CITY OF YACHATS
ORDINANCE NO. 367

AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTERS 9.04.030 DEFINITIONS; 9.52.050 GEOLOGIC HAZARD OVERLAY ZONE; 9.52.100 OLDER STABILIZED DUNE CONSTRUCTION; 9.52.130 DEVELOPMENT ON BEACHES; AND YACHATS COMPREHENSIVE PLAN GOAL A PROTECTION OF NATURAL RESOURCES; GOAL B PROTECTION OF ESTUARINE RESOURCES; GOAL C PROTECTION OF SHORELAND RESOURCES; GOAL E PROTECTION FROM NATURAL HAZARDS AND DISASTERS; AND GOAL L BEACHES.

WHEREAS, the City of Yachats received a Coastal Resilience Grant from The Oregon Coastal Management Program for March through July 2020;

WHEREAS, pursuant to ORS 197.610, the City provided DLCD with Form 1 notice of these proposed YMC Title 9 text changes on September 13, 2020;

WHEREAS, notice of the proposed amendments were provided in accordance with procedures established in the Yachats Municipal code and Oregon Revised Statues;

WHEREAS, the Planning Commission held a work sessions on July 7, 2020 and July 21, 2020, to provide an open forum for discussion of the amendments;

WHEREAS, the Planning Commission and City Council held a work session on June 4, 2020, to provide an open forum for discussion of the amendments;

WHEREAS, the Planning Commission held a public hearing on October 20, 2020 for the proposed amendments;

WHEREAS, the Planning Commission followed the text amendment procedures under YMC 9.84.020 and has provided a report to the City Council along with its recommendation to consider the proposed text changes;

WHEREAS, the City Council held a public hearing on these proposed text changes on November 18, 2020 and remanded the Ordinance to the Planning Commission for further review;

WHEREAS, the Planning Commission held a public hearing on December 1, 2020 for the proposed amendments;

WHEREAS, the Planning Commission held a public hearing on December 21, 2020 for the proposed amendments;

WHEREAS, the City Council held a public hearing on January 20, 2021 for the proposed amendments;

NOW THEREFORE, the City of Yachats ordains as follows:

Section 1. Yachats Municipal Code Chapter 9.04.030, Definitions, 9.52.050 Geologic Hazard Overlay Zone, 9.52.100 Older Stabilized Dunes, and 9.52.130 Development on Beaches and Dunes.

CHAPTER 9.04.030 – Definitions

*"*Beach" means gently sloping areas of loose material (e.g., sand, gravel, and cobbles) that extend landward from the low-water line to a point where there is a definite change in the material type or land form, or to the line of vegetation.

"Estuary" means the body of water from the ocean to the head of tidewater that is partially enclosed by land and within which salt water is usually diluted by fresh water from the land, including all associated estuarine waters, tidelands, tidal marshes and submerged lands.

"Geologic Hazard" means a geologic condition that is a potential danger to life and property which includes but is not limited to earthquakes, landslides, erosion, liquefaction, fault displacement, and subsidence.

"Geoprofessional" refers to a Registered Geologist, Certified Engineering Geologist, Professional Engineer, and Geotechnical Engineer.

> Registered Geologists (RG) provide geologic maps and documents and are licensed by the Oregon State Board of Geologist Examiners (OSBGE).
>
> Certified Engineering Geologists (CEG) provide engineering geologic reports and are licensed by the Oregon State Board of Geologist Examiners (OSBGE).
>
> A Geotechnical Engineer (GE) is a Professional Engineer (PE) with the specific training, expertise, and experience to qualify as a Geotechnical Engineer (GE). GEs provide geotechnical engineering reports and are licensed by the Oregon Board of Examiners for Engineering and Land Surveying (OSBEELS).

"Mean Higher High Water" is the average of the higher of the two high water heights of each tidal day observed over the National Tidal Datum Epoch.

"Older stabilized dune" means a dune that is stable from wind erosion, and that may include diverse forest cover. They include older foredunes.

"Safe Harbor" has the meaning given to it in OAR 660-023-0020(2).

"Shoreline" means the boundary line between a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark.

"Top of Bank" means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

CHAPTER 9.52.050 – Geologic Hazard Overlay Zone

A. PURPOSE: The purpose of this overlay zone is to manage development in areas subject to geologic hazards in a manner that reduces long term risks to life, property, and the community, consistent with Statewide Planning Goal 7 and 18.

B. AREAS INCLUDED: The following areas are considered potentially geologically hazardous and are therefore subject to the requirements of this section:

1. All lands partially or completely within "very high" and "high" landslide susceptibility areas as mapped in DOGAMI Open File Report O-16-02, "Landslide Susceptibility Map of Oregon."

2. All lands partially or completely within any coastal erosion hazard zone (very high, high, moderate, or low) as mapped in DOGAMI Open File Report O-07-03, "Evaluation of Coastal Erosion Hazard Zones Along Dune and Bluff Backed Shorelines in Lincoln County, OR: Seal Rock to Cape Perpetua."

