



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

08/13/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Lincoln County Plan Amendment
DLCD File Number 001-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, August 29, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jessica Bondy, Lincoln County
Jon Jinings, DLCD Community Services Specialist
Matt Spangler, DLCD Regional Representative
Patrick Wingard, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

D A T E S T A M P	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	AUG 09 2012
	LAND CONSERVATION AND DEVELOPMENT For Office Use Only

Jurisdiction: **Lincoln County**

Local file number: **1-TA-12**

Date of Adoption: **8/8/2012**

Date Mailed: **8/8/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 4/4/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Comprehensive Plan and zoning code amendments- Adoption of Bayshore Foreddune Management Plan and implementing zoning code regulations, consistent with Goal 18- Beaches and Dunes.

Does the Adoption differ from proposal? Yes, Please explain below:

Addition of language in County Comprehensive Plan Policies recognizing Bayshore Foreddune Management Plan and implementing ordinance; minor clerical corrections.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **Areas of Bayshore Subdivision**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

NOAA, USFS, DLCD, Oregon Parks and Recreation Department, Department of State Lands, Oregon Fish and Wildlife, Department of Geology and Mineral Industries, Bayshore Special Road District, Seal Rock Water District, Bayshore Homeowners Association

Local Contact: **Jessica Bondy**

Phone: (541) 265-4192 Extension:

Address: 210 SW 2nd St.

Fax Number: 541-265-6945

City: Newport

Zip: 97365-

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

1 Planning. At the conclusion of the hearing the Board unanimously agreed to move forward
2 with adoption of the Bayshore Plan and implementing ordinance; therefore,

3 The Lincoln County Board of Commissioners Ordains as follows:
4

5 **SECTION 1.** LCC 1.0005 is amended to read:

6 1.0005 Introduction

7 The comprehensive plan is a statement of Lincoln County's overall policies
8 regarding the nature of future growth and development in the County. This policy reflects a
9 consideration of the County's problems and needs as well as its social, environmental and
10 economic values. The purpose of comprehensive planning is to allow the public to make
11 decisions in advance about the development of the County and the use and conservation of
12 its resources. The resulting plan is a document upon which public agencies and private
13 firms and individuals can rely so their decisions and investments can be made with
14 confidence. People buying homes can do so, assured that their community will grow and
15 develop in an orderly fashion. Businesses can invest in new sites, confident that they can be
16 used for their intended purpose and that needed services will be provided. Public
17 investments in water systems, sewer systems, schools, roads, etc., can be made in an orderly
18 and cost effective manner. At the same time, the comprehensive plan is not intended to be a
19 static document; rather it is intended to be dynamic in nature. Periodic review and revision
20 is a necessary part of the planning process in order to respond to changing social and
21 economic needs and circumstances. The Lincoln County Comprehensive Plan consists of
22 *[four]* **five** primary elements: The Comprehensive Plan Inventory; the Comprehensive Plan
23 Policies; the Comprehensive Plan Maps; *[and]* the Lincoln County Transportation System
24 Plan adopted pursuant to LCC 1.0138 **and the Bayshore Dune Management Plan and**
25 **Foredune Management Plan (Bayshore Plan) adopted pursuant to LCC 1.0108.** The
26 Comprehensive Plan Inventory provides the background information, data and other factual
27 base material concerning the social, economic and environmental resources of the County.

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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.

1 The Comprehensive Plan Policies are the formal binding policy statements which direct
2 future growth and development and which are derived from the problems and needs iden-
3 tified in the Comprehensive Plan Inventory. The Comprehensive Plan Maps assign land use
4 designations to all areas of the County in accordance with the requirements of the
5 Comprehensive Plan Policies. It should be emphasized that these three elements of the
6 County Comprehensive Plan must be considered together in analyzing a specific application
7 of the plan. For example, the policy provisions for Forest Lands are in response to
8 resources and conflicts identified in the inventory, and are in turn applicable to those
9 resources defined in the inventory and delineated on the plan maps. In order to provide a
10 better understanding of this linkage between the inventory and policy elements of the
11 Comprehensive Plan, the relevant conclusions of the various inventory sections have been
12 summarized below:

13 (1) Urbanization:

14 The County's urbanization policies are based on factual base material contained in
15 the relevant cities' comprehensive plan. This material includes information on population
16 projections, housing needs and projections, and overall urban land needs. Based on the
17 information, policies establishing urban growth boundaries and joint management
18 procedures have been adopted. For detailed information on particular urban growth
19 boundaries, the appropriate city plans should be consulted.

