

## **1.1385 Foredune Management Overlay Zone**

### **(1) Purpose:**

The purpose of the Foredune Management Overlay Zone is to implement the management strategies, monitoring and maintenance program and other components as specified in the Bayshore Foredune Management Plan which is hereby incorporated into this chapter by reference. The overall objectives of the foredune management strategy for Bayshore, located on the Alsea Spit, listed in order of descending priority are:

- (a) To maintain or improve on the ability of the foredune to protect properties from ocean flooding and wave erosion;
- (b) To minimize the inundation of improvements by accumulation of wind-blown sand;
- (c) To maintain and improve public access to the beach; and
- (d) To maintain, or restore ocean views.

### **(2) Applicability:**

The provisions of this section shall apply to the area delineated in Figure 2 of the Bayshore Foredune Management Plan, encompassing seven (7) Management Units located along the seaward edge of the Alsea Spit and one Management Unit (MU8) at the tip of the spit fronting on the Alsea Bay.

### **(3) Definitions:**

As used in this section:

- (a) “Dune nourishment” means augmentation of the natural sediment supply within a foredune area.
- (b) “Foredune grading” means alteration of the foredune area through sand transfer or removal of sand by mechanical means in order to accomplish view grading and/or preventative grading.
- (c) “Infrastructure grading” means removal of sand which is physically inundating roadways, beach accesses, septic systems, and underground utilities, thereby causing damage, impeding vehicular and pedestrian movements, and otherwise interfering with service provision and operations related to the impacted infrastructure systems.
- (d) “Management Unit” means a discrete segment of foredune area identified, described and numbered as a Management Unit in the Bayshore Foredune Management Plan.
- (e) “Preventative grading” means the removal of sand which threatens to inundate a structure from the immediate vicinity of the structure.
- (f) “Qualified Professional” means either an Oregon Registered Geologist or Certified Engineering Geologist, with experience working on Pacific Northwest beaches.
- (g) “Remedial grading” means removal of sand from a developed lot which is physically inundating a structure and causing damage or preventing access to the structure, or removal of sand from a vacant lot which is threatening to inundate adjoining lots.

- (h) “Sand Removal means the mechanical movement of sand to alternative disposal areas outside the Fore dune Management Area.
- (i) “Sand Transfer means the mechanical or natural movement of sand within and between management units.
- (j) “View grading” means grading of dune areas for the purpose of restoring, obtaining, or maintaining views from existing structures.

**(4) Uses:**

In areas subject to the provisions of this section, all uses permitted under the provisions of the underlying zone are permitted, subject to the additional requirements and limitations of this section. Notwithstanding any contrary provisions of LCC 1.1930, the following activities are also permitted, subject to the requirements and limitations of this section:

- (a) Fore dune grading.
- (b) Infrastructure grading.
- (c) Remedial grading on individual developed or vacant lots.
- (d) Dune nourishment.
- (e) Vegetation planting, stabilization and maintenance.
- (f) Sand fencing.
- (g) Sand transfer

**(5) Prohibited Uses:**

The following uses and activities are prohibited in the Fore dune Management Overlay Zone:

- (a) Sand removal, except transfers between and within Management Units consistent with the Bayshore Fore dune Management Plan: Management Strategy.
- (b) Dune grading below the elevations established in the Bayshore Fore dune Management Plan: Management Strategy.

**(6) Dune Grading Permit Required**

- (a) In the Fore dune Management Overlay Zone, no fore dune grading may be undertaken unless a Fore dune Grading Permit has been obtained from Lincoln County.
- (b) In the Fore dune Management Overlay Zone, no remedial grading, or infrastructure grading may be undertaken unless a Remedial/Infrastructure Grading Permit has been obtained from Lincoln County.

**(7) Fore dune Grading Permits:**

**(a) Procedure:**

- (A) Application, review, decision and appeals for Fore dune Grading Permits shall be conducted in the manner provided for in LCC 1.1210 (2). In acting to approve an application for a Fore dune Grading Permit, the director or the

commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.

- (B) Foredune Grading Permits shall be valid for a period five (5) years from the date of issuance.
- (C) Foredune Grading Permits may be renewed as follows:
  - (i) Prior to the expiration of the permit, the permittee shall submit a written request to the Director for renewal of the permit. Such a request shall be accompanied by a report prepared by a qualified professional who establishes, based on current conditions, that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.
  - (ii) Review, decision and appeal for requests for renewal of Foredune Grading Permits shall be undertaken in accordance with LCC 1.1210 (2). In acting upon a request for renewal of a Foredune Grading Permit, the director or the commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.
  - (iii) If beach and foredune conditions change to such an extent during the permit period that renewal of an existing foredune grading permit is not appropriate, then a new permit application, including a new grading plan and permit conditions, is required. The qualified professional shall make this determination in the report specified in (i) above.

**(b) Foredune Grading Plan**

Applications for Foredune Grading Permits shall be accompanied by a Foredune Grading Plan. Foredune Grading Plans shall be prepared by a qualified professional, and shall contain at least the following information, set forth in sufficient detail to establish that the proposed grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan:

- (A) Narrative describing the proposed work.
- (B) Plan view and elevations expressed in NAVD 88 of existing conditions in the work area.
- (C) Plan view and elevations expressed in NAVD 88 of proposed modifications in the work area, demonstrating general consistency with grading profiles for the Management Unit(s) in which the work is to be performed.

- (D) Identification of needed remedial and/or infrastructure grading within the project area and a description of how such grading will be integrated into the proposed work.
- (E) Surveyed profiles for subarea grading designs sufficient to establish a baseline for monitoring.
- (F) Revegetation plans consistent with the specific Management Unit recommendations.
- (G) Monitoring and maintenance plan for the work area consistent with the requirements of this section.
- (H) Identification of the person(s) responsible for supervising the project.
- (I) Identification of sand disposal area(s)

**(c) Foredune Grading Permit Decision Criteria:**

A decision to approve a Foredune Grading Permit shall be based on the following findings:

- (A) The proposed grading, restoration, monitoring and maintenance plan encompasses an entire Management Unit or a contiguous segment of not less than 400 feet, as measured along the statutory vegetation line.
- (B) The proposed grading will not reduce the height of any foredune below four feet above the V-zone Base Flood Elevation.
- (C) The plan incorporates, to the extent practicable, all needed remedial and infrastructure grading within the project area.
- (D) The proposed grading, restoration, monitoring and maintenance plan is consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.

**(d) Foredune Grading Permit Conditions**

In addition to any conditions imposed pursuant to sub-section (7)(a)(A), all Foredune Grading Permits shall be subject to the following conditions:

- (A) Sand removal is prohibited. Transfers between and within Management Units is permitted in accordance with the approved Foredune Grading Plan.
- (B) No foredune shall be reduced in height to less than four feet above the V-zone Base Flood Elevation.
- (C) Grading shall be conducted only between February 1 and April 1, or from October 1 to October 31.
- (D) Upon completion of authorized grading activities, revegetation shall be accomplished in accordance with the approved Foredune Grading Plan.
- (E) Within 30 days of completion of the initial grading and revegetation, the permittee shall submit to the director a written statement from a qualified professional that the project has been completed in conformance with the provisions of the Foredune Grading Plan.
- (F) Within one year of completion of the initial grading and revegetation, and annually thereafter during the time within which the permit remains valid,

the permittee shall submit a monitoring report prepared by a qualified professional that shall include:

- (i) Profiles of the project area
- (ii) Photographic documentation of the current condition of the project area
- (iii) Recommendations for any vegetation maintenance needs, including repair of vegetation, replanting of blow out areas, and fertilization.
- (iv) Recommendations for any needed shaping of the foreslope and/or maintenance grading of the foredune crest.
- (v) Recommendations for any remedial or infrastructure grading.
- (vi) Recommendations for the placement of sand fencing.
- (vii) Specified time frames for performing recommended maintenance activities.

- (G) All maintenance activities and treatments recommended in the annual monitoring report required by this sub-section shall be completed by the permittee within the time frames set forth in the report.

### **(8) Remedial/Infrastructure Grading Permits**

Pursuant to Section 7(c)(C) of this Section, where practicable, all remedial and infrastructure grading shall be established as part of a foredune grading permit. In cases where needed remedial and infrastructure grading can not be accomplished as part of a foredune grading permit, such grading may be permitted in accordance with this subsection.

#### **(a) Procedure:**

- (A) Application, review, decision and appeals for Remedial/Infrastructure Grading Permits shall be conducted in the manner provided for in LCC 1.1210 (1). In acting to approve an application for a Remedial/Infrastructure Grading Permit, the director or the commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.
- (B) Remedial/Infrastructure Grading Permits for remedial grading shall authorize grading on a single lot or parcel only, except for infrastructure grading within dedicated road right of ways which may be authorized for all or any portion of a road right of way.
- (C) Remedial/Infrastructure Grading Permits shall be valid for a period one year from the date of issuance.
- (D) Remedial/Infrastructure Grading Permits may be renewed prior to the date of expiration upon written request of the permittee and a determination by the director that all applicable conditions have been complied with.

#### **(b) Remedial/Infrastructure Grading Permit Conditions**

In addition to any conditions imposed pursuant to sub-section (8)(a)(A), all Remedial/Infrastructure Grading Permits shall be subject to the following conditions:

- (A) All remedial and infrastructure grading activities shall be performed in a manner that avoids alteration of the existing height of the foredune and does not significantly damage existing vegetation.
- (B) All sand removed from a property during remedial grading shall be moved up and over the foredune seaward of the building and shall be accomplished in a manner that minimizes disturbance to existing dune height, vegetation, and the beach.
- (C) Only one disposal access shall be allowed on the property for the purpose of pushing sand up and over the foredune seaward of the structure. The access shall be limited to the minimum width necessary to accommodate the equipment being used and in no case wider than 8 feet. Upon completion of the project, the access shall be re-contoured to the height of the existing adjacent dune.
- (D) On properties where the foredune has been previously lowered below the undisturbed foredune height on the rear (seaward) yard, the foredune shall be allowed to build up and no grading is allowed.
- (E) Permanent stabilization of any portion of the foredune disturbed by remedial sand removal activities shall be accomplished through planting, fertilization, and maintenance of European beachgrass. Beach grass shall be planted at a spacing of 18 inches and carried out between November 1 and April 1. After initial planting and fertilization, stabilization shall include follow-up fertilization. Planting shall also include the re-contoured area used for the disposal access road. Documentation of revegetation efforts shall be provided to the Planning & Development Department within 10 days after planting has been completed.
- (F) Remedial grading adjacent to structures shall be limited to the following:
  - i. Rear yard: (Rear yard is the yard seaward of the structure). Sand may be removed to the level of the top of the sill of the foundation within 10 feet of the building, or the base of an existing deck.. From the 10-foot line, all grading shall slope upward to where it intersects the ground surface of the existing dune at a ratio of 2:1 (horizontal:vertical).
  - ii. Side yards: Sand may be removed to the level of the top sill of the foundation within 10 feet of the building (if possible). From the 10-foot line, sand grading shall slope upward at a ratio of 2:1.

- iii. Front yard: All sand that is landward of the building may be removed down to the sill level of the foundation, provided removal does not create slopes of more than 2:1 with adjacent properties. Grading may not lower the front yard below the level of adjacent streets or roads except to clear sidewalks or driveways.
- (G) Remedial grading on vacant lots shall conform to the following requirements:
- i. Vacant lots shall, at a minimum, be graded to alleviate sand sloughing hazards to adjoining properties by grading the slopes of the vacant lots so they do not exceed gradients of 2:1 (horizontal:vertical). Such minimal grading is expected to require regular maintenance to maintain a maximum slope of 2:1.
  - ii. Vacant lots should optimally be graded to elevations that are similar to adjoining lots but in no case shall be lowered below an elevation which is 4 feet above the BFE for the relevant management unit.
  - iii. A site-specific plan should be prepared specifying where the sand will be placed on the beach or lower seaward side of the foredune.
  - iv. Vegetation Stabilization: Graded areas shall be stabilized with vegetation after completion of grading as indicated below:
    - 1. Planting and fertilization for vacant lots and associated disposal areas shall be carried out during rainy months between November 1 and April 1 in accordance with specifications in the Bayshore Dune management Plan, except that approved disposal areas within the typical tidal range need not be vegetated..
    - 2. Barriers should be constructed around graded vacant lots to prevent trampling of the planted areas.