3. All lands partially or completely within a rapidly moving landslide as mapped in DOGAMI IMS-22, "GIS Overview Map of Potential Rapidly Moving Landslide Hazards in Western Oregon," 2002.

4. Lots or parcels where the average existing slopes are equal to or greater than twelve (12) percent or where the average existing slopes are equal to or greater than thirty (30) percent within 100 feet of the property.

    a. Definition of Slope: A property has a twelve (12) percent slope or greater if:

        i. The average slope from the highest to lowest point of the property has a slope of twelve (12) percent or greater; or

        ii. The average slope of the building footprint or area to be disturbed measured from the highest to lowest point within the footprint or area to be disturbed is twelve (12) percent or greater.

C. ALLOWED USES: Within the Geologic Hazards Overlay Zone, all uses allowed pursuant to the provisions of the underlying zone may be allowed, subject to the additional requirements and limitations of this section.

D. GEOLOGIC HAZARD PERMIT REQUIRED:

1. Except for activities identified in subsection (D)(2) as exempt, any new development, new construction or substantial improvement, as defined in Section 9.54.020, in an area subject to the provisions of this section shall require a Geologic Hazard Permit. The Geologic Hazard Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit or land use approval required by the City of Yachats.

2. The following activities are exempt from the requirement for a Geologic Hazard Permit:

    a. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and do not constitute substantial improvement;

    b. An excavation which is less than two feet in depth or which involves less than twenty-five cubic yards of volume;

    c. Fill that is less than two feet in depth or that involves less than twenty-five cubic yards of volume;

    d. Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;

    e. Gravesites dug in cemeteries;

    f. Construction of structures for which a building permit is not required;

    g. Removal of trees smaller than 8 inches dbh (diameter breast height);

    h. Removal of trees larger than 8 inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;

    i. Yard area vegetation maintenance and other vegetation removal on slopes less than 25% slopes;

    j. Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);

    k. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the previously disturbed area;

    l. Maintenance and repair of utility lines, and the installation of individual utility service connections;

    m. Emergency response activities intended to reduce or eliminate an immediate danger to life or property, or flood or fire hazard;

3. Application, review, decisions, and appeals on Geologic Hazard Permits shall be in accordance with the requirements for a staff level decision. Unless otherwise provided by Yachats Municipal Code or other provision of law, any Geologic Hazard Permit so issued shall be valid for a time period as specified in the approval decision and shall in no case be valid for more than 5 years.

4. In addition to a completed application as prescribed in subsection (E), an application for a Geologic Hazard Permit shall include the following:

a. A site plan to scale that accurately illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8 inches dbh (diameter breast height) proposed for removal;

b. An estimate of depths and the extent of all proposed excavation and fill work;

c. Identification of the geologic hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, a Certified Engineering Geologist (CEG) shall identify the hazard zone(s) within which development is proposed; and

d. A engineering Geologic Report prepared by a qualified geoprofessional (as defined in Section 9.04.030) that meets the content requirements of subsection (E); and

5. A decision to approve a Geologic Hazard Permit shall be based upon findings of compliance with the following standards:

    a. The proposed development is not subject to the prohibition of development on beaches and certain dune forms as set forth in Section 9.52.130;

    b. The proposed development complies with the applicable requirements and standards of subsections (6) and (7) of this section;

    c. The Geologic Report conforms to the standards for such reports set forth in subsection (E) of this section; and

    d. The development plans for the application conform, or can be made to conform, with all recommendations and specifications contained in the geologic report.

6. In the event the city determines that additional review of a Geologic Hazard Permit application by an appropriately licensed and/or certified professional is necessary to determine compliance with the provisions of this section, the City may retain the services of such a professional for this purpose. All costs incurred by the City for this additional review shall be paid by the applicant in addition to the application fee for a Geologic Hazard Permit established pursuant to Section 9.88.050.

7. In approving a Geologic Hazard Permit, the City Planner may impose any conditions that are necessary to ensure compliance with the provisions of this section or with any other applicable provisions of the Yachats Municipal Ordinance.

E. GEOLOGIC REPORT (Engineering Geologic Report and Geotechnical Engineering Report) STANDARDS:

1. Geologic Reports required by this section shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles, and shall, at a minimum, contain the items outlined in the most recent edition of Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologic Reports in Oregon". For oceanfront property, reports shall also address the "Geological Report Guidelines for New Development on Oceanfront Properties," prepared by the Oregon Coastal Management Program of the Department of Land Conservation and Development, in use as of the effective date of this section. Reports shall reference the published guidelines upon which they are based. All engineering geologic reports and geotechnical engineering reports are valid for purposes of meeting the requirements of this section for a period of five (5) years from the date of preparation. Such reports are valid only for the development plan addressed in the report. The City of Yachats assumes no responsibility for the quality or accuracy of such reports.

2. For the purposes of Section 9.52.050, a Geologic Report refers to both engineering geologic reports and geotechnical engineering reports.

3. Geologic reports required by this section shall include a statement certifying that all of the applicable content requirements of this subsection have been addressed.

