

Lane Code  
CHAPTER 10 CONTENTS

RESOURCE CAPABILITY DETERMINATION

- 10.275-05 Purpose.
- 10.275-10 Definition of Resource Capability.
- 10.275-15 Identification of Resources and Impacts.
- 10.275-20 Resource Capability Determination.
- 10.275-25 Resource Capability Findings.
- 10.275-30 Notification of Agencies.

ESTUARINE IMPACT ASSESSMENT

- 10.280-05 Purpose.
- 10.280-10 Information to be Presented in the Impact Assessment.
- 10.280-15 Impact Assessment Findings.
- 10.280-20 Notification of Agencies.

PARKING SPACE, HEIGHT, AREA, GENERAL BUILDING AND GENERAL LOT AREA AND  
WIDTH SETBACK REQUIREMENTS

- 10.300-05 Parking Areas.
- 10.300-10 Height.
- 10.300-15 General Building Setback Requirements.
- 10.300-20 General Lot Area and Width Requirements.

## RESOURCE CAPABILITY DETERMINATION

### 10.275-05 Purpose.

Special uses in the Natural Estuary (NE), Conservation Estuary (CE), and Development Estuary (DE) Districts are allowed only if determined to meet the resource capability and purpose of the management unit in which the use or activity occurs. The purpose of this section is to establish a procedure for making a resource capability determination. Major activities or uses in the estuary may require an estuarine impact assessment; those uses do not also require this resource capability determination. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

### 10.275-10 Definition of Resource Capability.

Resource capability is defined as the degree to which the natural resource can be physically, chemically or biologically altered, or otherwise assimilate an external use and still function to achieve the purpose of the zone in which it is located. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

### 10.275-15 Identification of Resources and Impacts.

The applicant for a proposed use or activity in which a resource capability determination must be made shall submit the following:

- (1) Information on the resources present. The type of resources likely to be affected by the proposed action shall be inventoried. The County shall assist the applicant in location sources of information. Sources which can be used include: Lane County Coastal Resources Inventory, environmental impact statements for the Siuslaw River or other published information concerning the Siuslaw estuary, or more current resource information.
- (2) Information on impacts to be expected if the proposed use or activity is carried out. This is not intended to be a full impact assessment as specified in LC 10.280, but presentation of the major effects on water circulation and flushing patterns, water quality significant adverse impacts which may occur and impacts on the aquatic and shoreland life forms. Where appropriate to the proposed action, impacts on recreational and aesthetic use, navigation and other existing and potential uses of the estuary shall be identified as well.
- (3) Mitigation of Impacts. Where measurable adverse or negative impacts on the resource factors defined in LC 10.275-15(2) above have been or can be identified, information shall be provided on reasonable methods which could be employed to avoid or minimize adverse impacts. *(Revised by Ordinance No. 6-83, Effective 4.15.83; 7-91, 6.5.91)*

### 10.275-20 Resource Capability Determination.

Information on resources present and impacts to be expected will be evaluated as part of the special use permit procedure, based on the requirement that the estuary can still function to achieve the purpose of the zone in which the activity will be located. Information developed by resource agencies and information submitted by the applicant may be used in the determination and will be used whenever possible to reduce duplication of effort between agencies. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

### 10.275-25 Resource Capability Findings.

Based on analysis of resources and impacts, one of the following findings shall be concluded in approving or disapproving the use permit:

- (1) The proposed use or activity does not represent a significant adverse impact or reduction of significant fish and wildlife habitats or essential properties of the estuarine resource. It is consistent with the resource capabilities and existing and potential uses, of the management unit and corresponding zoning district.
- (2) The proposed use or activity presents a potential significant impact or reduction of significant fish and wildlife habitats or essential properties of the estuarine resource, but reasonable

- alternative or mitigating measures are proposed which will eliminate, or minimize to an acceptable level, adverse environmental impact or the mitigation requirement of ORS 541.626 have been met. It is consistent with the resource capabilities and existing and potential uses, of the management unit and corresponding zoning district.
- (3) The proposed use or activity will result in unacceptable loss, considering the purpose of the management unit in which the use is proposed. The use or activity represents irreversible changes and actions and unacceptable significant adverse impact or reduction of significant estuarine fish and wildlife habitat or essential properties of the estuary will result, or that the adverse consequences of the proposed use or activity would be likely to result in irreversible trends or changes in estuarine resource properties and functions. It is not consistent with the resource capabilities and existing and potential uses, of the management unit and corresponding zoning district. *(Revised by Ordinance No. 6-83, Effective 4.15.83; 7-91, 6.5.91)*