20 (2) Air, Land and Water Quality:

21 The air, land and water quality inventory details existing and potential sources of
22 pollution in Lincoln County. Air quality in Lincoln County exceeds minimum standards set
23 by the EPA. There are some waste discharges in Lincoln County affecting air quality;
24 however air quality is remaining the same or improving slightly. Water quality in Lincoln
25 County is described as generally good. Some moderate sedimentation problems exist on
26 portions of some watersheds; in addition some periodic non-compliance with temperature
27 standards occurs as a result of low summer flows and over appropriation. According to the

Page 3 -- ORDINANCE #466

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1 inventory, air, land and water quality problems in the County are relatively minor and are
2 currently adequately regulated by existing state and federal pollution control programs.

3 (3) Natural Hazards:

4 A variety of natural hazards are identified and detailed in the inventory. They
5 include steep slopes, landslide areas, high water table, weak foundation soils, active sand
6 areas, stream and ocean flooding and coastal erosion. Most natural hazards common to
7 Lincoln County are of such a nature and scale that large scale engineering or structural
8 solutions are not practical. Zoning and performance standard requirements are the primary
9 techniques available for hazard mitigation.

10 (4) Forest Lands:

11 Approximately 87 percent of the total land area of Lincoln County is forest land. Of
12 this 550,000 acres, roughly 80 percent is in either industrial or public ownership. The
13 primary use of the majority of these forest lands is commercial wood fiber production.
14 Secondary uses include wildlife production, outdoor recreation, domestic watersheds and
15 livestock grazing. Existing ownership patterns, historical use trends, and past and current
16 management practices for private non-industrial forest lands indicates that parcels of 40 to
17 50 acres comprise the large majority of ownerships and that parcels in this size range are
18 compatible with the conservation of forest lands for forest uses.

19 (5) Agricultural Lands:

20 The analysis considers available sources of data on farms in Lincoln County
21 including the 1979 Census of Agriculture, the S.C.S. Farm Plans, and the Farm Deferral
22 Information. Comparisons are made of all these sources and they are found to be
23 representative samples of agriculture and commercial agriculture in the County. These
24 sources indicate that different size parcels may be appropriate for different types of
25 activities. Average acreages of commercial farm uses were as follows: crops, 28 acres;
26 pasture, 55 acres; wooded pastures, 34 acres; farm wood lots, 41 acres; overall average, 81
27 acres. The diversity of these averages precludes a county-wide minimum lot size. The two-

1 step approach is suggested using the above information as a guideline and more detailed
2 information applied to the guideline area which is mapped and determined in the study. Use
3 of a Commercial Viability Rating System is proposed as a system to provide for the
4 continuation of the commercial agriculture if the person is able to have similar types and
5 averages of activities as 75 percent of the surrounding farms on Farm Deferral within the
6 guideline area. This result is obtained when a minimum rating of 36 points is achieved.

7 (6) Estuarine Resources:

8 In terms of both economic and social value, estuaries are among the most valuable
9 of the County's natural resources. Among their many valuable functions, estuaries serve as
10 a nursery for many commercially important ocean fish and as a migration route for
11 anadromous fish (steelhead and salmon). Crustaceans occur in immense numbers and are
12 important in the diet of young fish which in turn are food for higher carnivores. Open
13 water, eel grass and tide flats provide the food and shelter requirements of a significant
14 portion of the migratory birds using the coastal portion of the Pacific Flyway. Of particular
15 importance are the estuarine marsh and tide flat communities which, through their role in
16 nutrient regeneration and cycling of organic matter, provide a significant portion of the
17 primary productivity upon which many major marine food webs are based. These estuarine
18 wetlands serve a number of other important functions including: providing water storage
19 capacity that counteracts tidal surges and upstream flood runoff; serving as settling and
20 filtering basins for silt, organic material and other pollutants; providing breeding, resting
21 and feeding grounds and escape cover for many forms of fish and wildlife. Estuaries are
22 also extremely important for navigation and shipping, commercial fishery support facilities,
23 commercial aqua culture operations, recreational boating and fishing and other
24 economically important activities which require some alteration of the estuary. Because the
25 delicate balance and operation of an estuary is dependent on the interrelationships of com-
26 plex natural processes, estuaries represent a very fragile environment. Seemingly modest
27 alterations to the processes that govern them can cause major changes in their biophysical