F. ADDITIONAL LIMITATIONS IN GEOLOGIC HAZARD AREAS:

1. New construction shall be limited to the recommendations, if any, contained in the Geologic Report; and

2. Safest site requirement: All new construction or substantial improvements shall be located within the area most suitable for development based on the least exposure to risk from coastal hazards as determined by a qualified geoprofessional as part of a Geologic Report prepared in accordance with subsection (E). Notwithstanding the provisions of the underlying zone, as necessary to comply with this requirement.

3. Hazard Disclosure Statement: All applications for new development or substantial improvements subject to Geologic Hazard Permit shall provide a Hazard Disclosure Statement signed by the property owner that acknowledges:

    i. The property is subject to potential natural hazards and that development thereon is subject to risk of damage from such hazards;

ii. The property owner has commissioned an engineering geologic report for the subject property, a copy of which is on file with City of Yachats Planning Department, and that the property owner has reviewed the engineering geologic report and has thus been informed and is aware of the type and extent of hazards present and the risks associated with development on the subject property;

iii. The property owner accepts and assumes all risks of damage from natural hazards associated with the development of the subject property.

G. MINIMUM OCEANFRONT SETBACKS: In areas subject to the provisions of this section, the building footprint of all new construction or substantial improvement subject to a Geologic Hazard Permit shall be set back from the ocean shore a minimum twenty-five (25) feet from the top of the bank or greater if recommended by an Oregon certified engineering geologist.

H. EROSION CONTROL MEASURES: A certified engineering geologist, geotechnical engineer, or qualified civil engineer shall address the following standards.

1. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

2. Development plans shall minimize cut or fill operations so as to prevent off-site impacts

3. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

4. Permanent plantings and any required structural erosion control and drainage measures shall be installed within 3 months;

5. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

6. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;

7. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty year frequency storm to suitable drainageways such as storm drains, natural watercourses, or drainage swales. In no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure;

8. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;

9. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

    i. Energy absorbing devices to reduce runoff water velocity;

    ii. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

    iii. Dispersal of water runoff from developed areas over large undisturbed areas;

10. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and

11. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities

12. Removal of Sedimentation: Whenever sedimentation is caused by stripping vegetation, grading, or other development, it shall be the responsibility of the person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems and to return the affected areas to their original or equal condition prior to final approval of the project.

I. STORM WATER RETENTION FACILITES REQUIRED:
For structures, driveways, parking areas, or other impervious surfaces in areas of 12% slope or greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities when specified by the City. The

retention facilities shall be designed for storms having a 25-year recurrence frequency. Storm waters shall be directed into a drainage with adequate capacity so as not to flood adjacent or downstream property.

J. CERTIFICATION OF COMPLIANCE: Permitted development shall comply with the recommendations in any required geologic or engineering report. No development requiring a Geologic Report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the city receives a written statement by a qualified geoprofessional indicating that all performance, mitigation, and monitoring measures contained in the report have been satisfied. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the city must also receive an additional written statement of compliance by the licensed professional engineer.

K. RESTORATION AND REPLACEMENT OF EXISTING STRUCTURES:

1. A building or structure that is nonconforming under Chapter 9.76 of the Yachats Municipal Code that is destroyed by fire, other casualty or natural disaster shall be subject to the casualty loss provisions contained in Section 9.76.050. Application of the provisions of this section to a property shall not have the effect of rendering it nonconforming.

2. A building or structure that conforms to the Municipal Code that is destroyed by fire, other casualty or natural disaster may be replaced with a building or structure of up to the same size provided a Geologic Report is prepared by a qualified geoprofessional. A Geologic Report prepared pursuant to this subsection shall adhere to the Geologic Report Standards outlined in subsection 9.52.050 (E). All recommendations contained in the report shall be followed, however the report need not establish that the site is suitable for development as required in subsection 9.52.050 (F)(2). An application filed under this subsection shall be processed and authorized as a ministerial action by the City Planner.

Section 3. Yachats Municipal Code Chapter 9.52.100, Older Stabilized Dune Construction Standards

CHAPTER 9.52.100 – Older Stabilized Dune Construction Standards

It is the intent of the older stabilized dune construction standards to regulate actions in older stabilized dunes in order to minimize damage to the dune forms and to adjacent property.

This section applies to all areas identified as “Older stabilized dunes” in the 1975 USDA Soil Conservation Service and OCCDC report “Beaches and Dunes of the Oregon Coast,” specifically the Sand Dunes Map for Lincoln County, Oregon.

The following standards shall apply to development in older stabilized dunes:

A. Before a building permit is issued for construction involving the removal of vegetation in areas of older stabilized dunes, the City shall require an erosion prevention plan. The plan shall provide for temporary and permanent sand stabilization and maintenance of new and existing vegetation. The plan shall return the area to its original level of stability or further increase the area's stability.
B. Removal of vegetation in older stabilized dunes shall be kept to the minimum required for building placement or other valid purposes. Removal of vegetation shall not occur more than thirty (30) days prior to grading, or construction. Permanent revegetation shall be started on the site as soon as practical.
C. Sand removal shall be limited to that necessary for construction of permitted structures on the site or for eliminating hazards identified in the erosion prevention plan. Adequate consideration shall be given to removing sand from the least sensitive locations. Disturbed areas shall be properly revegetated unless building is done thereon.
D. Developments shall result in the least topographic modification of the site that is practical.

