

ORDINANCE No. 1106-A

Introduced by Commissioner: Terry Ferguson

Amending the City of Warrenton Development Code Sections 1.3 (Definitions), 2.7 (Marine Commercial Shorelands Zone), 2.9 (Recreational Commercial Zone), 2.11 (Water-Dependent Industrial Shorelands Zone), and Article 5 (Columbia River Estuary Shoreland and Aquatic Development Standards - Sections 5.750 and 5.950) as required by DLCD Order 001522 Remand of Periodic Review Task 9A. Revised language for the above-mentioned sections and article of the Development Code are attached as Exhibit 'A'.

WHEREAS, certain changes are necessary to revise, update and amend the Warrenton Development Code in order to comply with Statewide Planning Goal 17 and Oregon Administrative Rules 660-037; and

WHEREAS, the Warrenton City Commission received the Planning Commission's recommendation on this matter, and conducted a public hearing on February 13, 2007 and closed the public hearing on that date; and

WHEREAS, the Warrenton City Commission has determined to approve this periodic review item as described in Exhibit "A", which will amend the afore-mentioned sections of the Development Code (all exhibits attached hereto and incorporated by reference).

NOW, THEREFORE, The City of Warrenton ordains as follows:

Section 1: The City of Warrenton's Development Code (Exhibit "A") is amended as described in the attached exhibit.

Section 2: This ordinance shall become a final land use decision upon its second reading, enactment, and its signing by the Mayor.

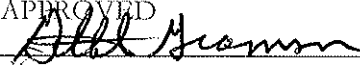
Section 3: This ordinance shall become effective thirty (30) days from the date of its adoption.

Section 4: If any article, section, subsection, phrase, clause, sentence or word in this ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the ordinance but shall be confined to the article, section, subdivision, clause, sentence or word so held invalid or unconstitutional.

First Reading: February 27, 2007  
Second Reading: March 13, 2007

ADOPTED by the City Commission of the City of Warrenton, Oregon, this 13th day of March, 2007.

APPROVED

  
\_\_\_\_\_  
Gil Gramson, Mayor

ATTEST:

  
\_\_\_\_\_  
Linda Engbretson, City Recorder

**Date the City mailed the Notice of Decision to parties with standing and to the Department of Land Conservation and Development on the required form:**

**Amend (new is underlined) Section 1.3, Definitions, as follows:**

Add new definition of "Designated water-dependent shoreland site" from OAR 660-037-0040(1):

Designated water-dependent shoreland site: An estuarine shoreland area designated in a comprehensive plan and land use regulation to comply with Coastal Shoreland Uses Requirement 2 of Goal 17, Coastal Shorelands (OAR 660-015-0010(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. In addition, the following definitions apply:

(A) "Access" means physical contact with or use of the water.

(B) "Requires" means 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.

(C) "Water-borne transportation" means 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).

(D) "Recreation" means 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.

(E) "Energy production" means uses which need quantities of water to produce energy directly (e.g. hydroelectric facilities, ocean thermal energy conversion).

(F) "Source of water" means facilities for the appropriation of quantities of water for cooling processing or other integral functions.

Typical examples of water dependent uses include the following:

(A) 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.

(B) Commercial - e.g., commercial fishing marinas and support; fish processing and sales; boat sales, rentals, and supplies.

(C) Recreational - e.g., recreational marinas, boat ramps, and support.

(D) Aquaculture.

(E) Certain scientific and educational activities which, by their nature, require access to coastal waters - estuarine research activities and equipment mooring and support.

For purposes of this definition, examples of uses that are not "water dependent uses" include restaurants, hotels, motels, bed and breakfasts, residences, parking lots not associated with water-dependent uses, and boardwalks.

**Amend (new is underlined) Sections 2.7, Marine Commercial Shorelands Zone, as follows:**

Section 2.7.110. Permitted Uses.

(7) Communication facilities.

Section 2.7.120 Conditional Uses

(4) Water-related uses subject to the standard in section 2.7.130.

(5) A temporary use utilizing existing structures or involving new facilities which require minimal capital investment in accordance with Section 4.9.1, Temporary Permits, and subject to the standard in section 2.7.130.

Section 2.7.130 Development Standards.

(13) Standards for approval of nonwater dependent uses:

\_\_\_\_\_ (A) Nonwater-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 nonwater-dependent uses and the water-dependent uses at the site shall not exceed one to three (nonwater-dependent to water-dependent).

\_\_\_\_\_ (C) Such nonwater-dependent uses shall not interfere with the conduct of the water-dependent use.

(14) Standards for approval of a temporary use: Temporary nonwater-dependent uses that involve minimal capital investment and no permanent structures may be allowed. The intent of allowing such uses is to avoid posing a significant economic obstacle to attracting water-

dependent uses. Tools for implementing this approach include "vacate" clauses in leases on public lands, as well as requiring "vacate" clauses for land use approvals involving leasing of private lands.