### **10.275-30 Notification of Agencies.**

- (1) Any application that is subject to the provisions of this section shall, as a minimum, be referred to the following:
- (a) U.S. Fish and Wildlife Service.
  - (b) U.S. Environmental Protection Agency.
  - (c) Oregon State Department of Fish and Wildlife.
  - (d) Oregon State Department of Land Conservation and Development.
  - (e) Oregon State Division of State Lands.
  - (f) National Marine Fishery Service.
  - (g) Army Corps of Engineers.
- (2) Agencies receiving referrals shall be afforded 15 calendar days from date of mailing to review and comment on the proposed activity. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

## **ESTUARINE IMPACT ASSESSMENT**

### **10.280-05 Purpose.**

The purpose of this section is to provide a procedure for evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. Activities which require an impact assessment do not also require a resource capability determination.

Uses which are permitted outright do not require an impact assessment. Uses requiring a special use permit will require an impact assessment only when an environmental impact statement (EIS) is required through the Corps of Engineers section 10/404 permit process. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

### **10.280-10 Information to be Presented in the Impact Assessment.**

Information contained in an impact assessment shall be used in the evaluation of a use or activity during a special use permit or conditional use permit procedure. As part of the permit review, information developed by resource agencies may be requested and used in the determination. Any possibilities of reducing duplication of effort by the city and other agencies will be utilized so long as the necessary information is adequately analyzed. Information contained in the impact assessment may be drawn from available data and analysis contained in the Lane County Coastal Resources Inventory, environmental impact statements and assessments for projects in the Siuslaw estuary, other published studies pertaining to the Siuslaw River estuary, or more current information provided by applicant. The impact assessment should apply available information to the following general areas of analysis. The Planning Director may waive inapplicable items for any particular use of project.

- (1) Aquatic life forms and habitat, including information on habitat type and use (e.g., rearing, spawning, feeding/resting, mitigation), species present, seasonal abundance, sediment type and characteristics and vegetation present. The type of alteration, including information detailing the extent of alteration (e.g., area measurement, depths to which alteration will extend, volumes

- of materials removed and/or placed as fill), impacted species (including threatened and endangered species), life states and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
- (2) Shoreland life forms and habitat, including information on habitat type and use (e.g., feeding, resting or watering areas, flyways), species present, seasonal abundance, soil types and characteristics and vegetation present. Impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
  - (3) Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of naturally occurring water temperatures, changes due to reduction, diversion or impoundment of water.
  - (4) Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential of erosion in or accretion in adjacent areas, changes in the floodplain, decreases in flushing capacity or decreases in rate of water flow from reduction, diversion or impoundment of water resources.
  - (5) Air quality, including information on: quantities of emissions of particulates, expected inorganic and organic airborne pollutants.
  - (6) Impact of the proposed project on navigation and public access to the shoreline and aquatic areas.
  - (7) Demonstration of public need to warrant such a modification to the estuary.
  - (8) Demonstration that nonwater dependent uses will not preempt existing or future water-dependent use of the area.
  - (9) Determination of the potential cumulative impact of the proposed development, including alteration of adjacent significant fish and wildlife habitat and essential properties of the estuary.
  - (10) Presentation of upland alternatives and methods to minimize preventable adverse impacts.
  - (11) Determination of need for mitigation. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

#### **10.280-15 Impact Assessment Findings.**

Based on results of impact assessment analysis and the approval criteria contained in the applicable zoning district, one of the following findings shall be concluded in approving or disapproving the use permit:

- (1) The proposed development does not represent a potential significant adverse impact or reduction of significant fish and wildlife habitats or essential properties of the estuarine resource.
- (2) The proposed development presents a potential significant adverse impact or reduction of significant fish and wildlife habitats or essential properties of the estuarine resource, but no reasonable alternatives exist and mitigating measures are proposed which will eliminate or minimize to an acceptable level, adverse environmental impacts. If mitigation is required under ORS 541.626, a mitigation plan shall have been approved by the Division of State Lands before this finding can be made.
- (3) The proposed development will result in unacceptable loss. The proposed use or activity represents irreversible changes and actions. Unacceptable significant adverse impact or reduction of significant fish and wildlife habitat or reduction of essential properties of the estuary will result; or that the adverse consequences of the proposed activity would be likely to result in irreversible trends or changes in estuarine resource properties or functions. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

#### **10.280-20 Notification of Agencies.**

- (1) Any application that is subject to the provisions of this section shall, as a minimum, be referred to the following:
  - (a) U.S. Fish and Wildlife Service.