1 character. For this reason, the potential for resource degradation as a result of competing
2 uses is high. Since estuaries have such high economic and social values, it is of critical
3 importance to establish estuarine management practices that will provide for development
4 of estuarine-dependent resources in a manner compatible with conservation and
5 enhancement of estuarine environments.

6 (7) Coastal Shorelands:

7 The coastal shorelands planning area includes lands contiguous to the Pacific Ocean
8 and tidal rivers and streams. While the interior portions of the County are largely devoted to
9 public and private commercial timber production, those parts of the land mass adjacent to
10 the ocean and major rivers are devoted to a variety of uses, many of which are unique.
11 Many of the principal economic activities in Lincoln County are directly dependent on
12 sound management of shore land areas. Tourism flourishes in the County almost solely
13 because of the appeal of the ocean, the beaches and the estuaries. Preservation of the scenic
14 qualities of these resources as well as public shore land access is obviously crucial if tourists
15 are to continue to be attracted to the area. The fishing industry is dependent on sound man-
16 agement of shoreline areas. Industrial needs such as processing, moorage, boat repair and
17 construction must be provided for in the limited shore land area. At the same time, areas of
18 coastal waters and adjacent lands which are crucial for the maintenance of marine food
19 webs must be soundly managed. Other features unique to the shore lands such as coastal
20 hazard areas and significant coastal habitat areas also require special management
21 provisions.

22 (8) Beaches and Dunes:

23 Lincoln County has extensive ocean beaches, as well as several smaller areas of
24 dunes. Numerous dune forms are present, including areas of older stabilized dunes,
25 conditionally stable dune forms, active fore dunes and inter dune areas (deflation plains).
26 Lincoln County's dune areas are relatively small, and other dune resources such as dune
27 habitats and dune aquifers are present, but not substantial. Major portions of Lincoln

1 County's dune areas, such as Bayshore and Salishan spits, are committed to residential
2 development.

3 (9) Open Space:

4 The inventory concludes that a more than ample supply of open space exists in the
5 planning area. Because the plan restricts residential densities on forest, agricultural and
6 other rural lands, and maintains existing parks and public open space, no conflicts exist for
7 lands needed and desirable for open space.

8 (10) Mineral and Aggregate Resources:

9 The large majority of the County's known aggregate reserves occur on forest or
10 agricultural lands, where no significant conflicts exist. Some deposits do occur in areas
11 where potential conflicts from other uses could arise. These have been analyzed,
12 consequences have been assessed and conflicts resolved. This resolution has generally
13 taken the form of either permitting in full or prohibiting the conflicting use.

14 (11) Energy Sources:

15 Energy sources in Lincoln County are confined to some potential low-head
16 hydro-electric sites and some potential wind power generating sites. These sites all occur in
17 areas where no conflicting uses exist.

18 (12) Fish and Wildlife Habitats:

19 Fish and wildlife habitats of various types occur throughout the County. Many of
20 these habitat areas occur on forest or agricultural lands. Normal forestry and farming
21 activities conducted in accordance with existing regulatory authorities do not conflict with
22 these habitats. Some significant habitats do occur in areas designated for higher intensity
23 developments, and potential conflicts exist. The inventory examines these conflicts and
24 their consequences and concludes that such conflicting uses should be specifically limited
25 through the use of clear and objective standards.

