

ORDINANCE NO. 95 - 6

**AN ORDINANCE ADOPTING STANDARDS AND REGULATIONS
FOR A FOREDUNE MANAGEMENT OVERLAY ZONE**

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

WHEREAS, the Manzanita Comprehensive Plan and Zoning Ordinance allow for the development of a Fore dune Management Plan as a means to stabilize beach dune areas; and,

WHEREAS, a group of property owners known as the Manzanita Neah-Kah-Nie Dunes Management Association Inc. has been formed to retain the services of qualified consultants, conduct research, fund recommended alterations and prepare a Fore dune Management Plan; and,

WHEREAS, the Manzanita Neah-Kah-Nie Dunes Management Association Inc. desires to incorporate a Fore dune Management Plan within the Manzanita Comprehensive Plan as a part of the City's Periodic review; and,

WHEREAS, the Manzanita Planning Commission and City Council have held Public Hearings for local testimony and allowed for the required review by State and County agencies.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MANZANITA AS FOLLOWS: The Manzanita Fore dune Background Report and Fore dune Management Plan which includes the Maintenance Program and Monitoring Program attached hereto as Exhibit "A" are hereby adopted.

APPROVED this 6th day of March, 1996 and signed by the mayor.

EXHIBIT A.

SECTION 1 Foredune Management Area Overlay Zone

The intent to this zone is to regulate uses and activities in the Foredune Management Area in order to:

1. Maintain and/or enhance ocean flood/erosion protective functions of the natural foredune area;
2. Minimize inundation brought about by excessive accumulation of windblown sand and correspondingly maintain and/or enhance ocean views; and,
3. Maintain and/or enhance public access to recreational uses associated with the open sand beach.

SECTION 2 Areas Included:

The Manzanita Foredune Management Plan identifies four areas or "management units" covered by this overlay zone. They are: The Neahkahnie Management Unit, between Neah-Kah-Nie Mountain and Laneda Avenue; the North Manzanita Management Unit, between Laneda Avenue and Beach Drive; the South Manzanita Management Unit, between Beach Drive and Glenesslin Lane; and, the Nehalem Spit Management Unit, between Glenesslin Lane and the Nehalem River North Jetty. The Manzanita Foredune Management Plan describes these management units in more detail.

The shoreward (eastern) boundary of the Foredune Management Area overlay zone is defined as the western foundation of existing buildings and a direct line between the western building foundations where there is no building. Any porch or deck west of the building foundation shall be considered as within the Foredune Management Area overlay zone. [Amended by Ord. 05-03 passed May 13, 2005]

SECTION 3 Definitions:

Accretion: The build-up of land along a beach or shore by deposition of waterborne or airborne sand, sediment, or other material.

Building: A structure, other than a mobile home, built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and having a fixed connection to the ground. [Added by Ord 05-03, passed May 13, 2005]

Deflation Plain: The broad interdune area which is commonly scoured to the level of the summer water table.

Dune: A hill or ridge of sand built up by the wind along sand coasts.

Dune, Active: A dune that migrates, grows, and diminishes from the effect of wind and supply

of sand. Active dunes include all open sand dunes, active hummocks, and active foredunes.

Dune, Conditionally Stable: A dune presently stable from wind erosion, but vulnerable to becoming active due to fragile vegetation cover.

Dune, Older Stabilized: A dune that is stable from wind erosion, that has a significant soil development, and that may include diverse forest cover. Includes older foredunes.

Dune, Open Sand: A collective term for active, unvegetated dune landforms.

Dune, Recently Stabilized: A dune with sufficient vegetation to be stabilized from wind erosion but with little if any development of soil or cohesion of the sand under the vegetation. Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes, and younger stabilized dunes.

Dunes, Younger Stabilized: A wind-stable dune weakly developed soils and vegetation.

Dune Complex: Various patterns of small dunes with partially stabilized intervening areas.

Dune Grading: Reconfiguration of existing foredune areas using earth-moving equipment.

Dune Nourishment: Augmentation of the natural sediment supply within a foredune area.

Foredune, Active: An unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion, and growth from new sand deposits. Active foredunes may include areas with beach grass, and occur in sand spits and at river mouths as well as elsewhere.

Foredune, Conditionally Stable: An active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion.

Foredune Grading: The alteration of the foredune area through sand transfer or removal of sand by mechanical means. Foredune grading includes sand movement for the purpose of siting a permitted use (construction grading); for the purpose of removing inundating sand (remedial grading); or for the purpose of restoring ocean views (view grading).

Foredune, Older: A conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development.

Foreslope Shaping: Minor redistribution of sand in the crest and foreslope areas in order to maintain a regular, gently-sloping foredune.

Hummock, Active: Partially vegetated, elevated mound of sand that is actively growing in size.

Littoral Drift: Material moved alongshore in the shallow nearshore by waves and currents.

NGVD: National Geodetic Vertical Datum. Elevation referenced to the United States Exhibit "A" of Ordinance 95-6 – Adopted March 6, 1996
Amended by Ordinance 98-03 – (March 4, 1998) and Ordinance 05-03 – (May 13, 2005)

Coast and Geodetic Survey Sea-Level Datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947. Essentially equivalent to the Mean Sea Level (MSL) Datum.