- (b) U.S. Environmental Protection Agency.
  - (c) Oregon State Department of Fish and Wildlife.
  - (d) Oregon State Department of Land Conservation and Development.
  - (e) Oregon State Division of State Lands.
  - (f) National Marine Fishery Service.
  - (g) Army Corps of Engineers.
- (2) Agencies receiving referrals shall be afforded 15 calendar days from date of mailing to review and comment on the proposed activity. *(Revised by Ordinance No. 6-83, Effective 4.15.83)*

## **PARKING SPACE, HEIGHT, AREA, GENERAL BUILDING AND GENERAL LOT AREA AND WIDTH SETBACK REQUIREMENTS**

### **10.300-05 Parking Areas.**

Required garages and parking areas for residential and industrial development will be found under the zoning classification.

- (1) Residential Properties. The regulations of this subsection are in addition to off-street parking requirements of specific zones.
- (a) When a single-family residence is located on a site inaccessible by automobile due to topographic conditions or excessive grades, a private garage or parking space shall not be required.
  - (b) Unless otherwise allowed by the zoning district, and exclusive of recreational vehicles, off-street parking shall be limited to passenger cars, vans and pickups of not more than one ton manufacturer's capacity rating or comparable size. This size limitation does not apply to vehicles being used in conjunction with Rural Home Occupations.
  - (c) Commercial vehicles other than allowed by LC 10.300-05(1)(b) above may be parked on residential properties only for reasonable periods of time for deliveries, structural repair and similar purposes.
  - (d) Recreational or utility vehicles, including, but not limited to, boats and boat trailers, campers and residential-type utility trailers, shall not be parked or stored on the property at any time in a location obstructing motorists' vision clearance of roadways.
  - (e) Unless otherwise allowed by the zoning district, off-street parking areas shall not be used for the dismantling of any vehicle for the purpose of selling, trading or dealing in any manner with components thereof as a primary or secondary business.
  - (f)
    - (i) Inoperable vehicles and parts thereof, junk or salvage materials may be visibly stored on the premises unless such storage interferes with the reasonable use and enjoyment of other lots within 300 feet of the lot used for storage. In that event all automotive parts, junk, salvage material and all but one inoperable vehicle shall be stored in a location not visible from any adjacent road or from ground level of lots within 300 feet which are of similar elevation as the lot upon which the storage is taking place, or shall be screened to prevent such visibility. The allowable inoperable vehicle may be stored within the structural setback area, but shall not be parked or stored at any time in a location obstructing motorists' vision clearance of roadways. Nothing in this subsection shall be construed as allowing storage within the front structural setback area except as otherwise allowed herein.
    - (ii) Names of residents filing complaints under provisions of LC 10.300-05(1)(f)(i) above shall be a matter of public record.
  - (g) Except as allowed by this chapter, vehicles belonging to persons other than those residing on the lot shall not be stored or repaired for remuneration, traded, sold or offered for sale from the property. This includes vehicles left on consignment and vehicles owned temporarily primarily for resale. The sale of more than two vehicles