26 (13) Significant Natural Areas:

1 The Nature Conservancy Data Summary for Lincoln County identified some 52
2 sites which might be considered for designation as significant natural areas. Through a
3 process of further detailed evaluation, this original inventory was refined to a list of 15
4 candidate natural areas. Each of these 15 sites has been assessed in detail in terms of
5 location, quality and quantity of resource potential conflicts, etc. Specific programs to
6 resolve conflicts have been proposed on a site-by-site basis.

7 (14) Outstanding Scenic Views and Sites:

8 Areas of outstanding scenic value have been identified through the use of historic
9 documents, citizen recommendations, and field surveys. Some of these areas are in portions
10 of the County designated for forest and agricultural uses which would not conflict with
11 scenic qualities. Other scenic resources are in areas with potential land use conflicts. The
12 analysis of consequences for these areas suggests that these conflicts should be limited
13 through the use of implementing standards.

14 (15) Water Resources:

15 Water resources are among Lincoln County's most abundant natural resources.
16 These resources occur throughout the County; potential conflicts are numerous and varied.
17 However, existing regulatory programs which control point and nonpoint source pollution,
18 wetland alterations and other conflicting uses are adequate to resolve conflicts.

19 (16) Historic and Cultural Areas and Sites:

20 Historic and cultural sites have been inventoried on a site by site basis, and the
21 nature of the historic or cultural values of each site has been analyzed. Numerous sites have
22 been identified for which potential conflicting uses exist. Based on an analysis of the
23 consequences of alternative courses of action, the inventory concludes that it is not desirable
24 to either fully permit or totally prohibit these uses, but rather programs should be developed
25 to in some way limit conflicting uses.

26 (17) Potential and Approved Oregon Recreation Trails:

1 Lincoln County has only two formally recognized potential state recreation trails
2 (trails for which specific routes have been selected) and no formally approved trails. The
3 Oregon Coast Hiking Trail follows the Lincoln County beaches, with some overland
4 portions around sections of coastal headland areas. Some conflicts have been identified
5 with this trail route in certain areas designated for residential use. The Oregon Coast Bicycle
6 Route follows public right-of-ways for its entire length in Lincoln County, and no conflicts
7 have been identified with this trail route.

8 (18) Scenic Waterways:

9 The Alsea and Siletz Rivers in Lincoln County are on both the State and Federal
10 lists of potential scenic waterways, but neither has been studied for formal designation.
11 While no conflicting uses exist in terms of consideration for scenic waterway status, con-
12 flicts have been identified for portions of the scenic corridor areas along each of these
13 rivers. Implementary measures to limit these conflicts have been recommended.

14 (19) Economy:

15 All the evidence examined suggests strongly that Lincoln County's economy will
16 grow relatively rapidly through 2000 and beyond. Specifically, it is projected that the
17 County's total employment will increase at an average compound annual growth rate
18 between 3.9 and 4.4 percent, or from 13,259 in 1977 to a low of about 32,000 and a high of
19 about 35,000 in 2000. The analysis showed that the County's total employment increased at
20 an average compound annual growth rate of about 4.8 percent from 9,560 to 13,250 during
21 the 1970-1977 period. Three major assumptions underlie these conclusions. First, it is
22 projected that a mild increase and then a mild decrease in employment in forest-related
23 industries will occur. For example, it is expected that Lincoln County's employment in
24 lumber and wood products in 2000 will be slightly over 1,000 employees compared to 920
25 employees in 1977. Second, the County's employment in fish-related employment will in-
26 crease between 270 percent and 459 percent by 2000, with the largest increase stemming
27 from the on-shore impacts of the new 200-mile fishing zone. Third, the County's

1 employment in tourist and recreation related employment should increase between 300
2 percent and 340 percent by 2000, thus contributing roughly 68 percent of the total increase
3 in employment in Lincoln County during the 1977 to 2000 period. The analysis suggests
4 this increase will stem largely from growth in the Willamette Valley's employment
5 increasing at an average annual compound growth rate greater than 3.0 percent during the
6 1977 to 2000 period.

