

APPENDIX D

SOIL EROSION & VEGETATION REMOVAL

The following data is excerpted from Dunes City Code of Ordinances, Land Usage Title XV - Page 63

CHAPTER 154: SOIL EROSION CONTROL AND VEGETATION REMOVAL

Section

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Cross-reference:

Violations, see §§ 150.10 et seq.

Excavation and grading, see §§ 151.040 through 151.054

§ 154.01 CONSERVATION COMMITTEE ESTABLISHED.

The Conservation Committee shall consist of three members appointed by the City Council to serve for three-year terms except that the initial appointments to the Committee shall be for one one-year term expiring 12-31-97; one two-year term expiring 12-31-98; and one three-year term expiring 12-31-99. A member of the Council shall be selected to act as the non-voting Chair of the three-member Committee. The Committee may call upon the State Forester, Biologists, and Soil Conservationists for advice.

(Ord. 154, passed 4-10-97)

§ 154.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MAINTENANCE, PRUNING, and LIMBING. Periodic limbing, pruning, and maintenance of existing cleared areas, limbing and pruning not to exceed 25% of any one tree and trimming of other natural vegetation no closer to the ground than three feet.

NATURAL VEGETATION. Any trees, shrubs, brush, plants, or grasses existing within the shoreland zone or

riparian corridor.

ORIGINAL VEGETATION INVENTORY. All vegetation in the shoreland zone or riparian corridor for the lifetime of vegetation based on what vegetation has grown and is growing. (Stumps and other evidence of prior vegetation removal shall be considered in the determination of the **ORIGINAL VEGETATION INVENTORY**.)

PUBLIC RIGHT-OF-WAY. Any city right-of-way, whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory control over each right-of-way, whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or other means.

RIPARIAN CORRIDOR. Riparian corridor boundaries shall be 50 feet from the top of the bank of all fish-bearing streams. (For further information, see Ord. 153, an amendment to the City Zoning Ordinance (Ord. 50) for regulations defining and protecting significant riparian and wetland areas.)

SHORELAND ZONE. The shoreland zone includes all city lands within 50 feet measured horizontally from the ordinary high water line of all lakes and below.

SOIL EROSION. The result of any act which permits any condition to remain which will cause soil to be worn away or carried away by the elements.

(Ord. 154, passed 4-10-97)

Cross-reference:

Jurisdiction and control over public rights-of-way, see § 90.01

§ 154.03 PERMIT FOR VEGETATION REMOVAL REQUIRED; EXCEPTIONS.

(A) *Generally.*

- (1) A vegetation removal permit is required if any vegetation/tree is to be removed from the shoreland zone or riparian corridor, except as provided in divisions (B)(1) through (3) below.
- (2) No vegetation shall be removed under a vegetation removal permit except as follows:
 - (a) Vegetation within 15 feet of the ordinary high water mark in the shore land zone or the top of the bank in riparian corridors may be removed if necessary for the development of water-dependent or water-related uses.
 - (b)
 1. As much as 25% of the “original vegetation inventory” of the land area in any shoreland zone or riparian corridor that is more than 15 feet but less than 50 feet from the ordinary high water line may be trimmed or cleared of natural vegetation with an approved vegetation removal permit provided that such action will not result in soil erosion.
 2. The “original vegetation inventory” is to be determined by counting stumps and other evidence of prior vegetation removal, based on what has been removed and what is growing. (The intent of this is to prevent subsequent property owners from each taking 25% until the shoreland could be stripped.)
 - (c) Vegetation which must be removed in conjunction with development otherwise allowed in the shoreland zone and riparian corridors.

(B) *Exceptions to permit requirement.*

- (1) A vegetation removal permit is not required for:
 - (a) Periodic maintenance as defined in § 154.02;
 - (b) Removal of non-native vegetation or noxious weeds such as tansy-ragwort, Canadian thistle, gorse, or wild Scotch broom;
 - (c) Any tree that is determined to be a sudden or immediate threat to life, structures, or property. Such a tree may be removed without fee upon notification to the city requesting an inspection by a member of the Conservation Committee or other city designate for determination.

**(Ord. 154, passed 4-10-97) Cross-reference:
Excavation and grading, see §§ 151.040 through 151.054**

§ 154.04 PERMIT PROCEDURE.

