

**ARTICLE 5**

**IMPACT ASSESSMENT AND RESOURCE CAPABILITY DETERMINATION**

5.010. IMPACT ASSESSMENT PROCEDURE.

The purpose of this section is to provide an assessment process for development alterations which could potentially alter the estuarine ecosystem.

A. Impact Assessment Requirements.

An Impact Assessment in accordance with the provisions of this section shall be required for the following uses in estuarine aquatic areas.

1. Dredging;
2. Aquatic area fill;
3. In-water structures;
4. Riprap;
5. New in-water log storage areas;
6. Water intake pipes;
7. Effluent discharge pipes;
8. In-water dredged material disposal;
9. Beach nourishment;
10. Other uses or activities which could affect estuarine physical or biological resources; and
11. Uses or activities that require a Resource Capability Determination.

B. Use of Impact Assessment.

1. Information contained in an Impact Assessment shall be used in the evaluation of a use or activity's significant impacts on the estuarine ecosystem; in determining whether potential impacts can be avoided or minimized; and for providing a factual base of information needed to address applicable standards in Article 4.

2. Where a use requires a Resource Capability Determination, information in the Impact Assessment can be used to satisfy the requirements of 5.020.

C. Information to be Provided in the Impact Assessment.

1. Aquatic life forms and habitat, including information on both the extent of and impacts on: habitat type and use, species present (including threatened or endangered species), seasonal abundance, sediments, and vegetation.
2. Shoreland life forms and habitat, including information on both the extent of and impacts on: habitat type and use, species present (including threatened or endangered species), seasonal abundance, soil types and characteristics, and vegetation present.
3. Water quality, including information on: sedimentation and turbidity, dissolved oxygen, biochemical oxygen demand, contaminated sediments, salinity, water temperatures, and expected changes due to the proposed use or activity.
4. Hydraulic characteristics, including information on: water circulation, shoaling patterns, potential for erosion or accretion in adjacent areas, changes in flood levels, flushing capacity, and water flow rates.
5. Air quality, including information on quantities of particulates and expected airborne pollutants.
6. Public access to the estuary and shoreline, including information on: proximity to publicly-owned shorelands and public street ends; effect on public boat launches, marinas and docks; and impact on inventoried public access opportunities.
7. Navigation, including information on: distance from navigation channels, turning basins and anchorages; proximity to range markers.
8. Demonstration that proposed structures or devices are properly engineered.
9. Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts.
10. Demonstration that non-water-dependent uses will not preempt existing or future water-dependent utilization of the area.
11. Determination of methods for mitigation and accommodation of the proposed development, based on items 1 through 10 above, in order to avoid or minimize preventable adverse impacts.

D. Impact Assessment Findings.

The information in Subsection C above shall be used to reach one of the conclusions listed below:

1. The proposed uses and activities do not represent a potential degradation or reduction of estuarine resource.
2. The proposed uses and activities represent a potential degradation or reduction of estuarine resources. The impact assessment identifies reasonable alterations or conditions that will eliminate or minimize to an acceptable level expected adverse impacts.
3. The proposed uses and activities will result in unacceptable losses. The proposed development represents irreversible changes and actions and unacceptable degradation or reduction of estuarine resource properties will result.
4. Available information is insufficient for predicting and evaluating potential impacts.

5.020. RESOURCE CAPABILITY DETERMINATION.

A. Purpose.

Certain uses and activities in Aquatic Natural and Aquatic Conservation zones are allowed only if determined to meet the resource capability and purpose of the zone in which the use or activity occurs. Certain uses and activities in a Aquatic Development Zone are allowed only if determined to meet the purpose of the zone in which the use or activity occurs.

B. Definition of Resource Capability.

In a Natural Aquatic estuarine designation, 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 if the resources of the areas are able to assimilate the use and activity and their effects and continue to function in a manner which protects significant wildlife habitat, natural biological productivity, and values for scientific research and education.

In a Conservation Aquatic estuarine designation, 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 if 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.

C. Purpose of Different Estuarine Zones.

1. Aquatic Conservation Zone:

Conservation Aquatic areas are designated for long-term uses of renewable resources that do not require major alterations of the estuary, except for the purpose of restoration. They are managed for the protection and conservation of the resources found in these areas. The Conservation Aquatic designation includes areas needed for the maintenance and enhancement of biological productivity, recreational resources, aesthetic features and aquaculture. The Conservation Aquatic designation includes areas that are smaller or of less biological importance than Natural Aquatic areas. Areas that are partially altered and adjacent to existing moderate intensity development which do not possess the resource characteristics of other aquatic areas are also included in this designation.

2. Aquatic Natural Zone:

Natural Aquatic areas are 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 areas are managed to preserve natural resources in recognition of dynamic, natural, geological, and evolutionary processes. Natural Aquatic areas include all major tidal marshes, tideflats, and seagrass and algae beds. The designation is intended to preserve those aquatic natural resource systems existing relatively free of human influence.

D. Resource Capability Procedure.

1. Identification of the affected area's zone, and its purpose.
2. Identification of the types and extent of estuarine resources present and expected adverse impacts. This information is included in the Impact Assessment, Section 5.010.
3. A determination of whether the use or activity is consistent with the resource capabilities of the affected designation. A use or activity is consistent with the resource capabilities of the area when either:
  - a. Impacts on estuarine resources are not significant; or
  - b. Resources of the area will be able to assimilate the use and activity and their effects and continue to function in a manner which:

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- (1) In Natural Aquatic Zones, protects significant wildlife habitats, natural biological productivity, and values for scientific research and education; or
  - (2) In Conservation Aquatic Zones, conserves long-term use of renewable resources, natural biological productivity, recreation and aesthetic values and aquaculture.
4. For temporary alterations, the Resource Capability Determination must also include:
- a. Determination that potential short-term damage to estuary and shoreland resources is consistent with the resource capabilities of the area; and
  - b. Determination that the area and affected resources can be restored to their original condition.

E. Determining Consistency With the Purpose of the Zone.

Certain uses in the Aquatic Development (A-1, A-2, A-2A), Aquatic Conservation (A-3), and Aquatic Natural (A-4) Zones may be permitted only if they are consistent with the purpose of the aquatic zone in which they occur. This determination is made as follows:

1. Identification of the affected zone, and its purpose.
2. Description of the proposals potential impact on the purposes of the affected zone.
3. Determination that the proposal is either:
  - a. consistent with the purpose of the affected zone; or
  - b. conditionally consistent with the purpose of the affected zone; or
  - c. inconsistent with the purpose of the affected zone.

5.030. COASTAL ZONE CONSISTENCY REVIEW.

A. Applicability.

This section applies to the following activities that directly affect the coastal zone:

1. Actions requiring Federal permits or licenses

2. Federal activities and development projects
3. Outer continental shelf activities
4. Federal grants or financial assistance.

B. Consistency Review Procedure for Activities Requiring Federal Permits or Licenses.

Applicants for activities in Astoria's coastal zone which require a Federal permit or license shall submit a copy of: the completed permit application, other supporting material provided to the Federal permit granting agency and a set of findings which demonstrate that the development would be consistent with the applicable elements of the Comprehensive Plan and this Code.

If the activity requires a local permit, the applicant shall apply for the local permit under the established permit program. Approval of the permit shall constitute a ruling that the action is consistent with the applicable elements of the Comprehensive Plan and Development Code. If the action does not require a local permit, the Community Development Director may make an investigation to provide information on the project's conformance with the Plan and Code standards and provisions. The investigation can be done administratively or through public hearings.

The Community Development Director shall respond to the State or Federal permit granting agency within seven working days of the local actions. The response shall contain a statement of whether the Federal permit is consistent with the applicable elements of the Comprehensive Plan, the reasons the development is or is not consistent, standards and conditions which apply if the permit is granted, and the need for local permits for developments associated with the activity.

C. Consistency Review Procedure for Federal Activities and Development Projects.

Federal activities in the Coastal Zone are not subject to the established City permit procedures. Federal activities which directly affect the coastal zone of the City must be consistent, to the maximum extent practicable, with the coastal zone management program. The coastal zone management program includes the Comprehensive Plan and Development Code. The Federal consistency determination is reviewed by the Oregon Department of Land Conservation and Development.

D. Outer Continental Shelf Activities.

Federally licensed or permitted activities described in Outer Continental Shelf plans and which affect Astoria's coastal Zone shall be conducted in a manner consistent with the coastal zone management program. The applicant's consistency certification is reviewed by the Oregon Department of Land Conservation and

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Development. The Community Development Director may communicate concurrence or disagreement with the consistency certification to the Oregon Department of Land Conservation and Development within the time specified on the Oregon Department of Land Conservation and Development notice for the activities.

E. Federal Grants and Financial Assistance.

Federal financial assistance or grants to State agencies, cities, counties, special purpose districts, or regional bodies, for activities which affect the Astoria coastal zone shall be granted only when the activities are consistent with the coastal zone management program. The Community Development Director may review the grants and financial assistance for consistency with the Plan and Development Code. The review may be done administratively or through public hearings.