7 (20) Transportation:

8 Transportation in Lincoln County centers primarily on the use of the private
9 automobile. It is anticipated that this reliance will continue, and the focus of transportation
10 planning for the planning period will be on design, improvement and maintenance of public
11 roads and highways. Mass transit opportunities in Lincoln County appear to be extremely
12 limited during the planning period. The small number of potential users and their low
13 concentration combine to make any such project economically unsound. It is likely that the
14 importance of air travel will increase during the planning period, commensurate with
15 projected population increases. The probability of commercial air service to the Newport
16 area is anticipated and plans for significant improvements at the airport are being
17 formulated. Rail service and commercial shipping activities are both confined to serving
18 industrial wood products operations in the Newport-Toledo area.

19 (21) Energy:

20 Increasing population coupled with reliance on increasingly scarce energy resources
21 necessitates expanded efforts for conservation and more efficient use of energy. Local
22 governments can encourage efficient energy use and conservation through a variety of
23 methods including seeking funding sources for alternative energy development,
24 encouraging residents to utilize conservation programs, providing public information and
25 education on energy related matters and encouraging energy efficient design in housing and
26 other types of developments.

27 (22) Housing:

1 The problem of providing both adequate and affordable housing has become an
2 issue of national concern. Housing problems in Lincoln County largely parallel national
3 trends. Overall vacancy rates in the County are very low; this coupled with rapidly
4 escalating building costs and interest rates has driven acreage housing costs to levels beyond
5 the income capabilities of many County residents. Fewer and fewer families are able to
6 afford ownership of a single family residence, still the overwhelming preference of most
7 households. The County's role in providing areas for needed housing is projected to be
8 relatively small during the planning period (as compared to areas within incorporated
9 cities). However, in existing rural communities and other rural residential areas, the
10 provision of opportunities for affordable housing will be emphasized.

11 (23) Recreation:

12 The physical setting of Lincoln County holds a great deal of potential for outdoor
13 oriented recreation. An extensive network of state, federal and locally managed outdoor
14 recreation facilities are available. They provide access to the larger water bodies and
15 dramatic scenery for tourists and residents alike. The potential for year round recreation is
16 limited somewhat by climate, topography and drainage conditions. Needs for all-weather or
17 indoor recreation facilities are apparent to satisfy recreational demand in cooler winter
18 months.

19 (24) Public Facilities:

20 Historically, few if any public facilities were available in the rural areas of Lincoln
21 County. As demand for recreational development increased, various services have
22 developed in the unincorporated areas. Through the formation of special districts, water,
23 fire protection and in some cases, sanitary sewer services has been provided. The delivery
24 of these services has been localized, and the networks have developed in a largely
25 uncoordinated fashion. In some cases, levels of development have exceeded service
26 capabilities and attendant problems have ensued. The need for overall comprehensive plan

1 policies to guide the future development and delivery of services in these rural areas is
2 identified.

3 **SECTION 2.**

4 Section 3 of this Ordinance is added to and made a part of LCC Chapter 1, as
5 indicated.

6 **SECTION 3.**

7 **1.0108 Adoption of Bayshore Dune Management Plan**

8 (1) The Bayshore Dune Management Plan and Foredune Management Plan
9 (Bayshore Plan) dated February 7, 2012 is hereby adopted and made a part of the
10 Lincoln County Comprehensive Plan. The Bayshore Plan, which includes the
11 background report and management strategy are incorporated herein as if fully set
12 forth. Copies of the Bayshore Plan shall be placed in the Lincoln County Clerk's
13 Office and kept in the Department of Planning and Development Offices.

14 (2) To the extent that provisions of the Bayshore Plan and the newly adopted
15 provisions of the Lincoln County Code, LCC 1.1385 Foredune Management Overlay
16 Zone, or subsequent amendments to the Bayshore Plan and/or LCC 1.1385, diverge
17 from other provisions of this Chapter, the Bayshore Plan and LCC 1.1385 shall
18 supersede those inconsistent provisions.

19
20 **SECTION 4.**

21 Section 5 of this Ordinance is added to and made a part of LCC Chapter 1, as
22 indicated.

23 **SECTION 5.**

24 **1.1385 Foredune Management Overlay Zone**

25 **(1) Purpose:**

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

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

34 **(b) To minimize the inundation of improvements by accumulation of wind-**
35 **blown sand;**

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- 1 (c) To maintain and improve public access to the beach; and
2 (d) To maintain, or restore ocean views.