CHAPTER 9.52.130 – Development on Beaches and Dunes

Construction of residential, commercial, or industrial buildings is prohibited on beaches, active foredunes, other foredunes that are conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding. Other development in these areas shall be permitted only if a certified engineering geologist determines that the development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves and is designed to minimize adverse environmental effects. Such a determination shall consider:

A. The type of use proposed and the adverse effects it might have on the site and adjacent areas;

B. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

C. Methods for protecting the surrounding area from any adverse effects of the development; and

D. Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.

Section 2. Yachats Comprehensive Plan, Goal A Protection of Natural Resources (General), Goal B Protection of Estuarine Resources, Goal C Protection of Shoreland Resources, Goal E Protection of Natural Hazards and Disasters, and Goal L Beaches.

Yachats Community Characteristics

The City of Yachats is located on the Central Oregon Coast, in Lincoln County, Oregon, approximately 26 miles south of the City of Newport and 155 miles from the metropolitan area of the City of Portland. Yachats is located at the mouth of the Yachats River overlooking the Pacific Ocean. The climate is moderate. The City consists of varying topography, ranging from ridgetops, steep hillsides, basalt cliffs, uplifted marine terrace deposits, river frontage and relatively level areas along US Highway 101. Development in Yachats spreads mostly north to south along US-Highway 101 and slightly east along Yachats River Road. Dense commercial areas in Yachats exist along US-Highway 101 and are centrally located downtown. Residential development surrounds the downtown commercial core.

The City of Yachats is rich with natural beauty and abundant natural resources. The coastal community offers recreational amenities, activities and attractions in and around the community, such as the Yachats Commons Park and wetlands, Smelt Sands State Recreation Site, Yachats State Recreation Area, the Yachats Ocean Road State Natural Site, and the US Forest Service Cape Perpetua Scenic Area

Goal A – Protection of Natural Resources

The City of Yachats is nestled among the rocky ocean shores and the forested hillsides on both sides of the Yachats River. Protecting the natural beauty of Yachats is very important. Protection of the historic elements, preserving open space, improving parks and trails, and conservation of natural habitats is valued in the community. In conjunction with county, state and federal agencies as well as area residents and landowners, there is a desire to protect and enhance the City's rich natural, scenic and historic resources. Forests, beaches, water, wetlands, air quality, fish and wildlife habitats, historical and archaeological sites, and open space and scenic views all contribute to the high quality of the City's environment. These resources are Yachats' main assets in that they make it a beautiful place for people to live in and visit.

Goal

1. Protect and enhance the natural, scenic and historic resources of the City of Yachats.

Policies

1. The quality of air, water, and land resources shall be maintained or enhanced where possible.
2. Protect significant marine habitats, as identified on the City's adopted Natural Resources Map and Inventory Data, from proposed land uses that will, or might, modify their indigenous characteristics.
3. Preserve existing publically owned open space. Identify new areas appropriate for designation as public open space.
4. Encourage orderly development of land through zoning, land use codes and the timing and placement of public improvements in order to conserve natural resources.

5. Assist the State and County in protecting the County Road 804 right-of-way and the prescriptive easements accepted by the Oregon Supreme Court as established by the Lincoln County Surveyor (County Survey 11,905 dated 12/18/1987) from alterations that would prevent the establishment and maintenance of this segment of the Oregon Coast Hiking Trail within the public right-of-way.
6. Concur with all pertinent and legally authorized agencies, both federal and state, in a mutual effort to retain the character of those natural qualities identified in the adopted Natural Resources Map and Inventory Data.
7. Consider the quality of the resources areas as shown on the adopted Natural Resources Map and Inventory Data in adopting land use designations or in undertaking land use actions or decisions. This Map shall include wetlands, riparian areas, estuaries, and shorelands.
8. Direct growth so as not to encroach upon public or commercial forestlands. The inclusion of additional commercial forest lands within the UGB shall occur only upon finding that the land is needed for urban development.
9. Protect significant archaeological and historic resources through survey identification, map development, recordation and adoption of preservation codes, consistent with the standards of the State Historic Preservation Office (SHPO), affected tribes and federal laws. Specific sites for protection include, but are not limited to, the Little Log Church, Yachats Middens, Native American villages and other identified recorded or unrecorded archaeological or historic sites.
10. Do not support offshore oil and gas development and associated facilities due to potential conflicts with existing ocean fisheries, impacts on aesthetic and recreational values, and degradation of the marine environment. This includes leasing, exploration, and oil and gas extraction within the state territorial sea and federal waters.
11. Protect established trees, which contribute to the aesthetic and environmental quality of the City.
12. Protect significant trees and groves of trees through a tree protection ordinance or through voluntary mechanisms to ensure their health and retention.
13. Protect view sheds and corridors unique to the City. They contribute to the community identity and aesthetic values of City residents and visitors.
14. Protect streams, creeks, and wetlands.
15. Provide educational material regarding the responsible use of chemicals including but not limited to household chemicals, automotive chemicals, herbicides, and pesticides.

