

# Oregon's Statewide Planning Goals & Guidelines

## GOAL 16: ESTUARINE RESOURCES

### OAR 660-015-0010(1)

**To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and**

**To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.**

Comprehensive management programs to achieve these objectives shall be developed by appropriate local, state, and federal agencies for all estuaries.

To assure diversity among the estuaries of the State, by June 15, 1977, LCDC with the cooperation and participation of local governments, special districts, and state and federal agencies shall classify the Oregon estuaries to specify the most intensive level of development or alteration which may be allowed to occur within each estuary. After completion for all estuaries of the inventories and initial planning efforts, including identification of needs and potential conflicts among needs and goals and upon request of any coastal jurisdiction, the Commission will review the overall Oregon Estuary Classification.

Comprehensive plans and activities for each estuary shall provide for appropriate uses (including preservation) with as much diversity as is consistent with the overall Oregon Estuary Classification, as well as with the biological economic, recreational,

and aesthetic benefits of the estuary. Estuary plans and activities shall protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features and water quality.

The general priorities (from highest to lowest) for management and use of estuarine resources as implemented through the management unit designation and permissible use requirements listed below shall be:

1. Uses which maintain the integrity of the estuarine ecosystem;
2. Water-dependent uses requiring estuarine location, as consistent with the overall Oregon Estuary Classification;
3. Water-related uses which do not degrade or reduce the natural estuarine resources and values;
4. Nondependent, nonrelated uses which do not alter, reduce or degrade estuarine resources and values.

#### **INVENTORY REQUIREMENTS**

Inventories shall be conducted to provide information necessary for designating estuary uses and policies. These inventories shall provide information on the nature, location, and extent of physical, biological, social, and economic resources in sufficient detail to establish a sound basis for estuarine management and to enable the identification of areas for preservation and areas of exceptional potential for development.

State and federal agencies shall assist in the inventories of estuarine resources. The Department of Land Conservation and Development, with assistance from local government, state and federal agencies, shall establish common inventory standards and techniques, so that inventory data collected by different agencies or units of government, or data between estuaries, will be comparable.

### **COMPREHENSIVE PLAN REQUIREMENTS**

Based upon inventories, the limits imposed by the overall Oregon Estuary Classification, and needs identified in the planning process, comprehensive plans for coastal areas shall:

1. Identify each estuarine area:
2. Describe and maintain the diversity of important and unique environmental, economic and social features within the estuary;
3. Classify the estuary into management units; and
4. Establish policies and use priorities for each management unit using the standards and procedures set forth below.
5. Consider and describe in the plan the potential cumulative impacts of the alterations and development activities envisioned. Such a description may be general but shall be based on the best available information and projections.

### **MANAGEMENT UNITS**

Diverse resources, values, and benefits shall be maintained by classifying the estuary into distinct water use management units. When classifying estuarine areas into management units, the following shall

be considered in addition to the inventories:

1. Adjacent upland characteristics and existing land uses;
2. Compatibility with adjacent uses;
3. Energy costs and benefits; and
4. The extent to which the limited water surface area of the estuary shall be committed to different surface uses.

As a minimum, the following kinds of management units shall be established:

1. **Natural** -- in all estuaries, areas shall be designated to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research, and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological, and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tideflats, and seagrass and algae beds.

Permissible uses in natural management units shall include the following:

- a. undeveloped low-intensity, water-dependent recreation;
- b. research and educational observations;
- c. navigation aids, such as beacons and buoys;
- d. protection of habitat, nutrient, fish, wildlife and aesthetic resources;
- e. passive restoration measures;
- f. dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;

- g. riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values; and public facilities; and
- h. bridge crossings.

Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed:

- a. aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
- b. communication facilities;
- c. active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
- d. boat ramps for public use where no dredging or fill for navigational access is needed; and,
- e. pipelines, cables and utility crossings, including incidental dredging necessary for their installation.
- f. installation of tidegates in existing functional dikes.
- g. temporary alterations.
- h. bridge crossing support structures and dredging necessary for their installation.

A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

**2. Conservation** -- In all estuaries, except those in the overall Oregon Estuary Classification which are classed for preservation, areas shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aquaculture. They shall include tracts of significant habitat smaller or of less biological importance than those in (1) above, and recreational or commercial oyster and clam beds not included in (1) above. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification.