Remedial Grading: Limited sand transfer or removal of sand which has piled up against exterior walls, windows, doors, or decks and thus interferes with access to or with the safe use or occupancy of existing structures.

Sand Collection, Mechanical: Use of fences or brush mats to collect and hold sand.

Sand Removal: The mechanical movement of sand to alternative disposal areas outside (east of) the Fore dune Management Area.

Sand Transfer: The mechanical or natural movement of sand within and between management units (e.g. low and narrow areas in the immediate vicinity of the area from which it has been removed or the fronting beach). Backpassing is the transfer of sand for the collection area back to its source area (updrift). Bypassing is the transfer of sand by the collection area to another collection area (downdrift).

Subarea: A portion of a management unit or units. A subarea shall extend a minimum of 500 feet of continuous shoreline in length. The shoreward (eastern) boundary of a subarea corresponds to the shoreward (eastern) boundary of the Fore dune Management Area. This boundary is defined as the western foundation of existing buildings and a direct line between the western building foundations where there is no building. Any porch or deck west of the house foundation shall be considered as within the subarea. [Amended by Ord 05-03, passed on May 13, 2005]

Vegetative Stabilization: Use of plants to secure bare sand surfaces against wind deflation.

SECTION 4 Outright uses, Neah-Kah-Nie Management Unit:

The following uses and activities are permitted outright in the Fore dune Management Overlay Zone's Neah-Kah-Nie Management Unit, subject to the standards in Section 9.

1. Sand Transfer within and between management units.
2. Vegetative Stabilization and sand collection.
3. Maintenance activities, including remedial grading and foreslope shaping.

A portion of this management unit is outside of the City of Manzanita's jurisdiction. In this area approval from Tillamook County will be required to carry out the fore dune management activities identified above.

SECTION 5 Outright Uses, North Manzanita Management Unit:

The following uses and activities are permitted outright in the Fore dune Management Overlay Zone's North Manzanita Management Unit, subject to the standards in Section 9.

1. Foredune grading in the southern portion of the management unit, between Pacific Avenue and Beach Drive, down to a minimum elevation 33 feet NGVD.
2. Sand Transfer within and between management units.
3. Vegetative Stabilization and Sand Collection.
4. Maintenance activities, including remedial grading and foreslope shaping.

SECTION 6 Outright Uses, South Manzanita Management Unit:

The following uses and activities are permitted outright in the Foredune Management Overlay Zone's South Manzanita Management Unit, subject to the standards in Section 9.

1. Foredune grading down to a minimum elevation 33 feet NGVD.
2. Sand Transfer within and between management units.
3. Vegetative Stabilization and Sand Collection.
4. Maintenance activities, including remedial grading and foreslope shaping.

SECTION 7 Outright Uses, Nehalem Spit Management Unit:

The following uses and activities are permitted outright in the Foredune Management Overlay Zone's Nehalem Spit Management Unit, subject to the standards in Section 9.

1. Sand Transfer within and between management units.
2. Vegetative Stabilization and Sand Collection.
3. Maintenance activities, including remedial grading and foreslope shaping.

This management unit is outside of the City of Manzanita's jurisdiction. In this area approval from Tillamook County and the Oregon Parks and Recreation Department will be required to carry out the foredune management activities identified above.

SECTION 8 Prohibited Uses and Activities, All Management Units:

The following uses and activities are prohibited in the Foredune Management Area:

1. Sand removal, unless otherwise approved subject to City standards.
2. View grading on individual lots and in areas other than those identified in Section 4, 5, 6, and 7 above and described in the Manzanita Foredune Management Plan.

SECTION 9 View Grading Standards:

The following standards apply to grading on developed lots for the purpose of maintaining ocean views from oceanfront dwellings and other foredune management activities identified in the Manzanita Foredune Management Plan:

1. View grading and other foredune management activities is only permitted in the Foredune Management Area and then only as part of an approved management unit subarea plan. A subarea plan shall contain the following elements:

- a) Description of the proposed work, including identification of a management unit subarea and the scope and timing of activities to be carried out in this subarea;
- b) Plan view and elevations of existing conditions in the subarea;
- c) Plan view and elevations of proposed modifications in the subarea; and
- d) Monitoring and maintenance programs, including provisions pertaining to access management.

The subarea plan shall also identify the individual(s) responsible for supervising the project.

2. The subarea plan shall have the approval of 60% of the property owners in that subarea.

3. The subarea plan must be submitted to the City for administrative review prior to undertaking foredune grading, sand transfer, vegetative stabilization, and sand collection activities in the Foredune Management Overlay Zone. Administrative review of the plan shall be confined to determining consistency with the Manzanita Foredune Management Plan, Management Strategy and compliance with the City's Zoning Ordinance. A fee as determined by the City shall accompany the plan.

4. A qualified professional shall inspect the work area before and after grading to confirm that grading and other measures have been done in compliance with the specifications outlined in the plan. The cost of this professional is the responsibility of the property owners authorizing the works.

5. The dates of implementing the plan shall be between October 1st through April 30th. Final planting shall be done by April 30th.

SECTION 10 Violations:

Violations of the provisions of this overlay zone are subject to the following:

1. A person violating a provision of this Ordinance shall, upon conviction, be punished by a fine of not more than \$250. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.