to the waterfront shall be provided, except where it is demonstrated to the satisfaction of the Planning Commission that public access is not feasible due to safety, security, or other valid reason.

b. Riparian Vegetation - All structures and uses shall be set back twenty-five (25) feet from Patterson Creek unless direct water access is required in conjunction with a water-dependent use. The setback shall be measured from the mean higher high water line in estuarine portions and the ordinary high water line for non-estuarine portions of the stream.

Riparian vegetation shall be protected and retained within twenty-five (25) feet of the creek with the following exceptions:

- 1) The removal of dead, diseased, or dying trees which pose an erosion or safety hazard.

- 2) Vegetation removal necessary to provide direct water access for a water-dependent use.
- 3) Vegetation removal necessary to place structural shoreline stabilization when other forms of shoreline stabilization are shown to be inadequate.

Section 1.860 Estuary Zones, Areas Included, and Uses Permitted Outright

Estuary Zones shall be applied to all estuarine water, intertidal areas, submerged and submersible lands, and tidal wetlands up to the line of non-aquatic vegetation of the Mean Higher High Water (MHHW) line, whichever is most landward.

Section 1.861 Uses Permitted Outright (P)

The following uses are permitted outright within all estuary zones:

- a. Maintenance and repair of existing structures or facilities not involving a regulated activity.

For the purpose of the ordinance, "existing structures and facilities" are defined as structures or facilities in current use or good repair as of date of adoption of this ordinance (including structures or facilities which are in conformance with the requirements of this ordinance and nonconforming structures or facilities established prior to October 7, 1977.)

- b. Low intensity, water-dependent recreation, including but not limited to fishing, crabbing, clamming, wildlife observation, swimming, and hunting.
- c. Research and educational observation.
- d. Passive restoration.
- e. Dike maintenance and repair for:

- 1) Existing serviceable dikes (including those that allow some seasonal inundation.)
- 2) Dikes that have been damaged by flooding, erosion, or tidegate failure where the property has not reverted to an estuarine habitat.
- 3) Dikes that have been damaged by flooding, erosion, or tidegate failure where the property has reverted to estuarine habitat only if the property is in the Farm F-1 Zone and it has been in agricultural use for 3 of the last 5 years and reversion to estuarine habitat has not occurred more than 5 years prior.

Bay City will rely on the U.S. Army Corps of Engineers and the Division of State Lands to determine whether an area has reverted to estuarine influence.

For the purpose of this subsection, agricultural use means using an area for pasture several months of the year or harvesting this area once a year.

- f. Grazing of livestock.
- g. Fencing, provided that it is not placed across publicly-owned intertidal areas so as to restrict public access to, or recreational boating access across said lands and intertidal areas.

Section 1.870 Estuary Natural Zone (EN)

Section 1.871 Purpose and Areas Included

The purpose of the EN Zone is to provide for preservation and protection of significant fish and wildlife habitats and other areas which make an essential contribution to estuarine productivity or fulfill scientific, research or educational needs.

The EN Zone includes the following areas within the estuary: major tracts of tidal marsh, intertidal flats, and seagrass and algae beds. The "major tract" determination is made through a consideration of all the following five criteria: size, habitat, value, scarcity, and degree of alteration.

Section 1.872 Uses Permitted with Standards (PS)

The following uses are permitted with standards within the EN Zone, provided that the development standards in Section 2.22 have been met:

- a. Maintenance and repair of existing structures or facilities involving regulated activity.
- b. Navigational aids.
- c. Vegetative shoreline stabilization.
- d. Temporary dikes for emergency flood protection.
- e. Mooring buoy.
- f. Tidegate installation in existing functional dike.

- g. Bridge crossings and bridge crossing support structures.

Section 1.873

Conditional Uses (C)

The following uses are Conditional within the EN Zone and may be permitted by the Planning Commission, subject to the provisions of Article 2 and the development standards in Section 2.22:

- a. Aquaculture and water dependent portions of aquaculture facilities which do not require dredging or fill.
- b. Rip-rap to protect unique natural resources, historical and archaeological values, public facilities and uses existing as of October 7, 1977; and uses allowed by this zone.
- c. Water, sewer, gas, or phone lines.
- d. Electrical distribution lines and line support structure.
- e. Active restoration and estuarine enhancement.
- f. Temporary low water bridges.
- g. Temporary alterations.
- h. Boat ramps for public use where no dredging or fill for navigational access is needed.
- i. Water intake structures for out-bay aquaculture.

Section 1.874

Regulated Activities (RA)

The following regulated activities are permitted within the EN Zone, provided that the requirements of Section 2.22 have been met. Regulated Activities shall be reviewed by the procedure provided in Section 2.310:

- a. Regulated activities for the purpose of on-site maintenance and repair of existing structures or facilities, limited to:
 - 1) Dredging for on-site maintenance of:
 - Drainage tiles.
 - Drainage ditches.
 - Tidegates.
 - Bridge crossing support structures.
 - Water, sewer, gas, or phone lines.

Electrical distribution lines.
Outfalls.

2) Fill or rip-rap for on-site maintenance of:

Dikes.
Bridge crossing support structures or other land transportation facilities.

b. Rip-rap for structural shoreline stabilization and protection of uses by this zone.

c. Piling installation for:

1) Navigational aids.