3 (2) Applicability:

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

8 (3) Definitions:

9 As used in this section:

10 (a) "Dune nourishment" means augmentation of the natural sediment supply
11 within a foredune area.

12 (b) "Foredune grading" means alteration of the foredune area through sand
13 transfer or removal of sand by mechanical means in order to accomplish view
14 grading and/or preventative grading.

15 (c) "Infrastructure grading" means removal of sand which is physically
16 inundating roadways, beach accesses, septic systems, and underground utilities,
17 thereby causing damage, impeding vehicular and pedestrian movements, and
18 otherwise interfering with service provision and operations related to the impacted
19 infrastructure systems.

20 (d) "Management Unit" means a discrete segment of foredune area identified,
21 described and numbered as a Management Unit in the Bayshore Plan.

22 (e) "Preventative grading" means the removal of sand which threatens to
23 inundate a structure from the immediate vicinity of the structure.

24 (f) "Qualified Professional" means either an Oregon Registered Geologist or
25 Certified Engineering Geologist, with experience working on Pacific Northwest
26 beaches.

27 (g) "Remedial grading" means removal of sand from a developed lot which is
28 physically inundating a structure and causing damage or preventing access to the
29 structure, or removal of sand from a vacant lot which is threatening to inundate
30 adjoining lots.

31 (h) "Sand Removal" means the mechanical movement of sand to alternative
32 disposal areas outside the Fore dune Management Area.

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

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

37 (4) Uses:

38 In areas subject to the provisions of this section, all uses permitted under the
39 provisions of the underlying zone are permitted, subject to the additional
40 requirements and limitations of this section. Notwithstanding any contrary provisions

1 of LCC 1.1930, the following activities are also permitted, subject to the requirements
2 and limitations of this section:

- 3 (a) Foredune grading.
- 4 (b) Infrastructure grading.
- 5 (c) Remedial grading on individual developed or vacant lots.
- 6 (d) Dune nourishment.
- 7 (e) Vegetation planting, stabilization and maintenance.
- 8 (f) Sand fencing.
- 9 (g) Sand transfer.

10 **(5) Prohibited Uses:**

11 The following uses and activities are prohibited in the Foredune Management
12 Overlay Zone:

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

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

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

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

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

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

25 **(a) Procedure:**

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

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

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

36 **(i)** Prior to the expiration of the permit, the permittee shall submit a written
37 request to the Planning Division for renewal of the permit. Such a request shall be
38 accompanied by a report prepared by a Qualified Professional who establishes, based
39 on current conditions, that the grading, restoration and maintenance activities
40 authorized by the permit are consistent with the policies and requirements for the
41 affected Management Units as set forth in the Bayshore Plan.

1 (ii) Review, decision and appeal for requests for renewal of Fore-dune Grading
2 Permits shall be undertaken in accordance with LCC 1.1210(2). In acting upon a
3 request for renewal of a Fore-dune Grading Permit, the Planning Division or the
4 Planning Commission may impose, in addition to the conditions specifically set forth
5 herein, any conditions determined to be necessary to ensure that authorized grading,
6 restoration and maintenance activities will be consistent with the policies and
7 requirements for the affected Management Units as set forth in the Bayshore
8 Fore-dune Management Plan.

9 (iii) If beach and fore-dune conditions change to such an extent during the
10 permit period that renewal of an existing fore-dune grading permit is not appropriate,
11 then a new permit application, including a new grading plan and permit conditions, is
12 required. The Qualified Professional shall make this determination in the report
13 specified in (i) above.