Proposed actions:

The City shall:

a) Incorporate soil capacity analysis into the land use code for protection of prime forest soils.
b) Conduct archaeological and historic resource inventories consistent with Goal 5 and the State Historic Preservation Office (SHPO); rank and prioritize significant properties for protective measures. Priority sites shall be identified on the City's Natural Resources Map or a separate archaeological and historic resources map

consistent with state law.

c) Explore and prioritize actions to preserve trees and establish a tree protection ordinance.
d) Identify and rank significant view sheds and corridors.
e) Update the City-wide natural resources inventory and assessment.
f) Research view protection strategies. Those strategies may include, but not be limited to, overlay zones, tree trimming standards, and voluntary deed restrictions. Ensure that view-shed protections do not conflict with other natural resource protections.
g) Explore actions that would improve air quality, such as City-wide composting, replacing inefficient wood-burning stoves, and reducing vehicle emissions by providing alternative transportation options.
h) Periodically update the ordinance to protect inland stream and associated riparian areas.

Goal B – Protection of Estuarine Resources

In Yachats, the estuarine areas include all estuarine waters, intertidal areas, tidal wetlands and submerged and submersible lands up to the line of non-aquatic vegetation or the mean higher high-water line. These resource areas are important for fish and wildlife habitats, for preservation and protection, for estuarine productivity, and for research or educational needs.

In harmony with adjacent property owners and relevant government agencies, the City desires to protect its estuarine areas from development, dredging and fill. Therefore, these estuarine areas within the City need to be classified as a natural management unit, managed to conserve the natural habitats and wildlife therein.

Goals

1. To recognize, protect, maintain and restore the unique environmental, economic and social values of the designated estuarine areas.

Policies

1. Cooperate with appropriate government agencies in the development of biological, aesthetic, recreational, and economic values and benefits of the Yachats River Estuary.
2. In recognition of the unique qualities of the Yachats River estuary, work with Lincoln County and relevant special districts, the Department of State Lands, U.S. Army Corps of Engineers, and other state and federal agencies to comprehensively manage the Yachats River estuary within the Yachats urban growth boundary.
3. The Yachats River is classified as a conservation estuary. All estuarine areas within the Yachats urban growth boundary shall be classified as a natural management unit, and shall be managed to preserve the natural habitats and wildlife therein.
4. Protect the natural habitat areas and aesthetic values in all City decisions

regarding land and/or water use actions that affect the estuary. The inventory information and the Natural Resources Map are sources of information regarding the aesthetic and natural values of the Yachats River estuary and the benefit derived therefrom to the City.

5. Protect estuarine areas through zoning and land use codes.
6. Permitted uses in the natural estuary management unit are undeveloped low-intensity, water-dependent recreational uses; protection of wildlife and their habitat and nutrients, fish, wildlife and aesthetic resources; research and educational observation; navigation aids; vegetative shoreline stabilization; and passive restoration measures.
7. Unless specifically exempted by the Director of the Department of State Lands under ORS 196.830 dredging or fill (including dredged material disposal) in intertidal or tidal marsh areas shall be mitigated by creation, restoration or enhancement of estuarine areas. The adequacy of a proposed mitigation project shall be determined by the Department of State Lands.
8. Require a clear presentation of the impacts of the proposed alteration where a use could potentially alter the estuarine ecosystem.
9. The estuarine and coastal shoreland habitat resources designated as significant on the Natural Resources Map shall be protected by implementing ordinances in the City's Municipal Code.

Proposed Actions

The City shall:

a) Develop the City's Natural Resources Map. Designate the Yachats River on the City's Natural Resource Map for purposes of resource management.

Goal C – Protection of Shoreland Resources

Coastal Shorelands are a unique and sensitive component of the coastal environment. These shorelands are an invaluable resource for the protection and maintenance of water quality for fish and wildlife habitats, recreation and a variety of water-dependent uses.

Statewide Goal 17 calls for the conservation and protection of coastal shoreland resources and benefits. The Coastal Shorelands Planning Area is defined as all lands west of the Oregon Coast Highway (Highway 101) as described in ORS 366.235, including the western section of Gender Creek. Any other streams and creeks that intersect the shoreland, shall be in accordance with Yachats Comprehensive Plan Goal A, Protection of Natural Resources, Policy 13. The purpose of the Coastal Shorelands designation is to establish areas for inventory, study and planning for development and use to meet Statewide Planning Goal 17.