- (A) Permit applications should be made through the City Recorder, utilizing the appropriate form.
- (B) The application shall include a map of the property, including dimensions, legal description, the original vegetation inventory as defined in § 154.02, and an inventory of existing vegetation, indicating that which is proposed for removal.
- (C) The application shall state reasons for vegetation removal and what steps will be taken to prevent soil erosion and minimize impacts on wildlife habitat, scenic values, and water quality.
- (D) Upon receiving an application, the City Recorder will immediately notify the Chairperson of the Conservation Committee who will arrange a visit to the site and prepare a written report for the Planning Commission's next regular meeting.
- (E) The Planning Commission shall consider the following criteria:
 - (1) The Oregon Coastal Shorelands Goals;
 - (2) The effect the proposed changes will have on scenic values from adjoining properties and bodies of water;
 - (3) The effect the proposed changes will have on fish and wildlife habitat, soil erosion, and water quality.
- (F) The Planning Commission will modify, approve, or deny the proposal.
- (G) An appeal of the Planning Commission decision may be made to the City Council by the applicant or an interested person, or by the City Council's own motion. Such appeal shall be taken no later than 10 days after the Planning Commission's action.
 - (1) The appeal notice shall be filed in written form with the City Council and shall include a concise statement of the grounds upon which the appellant claims the decision

appealed was erroneous.

- (2) The city shall notify the appellant by letter confirming the receipt of the appeal and stating the appeal procedures and date the appeal will be heard by the City Council.

(Ord. 154, passed 4-10-97) Cross-reference: Planning Commission, see § 32.60 et seq.

§ 154.05 SOIL EROSION CONTROL.

It shall be considered detrimental to the safety, health, and welfare of the citizens of the city to allow the products of soil erosion to:

- (A) Intrude into any public body of water;
- (B) Intrude onto any right-of-way;
- (C) Cross any property line onto land owned by persons other than the owners of the property from which the products of erosion originate.

(Ord. 154, passed 4-10-97)

§ 154.06 RE-VEGETATION OF CLEARED AREAS.

- (A) Any parcel that has been logged under a permit from the State Forestry Department and has been removed from the jurisdiction of the State Forestry Department before it is reforested by reason of application for change of land use will not be granted any development permits unless:
 - (1) It is reforested to the specifications of the State Forestry Department; or
 - (2) A re-vegetation plan is approved by the City Council.
- (B) In reviewing a re-vegetation plan required in division (A) of this section, the City Council shall consider the following criteria:
 - (1) The provisions of the Oregon Coastal Shorelands Goal;
 - (2) City citizens' desire as stated in the preamble to Ord. 154;
 - (3) Any other provisions of this chapter.

(Ord. 154, passed 4-10-97)

§ 154.07 VEGETATION CUTTING AND REMOVAL IN PUBLIC RIGHTS-OF-WAY.

- (A) No tree or vegetation shall be cut or removed from any public right-of-way without recommendation by the Road Commission and permission of the City Council.
- (B) The following practices are exempt from this section:
 - (1) Weed and brush control on gravel shoulders;
 - (2) Weed and brush control in drainage ditches;
 - (3) Vegetation control operations conducted by the Public Utility District, the telephone company,

franchise and cable TV franchises in areas within public easements pursuant to providing services to the citizens of the city;

- (4) Maintenance trimming up to three feet in width on either side of improved public roadways.

(Ord. 154, passed 4-10-97)

Cross-reference: Road Commission, see § 32.40 et seq.

§ 154.08 VIOLATIONS.

- (A) Upon receipt of a signed, written complaint of any city citizen, the city shall abate a violation of this chapter as a nuisance pursuant to the city's general nuisance abatement ordinance.
- (B) In reviewing a soil erosion or illegal vegetation removal complaint, the City Council will consider the following factors and actions:
 - (1) The standards and criteria embodied in this chapter;
 - (2) Implementation and requirements of the Oregon Shorelands Goal;
 - (3) Immediate structural control of the problem if weather conditions preclude vegetative control;
 - (4) A stop work order;
 - (5) An order requiring necessary work to be done with costs to be borne by the owner of the offending property.

(Ord. 154, passed 4-10-97) Cross-reference: Nuisances, see Chapter 91, Violations, see § 150.10 et seq.

§ 154.99 PENALTY.

- (A) A violation of a provision of this chapter is punishable as provided in § 10.99.
- (B) Each day's violation of this chapter constitutes a separate offense. The abatement of the nuisance is not a penalty for violating this chapter, but is an additional remedy. Imposition of a penalty does not relieve a person of the duty to abate the nuisance.

(Ord. 154, passed 4-10-97)