14 (b) Fore-dune Grading Plan

15 Applications for Fore-dune Grading Permits shall be accompanied by a
16 Fore-dune Grading Plan. Fore-dune Grading Plans shall be prepared by a Qualified
17 Professional, and shall contain at least the following information, set forth in sufficient
18 detail to establish that the proposed grading, restoration and maintenance activities
19 will be consistent with the policies and requirements for the affected Management
20 Units as set forth in the Bayshore Plan:

21 (A) Narrative describing the proposed work;

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

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

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

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

32 (F) Revegetation plans consistent with the specific Management Unit
33 recommendations;

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

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

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

38 (c) Fore-dune Grading Permit Decision Criteria:

39 A decision to approve a Fore-dune Grading Permit shall be based on the
40 following findings:

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

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

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

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

11 (d) **Foredune Grading Permit Conditions**

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

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

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

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

20 (D) Upon completion of authorized grading activities, revegetation shall be
21 accomplished in accordance with the approved Foredune Grading Plan;

22 (E) Within 30 days of completion of the initial grading and revegetation, the
23 permittee shall submit to the director a written statement from a qualified professional
24 that the project has been completed in conformance with the provisions of the
25 Foredune Grading Plan;

26 (F) Within one year of completion of the initial grading and revegetation, and
27 annually thereafter during the time within which the permit remains valid, the
28 permittee shall submit a monitoring report prepared by a qualified professional that
29 shall include:

30 (i) Profiles of the project area;

31 (ii) Photographic documentation of the current condition of the project area;

32 (iii) Recommendations for any vegetation maintenance needs, including repair
33 of vegetation, replanting of blow out areas, and fertilization;

34 (iv) Recommendations for any needed shaping of the foreslope and/or
35 maintenance grading of the foredune crest;

36 (v) Recommendations for any remedial or infrastructure grading;

37 (vi) Recommendations for the placement of sand fencing; and

38 (vii) Specified time frames for performing recommended maintenance
39 activities;

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

4 (8) Remedial/Infrastructure Grading Permits

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

10 (a) Procedure:

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

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

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

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

28 (b) Remedial/Infrastructure Grading Permit Conditions

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

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

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

38 (C) Only one disposal access shall be allowed on the property for the
39 purpose of pushing sand up and over the foredune seaward of the structure. The
40 access shall be limited to the minimum width necessary to accommodate the

1 equipment being used and in no case wider than 8 feet. Upon completion of the
2 project, the access shall be re-contoured to the height of the existing adjacent dune;

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

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

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

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

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

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

28 (G) Remedial grading on vacant lots shall conform to the following
29 requirements:

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

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

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

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

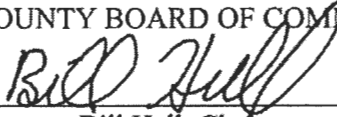
1 **1. Planting and fertilization for vacant lots and associated disposal**
2 **areas shall be carried out during rainy months between November 1 and April 1 in**
3 **accordance with specifications in the Bayshore Plan, except that approved disposal**
4 **areas within the typical tidal range need not be vegetated.**
5 **2. Barriers should be constructed around graded vacant lots to**
6 **prevent trampling of the planted areas.**

7
8 **SECTION 6.**

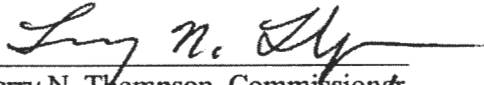
9 The Board finds that the adoption of this Ordinance is urgently needed in order to
10 allow for timely completion of projects caused by the recent sand inundation in the
11 Bayshore Area. Therefore, this Ordinance being necessary for the immediate preservation
12 of the public health and safety, an emergency is declared to exist and this Ordinance shall
13 take effect upon its passage.

DATED this 8th day of August, 2012.

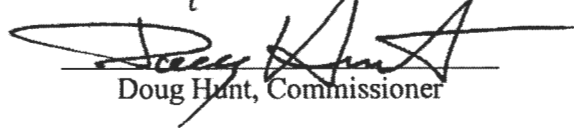
LINCOLN COUNTY BOARD OF COMMISSIONERS



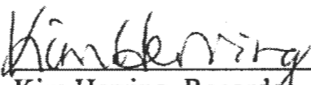
Bill Hall, Chair



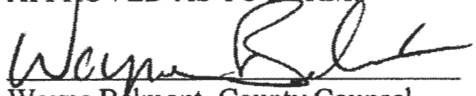
Terry N. Thompson, Commissioner



Doug Hunt, 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.



Lincoln County Department of Planning and Development
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Newport, Or. 97365

Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, Or. 97301-2540

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AND DEVELOPMENT