Lands contiguous with the ocean and estuaries shall be identified as coastal shorelands and shall include:

- Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary;

- Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body;
- Natural or man-made riparian resources, especially vegetation necessary to stabilize the shoreline and to maintain water quality and temperature necessary for the maintenance of fish habitat and spawning areas;
- Areas of significant shoreland and wetland biological habitats whose habitat quality is primarily derived from or related to the association with coastal water areas;
- Areas necessary for water-dependent and water-related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities, dredge material disposal and mitigation sites, and areas having characteristics suitable for aquaculture;
- Areas of exceptional aesthetic or scenic quality, where the quality is primarily derived from or related to the association with coastal water areas; and
- Coastal headlands.

Statewide Planning Goal 17 outlines planning and management requirements for the lands bordering estuaries (as well as lands bordering the ocean shore). In general, the requirements of Goal 17 apply in combination with other planning goals to direct the appropriate use of shoreland areas. Provisions in Goal 17 specifically focus on the protection and management of resources unique to shoreland areas; examples of such resources include areas of significant shoreland habitat, lands especially suited for water dependent uses, lands providing public access to coastal waters, and potential restoration or mitigation sites. Implementing ordinances shall be consistent with Goal 17.

All inventories, policies and planning efforts outlined in this section of the Comprehensive Plan should be coordinated with the City's goals for Open Spaces, Scenic and Historic Areas and Natural Resource (Statewide Planning Goal 5, Comprehensive Plan Goal A), Air, Water and Land Resources Quality (Statewide Planning Goal 6, Comprehensive Plan Goal A) , Areas Subject to Natural Disasters and Hazards (Statewide Planning Goal 7, Comprehensive Plan Goal E), Recreational Needs (Statewide Planning Goal 8, Comprehensive Plan Goal F), Economy of the State (Statewide Planning Goal 9, Comprehensive Plan Goal H) Estuaries (Statewide Planning Goal 16, Comprehensive Plan Goal B), and Beaches and Dunes (Statewide Planning Goal 18, Comprehensive Plan Goal L).

Inventory of Streams and Waterways:

Yachats River and Tributaries shall have a 50 foot setback buffer.

The "safe harbor" method shall be applied to establish setbacks from the Yachats River and its tributaries. The river and tributaries are fish-bearing streams with an average annual stream flow that is less than one thousand (1,000) cubic feet per second. Per the "safe harbor" methodology, a fifty (50) foot setback shall be established from the top of a

bank for fish-bearing streams with an average annual stream flow that is less than one thousand (1,000) cubic feet.

Gender Creek shall have a 25 foot setback buffer.

Gender Creek is an open channel that extends from the hillside located east of the Oregon Coast Highway to the ocean. The only exception to this open channel is the culvert which crosses under the highway. Although not considered a fish-bearing stream, Gender Creek does provide many important ecosystem services. Protection will help to maintain the beneficial effects of the stream as a natural habitat and corridor for wildlife, as well as for the protection and maintenance of water quality. Additionally, Gender Creek is valued by nearby residents and property owners for its open space and aesthetic aspects. Properties adjacent to Gender Creek have a history of flooding. The creek is essential to surface water management in the southernmost section of Yachats because the stream conveys stormwater and helps control flooding. Maintaining a buffer area adjacent to the stream will help maintain this carrying capacity. Development restrictions adjacent to the stream, including building setbacks and application of development standards, will also help preserve and restore the natural features of this coastal waterway.

Unnamed Stream at North End of City does not need a 25 foot setback.

Unnamed Stream at the north end of Yachats runs through the Overleaf Village Planned Development (PD) west of Highway 101. Development of the Overleaf Village PD included restoration of the stream and maintenance standards that continue to protect and enhance the stream corridor. East of Highway 101, the stream runs through the northern portion of the Fisterra Planned Development. The Fisterra Planned Development designated the stream and its associated corridor as open space to be maintained in its natural condition. The unnamed stream shall be preserved and maintained as approved in the Overleaf Village and Fisterra Planned Developments.

Agency Creek shall maintain a 10 foot on-center drainage easement.

Agency Creek consists of a combination of open channels, culverted sections, and underground sections. Development has occurred along the edges of the creek as well as over Agency Creek. Imposing greater setbacks on the limited number of undeveloped properties along the creek could cause significant hardship to development and be out of character with existing development. Agency Creek does not have a history of flooding as seen in other parts of Yachats. Agency Creek is a drainage way subject to the Drainage Way Protection Standards. A ten (10) foot on-center drainage easement shall be maintained along with other standards identified in the Yachats Municipal Code, Shoreland Setbacks section.

Goals

1. Recognize, protect, maintain and restore Coastal Shorelands. Coastal Shorelands are a unique and sensitive component of the coastal environment. These

shorelands are invaluable for the protection and maintenance of water quality for fish and wildlife habitats, recreation and a variety of water-dependent uses.

2. The City recognizes the environmental, social, and economic values of Coastal Shorelands.
3. Water-dependent and water-related uses are preferred uses in the Coastal Shorelands.