- per family member from one lot within a 12-month period shall be interpreted as "temporary ownership" unless the family member has owned said vehicles longer than 12 months.
- (h) Storage of refrigerators, freezers or other airtight compartments containing more than one and one-half cubic feet shall not occur at any time until the doors have been removed or secured, latches removed or other precautions taken so the compartment can be easily opened from the inside. Any appliance stored in violation of this subsection may be removed by the County from the premises and stored elsewhere at the owner's expense, or other remedial action taken to secure immediate compliance.
- (2) Nonresidential Private Parking.
- (a) Automobile parking space allowing 300 square feet per automobile (parking, plus driving space) shall be provided and maintained for any new or enlarged building as listed below:
- (i) Churches, auditoriums, theaters, stadiums, clubs and business schools or similar places of assembly, at least one permanently maintained parking space for every four seats provided in said building or structure, provided that 50 percent of the required number may be supplied by off-street parking facilities for other kinds of commercial establishments or uses not normally open, used or operated during the principal operating hours of the place of assembly.
- (ii) For hotels and apartment hotels, at least one permanently maintained parking space for each of the first 20 individual guest rooms, and one additional parking space for every three guest rooms in excess of 20.
- (iii) Auto courts shall provide at least one parking space for each lodging unit.
- (iv) For fraternity, sorority and student houses, at least one parking spaces for each lodging unit.
- (v) For hospitals and welfare institutions, at least one permanently maintained parking space for each 300 square feet of floor area.
- (vi) Clinics shall provide at least two parking spaces for each consultation and operating room.
- (vii) For business or commercial buildings or structures, at least one permanently maintained parking space for every 300 square feet or fraction thereof of floor space within the building, exclusive of automobile parking space.
- (viii) Mortuaries shall provide parking spaces for all people employed therein, plus at least one parking space for each 100 square feet of building floor area.
- (b) Parking spaces shall be on the lot with the main building or structure, or located not more than 800 feet therefrom.
- (3) Loading Space. In addition to the 10-foot setback requirement from the centerline of the alley, every hospital, hotel, institution, commercial or industrial building hereafter erected or established which abuts upon an alley or is surrounded on all sides by streets shall have one permanently maintained loading space for commercial vehicles of not less than 10 feet in width and 22 feet in length for each 4,000 square feet of lot area or fraction thereof upon which the building is located, provided that not more than two such loading spaces shall be required.
- (4) Public Parking Areas. Land hereafter used for public parking areas shall be developed according to the following standards:
- (a) Asphaltic, concrete or other approved type of surfacing.
- (b) Bumper guards where needed.
- (c) An ornamental fence, wall or hedge enclosing the parking area to a height not less than three feet nor more than six feet, but adhering to the vision clearance and front and side yard setbacks established for the district in which it is located. Said fence, wall or hedge shall be maintained in good condition.

- (d) When a parking lot adjoins property classified in an "R" District, the setback for the parking lot shall conform to the requirements for the adjacent "R" District and the parking lot shall be six feet in height. *(Revised by Ordinance No. 13-72, Effective 7.21.72; 3-76, 4.7.76; 9-79, 2.8.80)*

**10.300-10 Height.**

- (1) Height limits established for the various zones or districts refer to the height of the building proper. Roof structures, such as housing for elevators, tanks, ventilating fans, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts or similar structures, may exceed the height limit herein prescribed.
- (2) On lots sloping downhill from the street, buildings may have an additional story, provided the ceiling of the lowest story is not more than two feet above the average curb level along the front of the lot. *(Revised by Ordinance No. 13-72, Effective 7.21.72)*

**10.300-15 General Building Setback Requirements.**

- (1) Side Yard.
- (a) No building or structure shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated under the District or Zone classification, except that eaves or cornices may extend over the required side yard for a distance of not more than two feet.
- (b) Fences, walls or hedges which tend to serve as a wall or yard enclosure may be maintained in a side yard, provided they do not exceed six feet in height. *(Revised by Ordinance No. 13-72, Effective 7.21.72; 6-75, 3.26.75)*

**10.300-20 General Lot Area and Width Requirements.**

- (1) The site area requirements of LC Chapter 10 shall not apply to prohibit the erection of a single-family dwelling on a lot separately owned on or before January 8, 1969, or on any numbered lot in an approved and filed major or minor subdivision plat of record on or before January 8, 1969, except for the EFU A-1, A-2, FM, F-1, F-2 and FF Districts, where use of pre-existing parcels as provided for in a different manner.
- (2) The minimum area requirements of LC Chapter 10 shall not be construed to govern in situations where greater minimum area requirements are imposed or required by state law, state rules and regulations, the provisions of this Code, or other County rules and ordinances.
- (3) Refer also to partition and subdivision criteria of LC Chapter 13 for other lot area, width and depth requirements which may be applicable. *(Revised by Ordinance No. 13-72, Effective 7.21.72; 3-73, 5.11.73; 13-73, 11.21.73 (4.17.74); 3-76, 4.7.76; 1-82, As Amended, 4.16.82; 18-07, 12.27.18)*

PAGES 10-697 THROUGH 10-720  
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