2) Aquaculture facilities permitted as a conditional use.

3) Public boat ramp.

4) Bridge crossing support structures.

d. Dredging for installation of:

1) Water, sewer, gas, or phone lines.

2) Electrical distribution lines.

3) Tidegates in existing functional dikes adjacent to EN Zones.

4) Bridge crossing support structures.

5) Public boat ramps.

e. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.

f. Regulated activities in conjunction with temporary alterations.

g. Fill for installation of public boat ramps or bridge crossing support structure.

h. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.

Section 1.880

Estuary Conservation 1 (EC1) Zone

Section 1.881

Purpose and Areas Included

- a. The purpose of the EC1 Zone is to:
 - 1) Provide for long-term utilization of areas which support, or have the potential to support, valuable biological resources.
 - 2) Provide for long-term maintenance and enhancement of biological productivity.
 - 3) Provide for the long-term maintenance of the aesthetic values of estuarine areas, in order to promote or enhance the low intensity recreational use of estuarine areas adjacent to rural or agricultural shorelands.
- b. The EC1 Zone includes the following areas within the Tillamook Bay Estuary:
 - 1) Tracts of tidal marshes, tideflats, seagrass, and algae beds which are smaller or of less biological importance than those included in the EN or ECA areas.
 - 2) Productive recreational or commercial shell fish and fishing areas.
 - 3) Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of EN or ED units.
 - 4) Areas with potential for shellfish culture (excluding platted oyster beds in Tillamook Bay).

Section 1.882

Uses Permitted with Standards (PS)

The following uses are permitted with standards with the EC1 Zone, provided that the development standards in Section 2.22 have been met:

- a. Maintenance and repair of existing structures or facilities involving a regulated activity.
- b. Navigational aid.
- c. Vegetative shoreline stabilization.
- d. Structural shoreline stabilization, limited to rip-rap.

- e. Boat dock in conjunction with one or more private residences (Single-purpose private docks shall be limited to a maximum of 150 square feet in size.).
- f. Water, sewer, gas, or phone lines.
- g. Electrical distribution lines and line support structures.
- h. Active restoration and estuarine enhancement.
- i. Temporary dikes for emergency flood protection.
- j. Temporary low water bridge.
- k. Tidegate installation in existing functional dikes adjacent to EC1 Zones.
- l. Aquaculture and water-dependent portions of aquaculture facilities not requiring dredge or fill other than incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
- m. Bridge crossings and bridge crossing support structures.
- n. Boat ramps for public use where no dredging or fill for navigational access is needed.
- o. Water intake structures for out-bay aquaculture.

Section 1.883

Conditional Uses (C)

The following uses are conditional within the EC1 Zone, and may be permitted by the Planning Commission, subject to the provisions of Article 2 and the Development standards in Section 2.22:

- a. Water-dependent portion of aquaculture facilities which require dredge or fill.
- b. Water-dependent recreational facilities, including:
 - 1) Boat ramps, requiring dredging or fill for navigational access.
 - 2) Community boat docks in conjunction with a subdivision or planned development.
 - 3) Public or commercial docks and moorages for recreational marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.

- c. Mining or mineral extraction.
- d. Storm water and treated sewer outfall.
- e. Bulkheads for structural shoreline stabilization.
- f. Temporary alterations.
- g. Minor navigational improvements.

Section 1.884

Regulated Activities (RA)

The following regulated activities are permitted within the EC1 Zone, provided that the requirements of Section 2.22 have been met; regulated activities shall be reviewed by the procedure provided in Section 2.310:

- a. Regulated activities for the purpose of on-site maintenance and repair of existing structures or facilities, limited to:
 - 1) Dredging for on-site maintenance of:
 - Drainage tiles.
 - Drainage ditches.
 - Tidegates.
 - Bridge crossing support structures.
 - Water, sewer, gas, or phone lines.
 - Electrical distribution lines.
 - Outfalls.
 - 2) Fill or rip-rap for on site maintenance of:
 - Dikes.
 - Bridge crossing support structures or other land transportation facilities.
- b. Piling installation for:
 - 1) Water-dependent recreational facilities.
 - 2) Aquaculture facilities.
 - 3) Navigational aids.
 - 4) Bridge crossing support structures or other land transportation facilities.

- 5) Bulkheads.
- c. Rip-rap for structural shoreline stabilization and protection of uses allowed by this zone.
 - d. Dredging for:
 - 1) Bridge crossing support structure installation.
 - 2) Storm water or treated sewage outfall installation.
 - 3) Water, sewer, gas, or phone line installation.
 - 4) Electrical distribution line installation.
 - 5) Mining or mineral extraction.
 - 6) Tidegate installation in existing functional dikes adjacent to EC1 Zones.
 - 7) Water intake facilities.
 - 8) Boat ramps.
 - 9) Minor navigational improvements.
 - 10) Water-dependent portions of aquaculture facilities.
 - e. Fill for:
 - 1) Bridge crossing support structures.
 - 2) Structural shoreline stabilizations.
 - 3) Boat ramps.
 - 4) Water-dependent portions of aquaculture facilities.
 - f. Regulated Activities in conjunction with an approved active restoration or estuarine enhancement project.
 - g. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
 - h. Regulated activities in conjunction with temporary alterations.