Policies

1. Cooperate with appropriate government officials in the protection of biological, aesthetic, recreational, and economic values and benefits of shorelands under public control.
2. Reduce or mitigate adverse effects upon water quality and fish and wildlife habitat resulting from the use of shorelands.
3. To recognize, protect, and maintain the value of the Yachats River and its tributaries, Gender Creek, and Agency Creek, a vegetative buffer shall be provided from the edge of the bank. The buffer will contribute to maintenance and enhancement of water quality, fish and wildlife habitat, recreation and aesthetics, and provide open space. The vegetative buffer will also help protect property from flooding and help manage stormwater drainage.
4. To recognize, protect, and maintain the value of the ocean, a buffer shall be provided from the top of the bank. Existing stabilizing native vegetation shall not be removed within the buffer in order to help stabilize the bluff and mitigate erosion. The buffer will also help protect adjacent property from flooding and erosion.
5. Provide implementing ordinances in the Zoning & Land Use Code to protect, maintain, and stabilize the shoreline. Stabilization and erosion control methods shall be included in the Zoning & Land Use Code.
6. Develop and implement programs for maintaining and improving public access to the estuary and ocean and pursuing adequate signage of existing access points.
7. Support future public access sites to be accessible in conformance with the Americans with Disabilities Act (ADA).
8. Land-use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary, water and erosion control structures, such as jetties, bulkheads, seawalls, and similar protective structures; and fill, whether located in the waterways or on shorelands above ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
9. Coordinate with the Oregon Department of Parks and Recreation and the Department of State Lands in any review of shoreline stabilization structures.
10. Existing public ownerships, rights-of-way and similar public easements in estuary and ocean shorelands which provide access to or along the estuary or ocean shall be retained or replaced if sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of existing developed Shoreland areas, provided public access across the affected site is retained.

11. All development shall be consistent with the priorities and policies of the Comprehensive Plan and implementing ordinances.

Proposed Actions

The City shall:

a) Develop a comprehensive map of water bodies, streams, and creeks within the City.
b) Maintain and update Goal 17 inventories with best available science.
c) Strengthen codes to protect Coastal Shorelands.
d) Periodically update the Coastal Shoreland Boundary map based on bluff changes.
e) Include public access points along the shoreline in the City's Natural Resources Map.
f) Note the condition of access points and if they are compliant with the Americans with Disabilities Act (ADA). Identify the ADA non-compliant access points as future improvement projects, where feasible.

Goal E – Natural Hazards

Yachats lies in a challenged area for natural geological hazards due to much of the city's topography and climate. The City is vulnerable to natural hazards and the impacts of climate change, such as rising sea levels and increased extreme weather events. These hazards are related to various environmental processes and the natural characteristics of the region, which under certain situations can cause significant impacts to property and potentially life. Yachats considers natural hazards to include river and ocean flooding, landslides, liquefaction potential due to earthquakes, tsunamis, river bank erosion, coastal erosion, drought, windstorms, winter storms, and wildfires. An approach to land use planning that incorporates sound scientific information, including geotechnical planning, engineering, and design is important. Additionally, to better manage potential results of these hazards, the City has worked closely with Lincoln County in the development of the Lincoln County Natural Hazards Mitigation Plan.

Goals

1. Reduce risk to people and property from natural hazards.
2. Integrate natural hazards information from the Lincoln County Natural Hazards Mitigation Plan (NHMP) into the City of Yachats plans, policies, programs, and implementation provisions.
3. Promote risk reduction to people and property from natural hazards through education and outreach, thus increasing community preparedness and resilience.

General Policies

1. Minimize development in natural hazard areas: While natural hazard areas may be developed consistent with the Comprehensive Plan and city land use regulation, whenever possible, natural hazard areas shall be retained as open space, recreation use, and other low density uses.

2. Mitigation actions in the Lincoln County Natural Hazards Mitigation Plan shall be followed.
3. Recommendations in the Emergency Operations Plan shall be followed.
4. Encourage participation in Community Emergency Response Team (CERT) Programs.
5. Inform residents and business owners about preparedness measures.
6. Develop citywide stormwater management infrastructure.
7. Development adjacent to the Yachats River shall be planned to minimize any aggravation of the turbidity and seasonal low-flow situation.
8. Access and utilize federal and other grant dollars to implement measures to reduce risk to people and property, and protect against natural hazards.
9. Adopt and update maps, plans, inventories, policies, and implementing measures that reduce risk to people and property from natural hazards.
10. Identify and address emergency access and evacuation routes and areas when making development decisions. Recognize that evacuation routes can be different depending on the natural hazard.
11. Apply for hazard mitigation funding, as able, to advance mitigation projects.

Specific Hazards addressed include:

Flood Hazards
Tsunami Hazards
Geologic Hazards
Wildfire Hazards
Drought Hazards
Landslide Hazards

Policies related to Specific Hazards:

Flood Hazard:

12. Lands in Yachats subject to risk from flooding are identified as Special Flood Hazard Areas on the Flood Insurance Rate Maps (FIRMs) issued by FEMA, which have been adopted by the City. Yachats participates in the National Flood Insurance Program (NFIP) to reduce the risk of damage from flooding and to ensure the availability of flood insurance to property owners and residents.
13. Adopt new or revised FIRM maps as necessary for continued participation in the National Flood Insurance Program.
14. Adopt, revise and maintain regulations for development in identified Special Flood Hazard Areas, as necessary, for continued participation in the NFIP.
15. Identify historically vulnerable and impacted areas for buyout programs.

Tsunami Hazard:

16. Support tsunami preparedness and related resilience efforts, including outreach to residents.
17. Protect life and property to the fullest extent feasible from the impact of a local source Cascadia Subduction Zone tsunami.
18. Use the Oregon Department of Geology and Mineral Industries (DOGAMI) Tsunami Inundation Maps (TIM) applicable to the City of Yachats to develop tsunami hazard resilience measures.
19. Adopt a Tsunami Hazard Overlay Zone for identified tsunami hazard areas to implement land use measures addressing tsunami risk.
20. Identify and address emergency access and evacuation routes and areas when making development decisions.

Geologic Hazards (liquefaction, earthquake, landslide, erosion):

21. Reduce risk to people, property and the natural environment by adopting land use regulations that address geologic hazards.
22. For the purpose of identifying and mitigating geologic hazards, geologic site reports shall be prepared by appropriately qualified professionals that evaluate the risk to the site as well as the risk the proposed development may pose to other properties. Such reports shall be prepared by a State of Oregon certified geoprofessional such as a Registered Geologist (RG), Certified Engineering Geologist (CEG), or Geotechnical Engineer (GE).
23. Recognize that steep slopes are not the only factor that should be used to identify landslide hazard areas. Other factors that must be considered along with slope steepness include: the type of development, the size and scale of the development, the weight and extent of the construction, the location of the vulnerable population, the location of the critical facilities, erosion (natural and human caused), vegetation and grading. The physical footprint of development shall be no greater than the slope can safely accommodate.
24. Require applications for subdivisions, Planned Unit Developments, and building permits to include plans for stormwater management.

Wildfire Hazard:

25. Adopt land use regulations that provide safeguards to reduce risk to people and property from wildfire hazards.
26. Communicate concerns regarding forest activities to the Oregon Department of Forestry.
27. Support the Yachats Rural Fire Protection District in its fire protection efforts.
28. Support the Lincoln County Community Wildfire Protection Plan (CWPP). Implement recommendations and mitigation actions supported by the citizens of Yachats.
29. Prepare for, respond to, and suppress wildland and structural fires.

Drought Hazards:

30. Support drought preparedness and related resilience efforts, including outreach to residents. Engage state, regional and local organizations in a collaborative effort to prepare and distribute water conservation information.

31. Support the City of Yachats Water Conservation Plan. Implement recommendations and mitigation actions.

Proposed Actions

The City shall:

a) Amend the City codes as necessary to reflect best practices related to mitigation of natural hazards.

b) Prepare and distribute hazard preparedness information to all residents, property owners and business owners in the City, and make the information available at tourist accommodations (vacation rentals) and points of interest.

c) Participate in emergency preparedness training drills, on a regular basis, with other agencies and jurisdictions.

d) Explore the opportunity to obtain funds for a feasibility study for additional water storage in the City and develop Strategies for water infrastructure improvements.

e) Prepare and distribute water conservation information through public outreach campaigns, as needed, to raise awareness about drought hazards and mitigation actions residents can take to reduce the impacts of drought in the city.

Goal L – Beaches

Beaches and dunes are the physical environments at the very edge of the sea. These beaches are highly dynamic places; shaped by wind, waves, and currents. They serve as buffers between the energy of the ocean and the land. Beaches and dunes also provide the public with recreational opportunities and draw scores of visitors to Oregon each year.

Goals

1. To conserve, protect, where appropriate develop, and restore the resources and benefits of coastal beach and dune areas.
2. To reduce the hazard to human life and property from natural or human-induced actions associated with these areas.
3. Enhance existing access points to beaches and protect beaches from erosion and other degradation.

Policies

1. Prohibit residential development or commercial and industrial buildings on beaches, active foredunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding.
2. Adopt land use regulations that provide safeguards to reduce risk to people and property from coastal hazards.
3. Improve public access to the beach and river shores by acquiring land and

easements.

4. Accept donations and dedications of land and easements for public access, open space, and habitat protection as appropriate.
5. Identify appropriate sites for emergency and public access to the beach.
6. Investigate a diverse range of beach access types (pedestrian, official vehicular, view) and a range of amenities (parks, walkways/boardwalks, street ends) while maintaining a balance between resource protection and human use.

Section 3. Severability. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall take effect on the 30th day after its adoption.

Passed and adopted by the Yachats City Council this _____ day of _____, 20___

	YES	NO	NOT PRESENT
Leslie Vaaler, Mayor	☐	☐	☐
Greg Scott	☐	☐	☐
Mary Ellen O'Shaughnessey	☐	☐	☐
Ann Stott	☐	☐	☐
Vacant	☐	☐	☐

_____
Leslie Vaaler, Mayor

Attest by:

_____
Shannon Beaucaire, City Manager