



1            **SECTION 2.** LCC 1.1385 is amended to read

2            1.1385 Foredune Management Overlay Zone

3            **(1)** Purpose:

4            The purpose of the Foredune Management Overlay Zone is to implement the  
5 management strategy, monitoring and maintenance program and other components as  
6 specified in the Bayshore Dune and Foredune Management Plan (Bayshore Plan) adopted  
7 under LCC 1.0108. The overall objectives of the foredune management strategy for  
8 Bayshore, located on the Alsea Spit, listed in order of descending priority are:

9            (a) To maintain or improve on the ability of the foredune to protect properties from  
10 ocean flooding and wave erosion;

11            (b) To minimize the inundation of improvements by accumulation of wind-blown  
12 sand;

13            (c) To maintain and improve public access to the beach; and

14            (d) To maintain, or restore ocean views.

15            **(2)** Applicability:

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

20            **(3)** Definitions:

21            As used in this section:

22            (a) “Dune nourishment” means augmentation of the natural sediment supply within  
23 a foredune area.

24            (b) “Foredune grading” means alteration of the foredune area through sand transfer  
25 or removal of sand by mechanical means in order to accomplish view grading and/or  
26 preventative grading.

27            (c) “Infrastructure grading” means removal of sand which is physically inundating  
28 roadways, beach accesses, septic systems, and underground utilities, thereby causing  
29 damage, impeding vehicular and pedestrian movements, and otherwise interfering with  
30 service provision and operations related to the impacted infrastructure systems.

31            (d) “Management Unit” means a discrete segment of foredune area identified,  
32 described and numbered as a Management Unit in the Bayshore Plan.

33            (e) “Preventative grading” means the removal of sand which threatens to inundate a  
34 structure from the immediate vicinity of the structure.

35            (f) “Qualified Professional” means either an Oregon Registered Geologist or  
36 Certified Engineering Geologist, with experience working on Pacific Northwest beaches.

37            (g) “Remedial grading” means removal of sand from a developed lot which is  
38 physically inundating a structure and causing damage or preventing access to the structure,  
39 or removal of sand from a vacant lot which is threatening to inundate adjoining lots.

1 (h) "Sand Removal" means the mechanical movement of sand to alternative  
2 disposal areas outside the Foredune Management Area.

3 (i) "Sand Transfer" means the mechanical or natural movement of sand within and  
4 between management units.

5 (j) "View grading" means grading of dune areas for the purpose of restoring,  
6 obtaining, or maintaining views from existing structures.

7 **(4) Uses:**

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

13 (a) Foredune grading.

14 (b) Infrastructure grading.

15 (c) Remedial grading on individual developed or vacant lots.

16 (d) Dune nourishment.

17 (e) Vegetation planting, stabilization and maintenance.

18 (f) Sand fencing.

19 (g) Sand transfer.

20 **(5) Prohibited Uses:**

21 The following uses and activities are prohibited in the Foredune Management  
22 Overlay Zone:

23 (a) Sand removal, except transfers between and within Management Units  
24 consistent with the Bayshore Plan: Management Strategy.

25 (b) Dune grading below the elevations established in the Bayshore Plan:  
26 Management Strategy.

27 **(6) Dune Grading Permit Required:**

28 (a) In the Foredune Management Overlay Zone, no foredune grading may be  
29 undertaken unless a Foredune Grading Permit has been obtained from Lincoln County.

30 (b) In the Foredune Management Overlay Zone, no remedial grading, or  
31 infrastructure grading may be undertaken unless a Remedial/Infrastructure Grading Permit  
32 has been obtained from Lincoln County.

33 **(7) Foredune Grading Permits:**

34 **(a) Procedure:**

35 **(A)** Application, review, decision and appeals for Foredune Grading Permits shall be  
36 conducted in the manner provided for in LCC 1.1210(2). In acting to approve an  
37 application for a Foredune Grading Permit, the Planning Division or the Planning  
38 Commission may impose, in addition to the conditions specifically set forth herein, any  
39 conditions determined to be necessary to ensure that authorized grading, restoration and  
40 maintenance activities will be consistent with the policies and requirements for the affected  
41 Management Units as set forth in the Bayshore Plan.

1 (B) Foredune Grading Permits shall be valid for a period five (5) years from the date  
2 of issuance.