Permissible uses in conservation management units shall be all uses listed in (1) above except temporary alterations.

Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed:

- a. High-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas;
- b. Minor navigational improvements;
- c. Mining and mineral extraction, including dredging necessary for mineral extraction;
- d. Other water dependent uses requiring occupation of water surface area by means other than dredge or fill;

- e. Aquaculture requiring dredge or fill or other alteration of the estuary;
- f. Active restoration for purposes other than those listed in 1(d).
- g. Temporary alterations.

A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

3. **Development** -- in estuaries classified in the overall Oregon Estuary Classification for more intense development or alteration, areas shall be designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alterations of the estuary not included in (1) and (2) above.

Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.

As appropriate the following uses shall also be permissible in development management units:

- a. Dredge or fill, as allowed elsewhere in the goal;
- b. Navigation and water-dependent commercial enterprises and activities;
- c. Water transport channels where dredging may be necessary;
- d. Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units.
- e. Water storage areas where needed for products used in or resulting from industry, commerce, and recreation;
- f. Marinas.

Where consistent with the purposes of this management unit and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and nondependent, nonrelated uses not requiring dredge or fill; mining and mineral extraction; and activities identified in (1) and (2) above shall also be appropriate.

In designating areas for these uses, local governments shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses.

#### **IMPLEMENTATION REQUIREMENTS**

1. Unless fully addressed during the development and adoption of comprehensive plans, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake

or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources.

The impact assessment need not be lengthy or complex, but it should enable reviewers to gain a clear understanding of the impacts to be expected. It shall include information on:

- a. The type and extent of alterations expected;
- b. The type of resource(s) affected;
- c. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary; and
- d. The methods which could be employed to avoid or minimize adverse impacts.

2. Dredging and/or filling shall be allowed only:

- a. If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and,
- b. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
- c. If no feasible alternative upland locations exist; and,
- d. If adverse impacts are minimized.

Other uses and activities which could alter the estuary shall only be allowed if the requirements in (b), (c), and (d) are met. All or portions of these requirements may be applied at the time of plan development for actions identified in the plan. Otherwise, they

shall be applied at the time of permit review.

3. State and federal agencies shall review, revise, and implement their plans, actions, and management authorities to maintain water quality and minimize man-induced sedimentation in estuaries. Local government shall recognize these authorities in managing lands rather than developing new or duplicatory management techniques or controls.

Existing programs which shall be utilized include:

- a. The Oregon Forest Practices Act and Administrative Rules, for forest lands as defined in ORS 527.610-527.730 and 527.990 and the Forest Lands Goal;

- b. The programs of the Soil and Water Conservation Commission and local districts and the Soil Conservation Service, for Agricultural Lands Goal;

- c. The nonpoint source discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Federal Water Quality Act as amended in 1972 (PL92-500); and

- d. The Fill and Removal Permit Program administered by the Division of State Lands under ORS 541.605 - 541.665.

4. The State Water Policy Review Board, assisted by the staff of the Oregon Department of Water Resources, and the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Division of State Lands, and the U.S. Geological Survey, shall consider establishing minimum fresh-water flow rates and standards so that resources and uses of the estuary, including navigation, fish and wildlife

characteristics, and recreation, will be maintained.

5. When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effects shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained. Comprehensive plans shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of intertidal area proposed for dredging or filling, or make findings demonstrating that it is not possible to do so.

6. Local government and state and federal agencies shall develop comprehensive programs, including specific sites and procedures for disposal and stock-piling of dredged materials. These programs shall encourage the disposal of dredged material in uplands or ocean waters, and shall permit disposal in estuary waters only where such disposal will clearly be consistent with the objectives of this goal and state and federal law. Dredged material shall not be disposed in intertidal or tidal marsh estuarine areas unless part of an approved fill project.

7. Local government and state and federal agencies shall act to restrict the proliferation of individual single-purpose docks and piers by encouraging community facilities common to several uses and interests. The size and shape of a dock or pier shall be limited to that required for the intended use. Alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps shall be investigated and considered.

8. State and federal agencies shall assist local government in identifying areas for restoration.

Restoration is appropriate in areas where activities have adversely affected some aspect of the estuarine system, and where it would contribute to a greater achievement of the objective of this goal. Appropriate sites include areas of heavy erosion or sedimentation, degraded fish and wildlife habitat, anadromous fish spawning areas, abandoned diked estuarine marsh areas, and areas where water quality restricts the use of estuarine waters for fish and shellfish harvest and production, or for human recreation.