**Amend Sections 2.9, Recreational Commercial Zone, as follows:**

Section 2.9 Recreational-Commercial Zone (RC)

6. Hotel/conference center and associated facilities subject to the standards in section 2.9.130.
8. Water-related recreational, commercial and industrial uses, subject to the standards in section 2.9.130, including, but not limited to:
12. Water-related recreational, commercial and industrial uses subject to the standards in section 2.9.130, including, but not limited to:

Section 2.9.130 Development Standards.

12. Standards for approval of nonwater dependent uses:

(A) Nonwater-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 nonwater-dependent uses and the water-dependent uses at the site shall not exceed one to three (nonwater-dependent to water-dependent).

(C) Such nonwater-dependent uses shall not interfere with the conduct of the water-dependent use.

13. Standards for approval of a temporary use: Temporary nonwater-dependent uses that involve minimal capital investment and no permanent structures may be allowed. The intent of allowing such uses is to avoid posing a significant economic obstacle to attracting water-dependent uses. Tools for implementing this approach include "vacate" clauses in leases on public lands, as well as requiring "vacate" clauses for land use approvals involving leasing of private lands.

**Amend Sections 2.11, Water-Dependent Industrial Shorelands Zone, as follows:**

Section 2.11.120 Conditional Uses.

- (1) Temporary uses, subject to the standards in section 2.11.130, involving an existing structure; a removable structure (such as a trailer); or involving minimal capital investment.
  
- (5) Water-related uses subject to the standards in section 2.11.130.

Section 2.11.130 Development Standards.

(21) Standards for approval of a temporary use: Temporary nonwater-dependent uses that involve minimal capital investment and no permanent structures may be allowed. The intent of allowing such uses is to avoid posing a significant economic obstacle to attracting water-dependent uses. Tools for implementing this approach include "vacate" clauses in leases on public lands, as well as requiring "vacate" clauses for land use approvals involving leasing of private lands.

(22) Standards for approval of nonwater dependent uses:

(A) Nonwater-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 nonwater-dependent uses and the water-dependent uses at the site shall not exceed one to three (nonwater-dependent to water-dependent).

(C) Such nonwater-dependent uses shall not interfere with the conduct of the water-dependent use.

**Amend Article 5, Columbia River Estuary Shoreland and Aquatic Development Standards, section 5.750, Residential, Commercial and Industrial Development, as follows:**

Section 5.750 Residential, Commercial and Industrial Development

(9) In the Marine Commercial Shorelands zone (C2), the Recreation-Commercial Zone (RC), and in the Water-Dependent Industrial Shorelands Zone (I2), nonwater-dependent uses that are in conjunction with and incidental and subordinate to water-dependent uses on the site may be approved subject to the following standards:

(A) Such nonwater-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 nonwater-dependent uses and the water-dependent uses at the site shall not exceed one to three (nonwater-dependent to water-dependent).

(C) Such nonwater-dependent uses shall not interfere with the conduct of the water-dependent use.

(10) In the Marine Commercial Shorelands zone (C2), the Recreation-Commercial Zone (RC), and in the Water-Dependent Industrial Shorelands Zone (I2), temporary nonwater-dependent uses that involve minimal capital investment and no permanent structures subject to this standard. The intent of allowing such uses is to avoid posing a significant economic obstacle to attracting water-dependent uses. Tools for implementing this approach include "vacate" clauses in leases on public lands, as well as requiring "vacate" clauses for land use approvals involving leasing of private lands.

## **Amend Article 5, Columbia River Estuary Shoreland and Aquatic Development Standards**

Section 5.950 Water-Dependent and Water-Related Use Criteria:

(1) add after the existing paragraph

When applied to lands in the Marine Commercial Shorelands zone, Recreation Commercial zone, or the Water-Dependent Industrial Shorelands zone, the following definitions apply:

(A) "Access" means physical contact with or use of the water.

(B) "Requires" means 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.

(C) "Water-borne transportation" means 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).

(D) "Recreation" means 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.

(E) "Energy production" means uses which need quantities of water to produce energy directly (e.g. hydroelectric facilities, ocean thermal energy conversion).

(F) "Source of water" means facilities for the appropriation of quantities of water for

cooling processing or other integral functions.

Typical examples of water dependent uses include the following:

(A) 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.

(B) Commercial - e.g., commercial fishing marinas and support; fish processing and sales; boat sales, rentals, and supplies.

(C) Recreational - e.g., recreational marinas, boat ramps, and support.

(D) Aquaculture.

(E) Certain scientific and educational activities which, by their nature, require access to coastal waters - estuarine research activities and equipment mooring and support.

Examples of uses that are not "water dependent uses" include restaurants, hotels, motels, bed and breakfasts, residences, parking lots not associated with water-dependent uses, and boardwalks.