3 (C) Foredune Grading Permits may be renewed as follows:

4 (i) Prior to the expiration of the permit, the permittee shall submit a written  
5 request to the Planning Division for renewal of the permit. Such a request *[shall]* **may** be  
6 accompanied by a report prepared by a Qualified Professional **as defined in Section**  
7 **1.1385(3)(f)** who establishes, based on current conditions, that the grading, restoration and  
8 maintenance activities authorized by the permit are consistent with the policies and  
9 requirements for the affected Management Units as set forth in the Bayshore Plan. **If not**  
10 **prepared by a Qualified Professional as defined in Section 1.1385(3)(f), the permittee**  
11 **shall submit a certification that the grading, restoration and maintenance activities**  
12 **authorized by the permit are consistent with the policies and requirements for the**  
13 **affected Management Units as set forth in the Bayshore Plan, acknowledge that the**  
14 **certification was not prepared by a Qualified Professional as defined in Section**  
15 **1.1385(3)(f) and acknowledge that the permittee assumes responsibility for actions**  
16 **taken pursuant to the permit.**

17 (ii) Review, decision and appeal for requests for renewal of Foredune Grading  
18 Permits shall be undertaken in accordance with LCC 1.1210(2). In acting upon a request for  
19 renewal of a Foredune Grading Permit, the Planning Division or the Planning Commission  
20 may impose, in addition to the conditions specifically set forth herein, any conditions  
21 determined to be necessary to ensure that authorized grading, restoration and maintenance  
22 activities will be consistent with the policies and requirements for the affected Management  
23 Units as set forth in the Bayshore Foredune Management Plan.

24 (iii) If beach and foredune conditions change to such an extent during the permit  
25 period that renewal of an existing foredune grading permit is not appropriate, then a new  
26 permit application, including a new grading plan and permit conditions, is required. The  
27 Qualified Professional *[shall]* **as defined in Section 1.1385(3)(f)** **may** make this  
28 determination in the report specified in (i) above~~./~~

29 (b) Foredune Grading Plan

30 Applications for Foredune Grading Permits shall be accompanied by a Foredune Grading  
31 Plan. Foredune Grading Plans *[shall]* **may** be prepared by a Qualified Professional **as**  
32 **defined in Section 1.1385(3)(f) or the permittee who shall submit a certification that**  
33 **the grading, restoration and maintenance activities authorized by the permit are**  
34 **consistent with the policies and requirements for the affected Management Units as set**  
35 **forth in the Bayshore Plan, acknowledge that the certification was not prepared by a**  
36 **Qualified Professional as defined in Section 1.1385(3)(f) and acknowledge that the**  
37 **permittee assumes responsibility for actions taken pursuant to the permit.**~~./~~ *[, and]*  
38 **Foredune Grading Plans** shall contain at least the following information, set forth in  
39 sufficient detail to establish that the proposed grading, restoration and maintenance

1 activities will be consistent with the policies and requirements for the affected Management  
2 Units as set forth in the Bayshore Plan:

3 (A) Narrative describing the proposed work;

4 (B) Plan view and elevations expressed in NAVD 88 of existing conditions in the  
5 work area;

6 (C) Plan view and elevations expressed in NAVD 88 of proposed modifications in  
7 the work area, demonstrating general consistency with grading profiles for the Management  
8 Unit(s) in which the work is to be performed;

9 (D) Identification of needed remedial and/or infrastructure grading within the project  
10 area and a description of how such grading will be integrated into the proposed work;

11 (E) Surveyed profiles for subarea grading designs sufficient to establish a baseline  
12 for monitoring;

13 (F) Revegetation plans consistent with the specific Management Unit  
14 recommendations;

15 (G) Monitoring and maintenance plan for the work area consistent with the  
16 requirements of this section;

17 (H) Identification of the person(s) responsible for supervising the project; and

18 (I) Identification of sand disposal area(s).

19 (c) Foredune Grading Permit Decision Criteria:

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

22 (A) The proposed grading, restoration, monitoring and maintenance plan  
23 encompasses an entire Management Unit or a contiguous segment of not less than 400 feet,  
24 as measured along the statutory vegetation line;

25 (B) The proposed grading will not reduce the height of any foredune below four feet  
26 above the V-zone Base Flood Elevation;

27 (C) The plan incorporates, to the extent practicable, all needed remedial and  
28 infrastructure grading within the project area; and

29 (D) The proposed grading, restoration, monitoring and maintenance plan is  
30 consistent with the policies and requirements for the affected Management Units as set forth  
31 in the Bayshore Plan.

32 (d) Foredune Grading Permit Conditions

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

35 (A) Sand removal is prohibited. Transfers between and within Management Units  
36 is permitted in accordance with the approved Foredune Grading Plan;

37 (B) No foredune shall be reduced in height to less than four feet above the V-zone  
38 Base Flood Elevation;

39 (C) Grading shall be conducted only between February 1 and April 1, or between  
40 October 1 and October 31;

1 (D) Upon completion of authorized grading activities, revegetation shall be  
2 accomplished in accordance with the approved Fore dune Grading Plan;

3 (E) Within 30 days of completion of the initial grading and revegetation, the  
4 permittee shall submit to the director a written statement from a qualified professional **as**  
5 **defined in Section 1.1385(3)(f) or the permittee** that the project has been completed in  
6 conformance with the provisions of the Fore dune Grading Plan;

7 (F) Within one year of completion of the initial grading and revegetation, and  
8 annually thereafter during the time within which the permit remains valid, the permittee shall  
9 submit a monitoring report prepared by a qualified professional **defined in Section**  
10 **1.1385(3)(f) or the permittee** that shall include:

- 11 (i) Profiles of the project area;
- 12 (ii) Photographic documentation of the current condition of the project area;
- 13 (iii) Recommendations for any vegetation maintenance needs, including repair of  
14 vegetation, replanting of blow out areas, and fertilization;
- 15 (iv) Recommendations for any needed shaping of the foreslope and/or maintenance  
16 grading of the fore dune crest;
- 17 (v) Recommendations for any remedial or infrastructure grading;
- 18 (vi) Recommendations for the placement of sand fencing; and
- 19 (vii) Specified time frames for performing recommended maintenance activities;

20 (G) All maintenance activities and treatments recommended in the annual  
21 monitoring report required by this subsection shall be completed by the permittee within the  
22 time frames set forth in the report.

23 (8) Remedial/Infrastructure Grading Permits

24 Pursuant to Section 7(c)(C) of this Section, where practicable, all remedial and  
25 infrastructure grading shall be established as part of a fore dune grading permit. In cases  
26 where needed remedial and infrastructure grading cannot be accomplished as part of a  
27 fore dune grading permit, such grading may be permitted in accordance with this subsection.

28 (a) Procedure:

29 (A) Application, review, decision and appeals for Remedial/Infrastructure Grading  
30 Permits shall be conducted in the manner provided for in LCC 1.1210(1). In acting to  
31 approve an application for a Remedial/Infrastructure Grading Permit, the Planning Director  
32 or the Planning Commission may impose, in addition to the conditions specifically set forth  
33 herein, any conditions determined to be necessary to ensure that authorized grading,  
34 restoration and maintenance activities will be consistent with the policies and requirements  
35 for the affected Management Units as set forth in the Bayshore Plan.

36 (B) Remedial/Infrastructure Grading Permits for remedial grading shall authorize  
37 grading on a single lot or parcel only, except for infrastructure grading within dedicated  
38 road right of ways which may be authorized for all or any portion of a road right of way.

39 (C) Remedial/Infrastructure Grading Permits shall be valid for a period one year  
40 from the date of issuance.

1 (D) Remedial/Infrastructure Grading Permits may be renewed prior to the date of  
2 expiration upon written request of the permittee and a determination by the Planning  
3 Division that all applicable conditions have been complied with.

4 (b) Remedial/Infrastructure Grading Permit Conditions

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

7 (A) All remedial and infrastructure grading activities shall be performed in a  
8 manner that avoids alteration of the existing height of the foredune and does not  
9 significantly damage existing vegetation;

10 (B) All sand removed from a property during remedial grading shall be moved  
11 up and over the foredune seaward of the building and shall be accomplished in a manner  
12 that minimizes disturbance to existing dune height, vegetation, and the beach;

13 (C) Only one disposal access shall be allowed on the property for the purpose of  
14 pushing sand up and over the foredune seaward of the structure. The access shall be limited  
15 to the minimum width necessary to accommodate the equipment being used and in no case  
16 wider than 8 feet. Upon completion of the project, the access shall be re-contoured to the  
17 height of the existing adjacent dune;

18 (D) On properties where the foredune has been previously lowered below the  
19 undisturbed foredune height on the rear (seaward) yard, the foredune shall be allowed to  
20 build up and no grading is allowed;

21 (E) Permanent stabilization of any portion of the foredune disturbed by remedial  
22 sand removal activities shall be accomplished through planting, fertilization, and  
23 maintenance of European beachgrass. Beach grass shall be planted at a spacing of 18  
24 inches and carried out between November 1 and April 1. After initial planting and  
25 fertilization, stabilization shall include follow-up fertilization. Planting shall also include  
26 the re-contoured area used for the disposal access road. Documentation of revegetation  
27 efforts shall be provided to the Planning & Development Department within 10 days after  
28 planting has been completed;

29 (F) Remedial grading adjacent to structures shall be limited to the following:

30 (i) Rear yard: (Rear yard is the yard seaward of the structure). Sand may be  
31 removed to the level of the top of the sill of the foundation within 10 feet of the building, or  
32 the base of an existing deck.. From the 10-foot line, all grading shall slope upward to where  
33 it intersects the ground surface of the existing dune at a ratio of 2:1 (horizontal:vertical).

34 (ii) Side yards: Sand may be removed to the level of the top sill of the  
35 foundation within 10 feet of the building (if possible). From the 10-foot line, sand grading  
36 shall slope upward at a ratio of 2:1.

37 (iii) Front yard: All sand that is landward of the building may be removed down  
38 to the sill level of the foundation, provided removal does not create slopes of more than 2:1  
39 with adjacent properties. Grading may not lower the front yard below the level of adjacent  
40 streets or roads except to clear sidewalks or driveways; and

1 (G) Remedial grading on vacant lots shall conform to the following  
2 requirements:

3 (i) Vacant lots shall, at a minimum, be graded to alleviate sand sloughing  
4 hazards to adjoining properties by grading the slopes of the vacant lots so they do not  
5 exceed gradients of 2:1 (horizontal:vertical). Such minimal grading is expected to require  
6 regular maintenance to maintain a maximum slope of 2:1.

7 (ii) Vacant lots should optimally be graded to elevations that are similar to  
8 adjoining lots but in no case shall be lowered below an elevation which is 4 feet above the  
9 BFE for the relevant management unit.

10 (iii) A site-specific plan should be prepared specifying where the sand will be  
11 placed on the beach or lower seaward side of the foredune.

12 (iv) Vegetation Stabilization: Graded areas shall be stabilized with vegetation  
13 after completion of grading as indicated below:

14 1. Planting and fertilization for vacant lots and associated disposal areas  
15 shall be carried out during rainy months between November 1 and April 1 in accordance  
16 with specifications in the Bayshore Plan, except that approved disposal areas within the  
17 typical tidal range need not be vegetated.

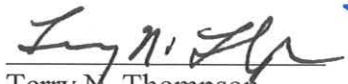
18 2. Barriers should be constructed around graded vacant lots to prevent  
19 trampling of the planted areas.  
20

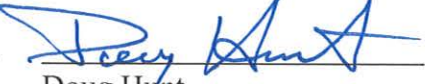
21 **SECTION 3.**

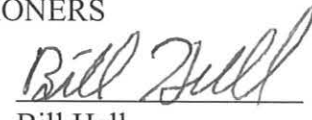
22 The Board finds that the adoption of this Ordinance is urgently needed in order to  
23 continue efforts to complete projects caused by the recent sand inundation in the Bayshore  
24 Area. Therefore, this Ordinance being necessary for the immediate preservation of the  
25 public health and safety, an emergency is declared to exist and this Ordinance shall take  
26 effect upon its passage.

DATED this 5<sup>th</sup> day of March, 2014.

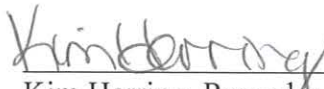
LINCOLN COUNTY BOARD OF COMMISSIONERS

  
Terry N. Thompson  
Chair

  
Doug Hunt  
Commissioner

  
Bill Hall  
Commissioner

ATTESTED TO:

  
Kim Herring, Recorder

APPROVED AS TO FORM:

  
Wayne Belmont, County Counsel

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.