9. State agencies with planning, permit, or review authorities affected by this goal shall review their procedures and standards to assure that the objectives and requirements of the goal are fully addressed. In estuarine areas the following authorities are of special concern:

**Division of State Lands**

Fill and Removal Law ORS  
541.605-541.665

Mineral Resources ORS 273.551;  
ORS 273.775 - 273.780

Submersible and Submerged  
Lands ORS 274.005 - 274.940

**Economic Development Department**

Ports Planning ORS 777.835

**Water Resources Department**

Appropriation of Water ORS  
37.010-537.990; ORS 543.010-543.620

**Department of Geology and Mineral  
Industries**

Mineral Extraction ORS 520.005-  
Oil and Gas Drilling ORS 520.095

**Department of Forestry**

Forest Practices Act ORS  
527.610-527.730

**Department of Energy**

Regulation of Thermal Power and  
Nuclear Installation ORS 469.300-  
469.570

**Department of Environmental Quality**

Water Quality ORS  
468.700-468.775

Sewage Treatment and Disposal  
Systems ORS 454.010-454.755

**GUIDELINES**

The requirements of the Estuarine Resources Goal should be addressed with the same consideration applied to previously adopted goals and guidelines. The planning process described in the Land Use Planning Goal (Goal 2), including the exceptions provisions described in Goal 2, applies to estuarine areas and implementation of the Estuarine Resources Goal.

Because of the strong relationship between estuaries and adjacent coastal shorelands, the inventories and planning requirements for these resources should be closely coordinated. These inventories and plans should also be fully coordinated with the requirements in other state planning goals, especially the Goals for Open Spaces, Scenic and Historic Areas and Natural Resources; Air, Water, and Land Resources Quality; Recreational Needs; Transportation; and Economy of the State.

**A. INVENTORIES**

In detail appropriate to the level of development or alteration proposed, the inventories for estuarine features should include:

1. Physical characteristics
  - a. Size, shape, surface area, and contour, including water depths;
  - b. Water characteristics including, but not limited to, salinity, temperature, and dissolved oxygen. Data should reflect average and extreme values for the months of March, June, September, and December as a minimum; and
  - c. Substrate mapping showing location and extent of rock, gravel, sand, and mud.

2. Biological characteristic--Location, Description, and Extent of:
  - a. The common species of benthic (living in or on bottom) flora and fauna;
  - b. The fish and wildlife species, including part-time residents;
  - c. The important resting, feeding, and nesting areas for migrating and resident shorebirds, wading birds and wildlife;
  - d. The areas important for recreational fishing and hunting, including areas used for clam digging and crabbing;
  - e. Estuarine wetlands;
  - f. Fish and shellfish spawning areas;
  - g. Significant natural areas; and
  - h. Areas presently in commercial aquaculture.

3. Social and economic characteristics--Location, Description, and Extent of:
  - a. The importance of the estuary to the economy of the area;
  - b. Existing land uses surrounding the estuary;
  - c. Man-made alterations of the natural estuarine system;

- d. Water-dependent industrial and/or commercial enterprises;
- e. Public access;
- f. Historical or archaeological sites associated with the estuary; and
- g. Existing transportation systems.

1. That the short-term damage to resources is consistent with resource capabilities of the area; and
2. That the area and affected resources can be restored to their original condition.

## **B. HISTORIC, UNIQUE, AND SCENIC WATERFRONT COMMUNITIES**

Local government comprehensive plans should encourage the maintenance and enhancement of historic, unique, and scenic waterfront communities, allowing for nonwater-dependent uses as appropriate in keeping with such communities.

## **C. TRANSPORTATION**

Local governments and state and federal agencies should closely coordinate and integrate navigation and port needs with shoreland and upland transportation facilities and the requirements of the Transportation Goal. The cumulative effects of such plans and facilities on the estuarine resources and values should be considered.

## **D. TEMPORARY ALTERATIONS**

The provision for temporary alterations in the Goal is intended to allow alterations to areas and resources that the Goal otherwise requires to be preserved or conserved. This exemption is limited to alterations in support of uses permitted by the Goal; it is not intended to allow uses which are not otherwise permitted by the Goal.

Application of the resource capabilities test to temporary alterations should ensure: