

ORDINANCE NO. 154
SOIL EROSION CONTROL / VEGETATION REMOVAL ORDINANCE
(Revised 03-13-97)

AN ORDINANCE CONTROLLING SOIL EROSION AND REMOVAL OF VEGETATION IN SHORELAND AREAS AND RIGHT-OF-WAYS, AND REPEALING ORDINANCES NO. 59 AND 97.

WHEREAS, Dunes City desires to maintain its rural atmosphere, control soil erosion and protect wildlife habitat, water quality and scenic values; and

WHEREAS, Dunes City desires to implement the Land Conservation and Development Commission's requirements of the oregon coastal shorelands goals; and

WHEREAS, uncontrolled removal of shoreland vegetation would be a derogation of these desires.

THEREFORE DUNES CITY ORDAINS AS FOLLOWS:

SECTION I. DEFINITIONS.

1. **CONSERVATION COMMITTEE:** The Committee shall consist of three (3) members appointed by the City Council to serve for three-year terms except that the initial appointments to the Committee shall be for one (1) one-year term expiring 12-31-97; one (1) two-year term expiring 12-31-98; and one (1) 3-year term expiring 12-31-99. A member of the Council shall be selected to act as the non-voting chair of the 3-member Committee. The Committee may call upon the State Forester, Biologists, and Soil Conservationists for advice.
2. **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 3 feet.
3. **NATURAL VEGETATION:** Any trees, shrubs, brush, plants or grasses existing within the shoreland zone or riparian corridor.
4. **ORIGINAL VEGETATION INVENTORY:** All vegetation in shoreland zone or riparian corridor for 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.)

5. PUBLIC RIGHT-OF-WAY: Any Dunes City right-of-way whether city has a fee, easement, or other legal interest in the right-of-way. 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.
6. RIPARIAN CORRIDOR: As defined herein, riparian corridor boundaries shall be fifty (50) feet from the top of bank of all fish-bearing streams. (For further information, see Ordinance No. 153, amendment to Dunes City Zoning Ordinance No. 50, for regulations defining and protecting significant riparian and wetland areas.)
7. SHORELAND ZONE: As defined herein, the shoreland zone includes all Dunes City lands within fifty (50) feet measured horizontally from the ordinary high water line of all lakes and below.
8. SOIL EROSION: As herein defined, is 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.

SECTION II. CONDITIONS GOVERNING VEGETATION REMOVAL.

1. VEGETATION REMOVAL PERMIT NOT REQUIRED: Vegetation Removal Permit not required for:
 - (a) Periodic maintenance as defined in "Maintenance Pruning and Limbing" in Section I(2) above.
 - (b) Removal of non-native vegetation or noxious weeds such as Tansy Ragwort, Canadian Thistle, Gorse, or Wild Scotch Broom.
 - (c) Danger Tree: Any tree that is determined to be a sudden or immediate threat to life, structures, or property may be removed without fee upon notification to City requesting an inspection by a member of the Conservation Control Committee or other City designate for determination.
2. VEGETATION REMOVAL PERMIT REQUIRED: Vegetation Removal Permit is required if any vegetation/tree is to be removed from the shoreland zone or riparian corridor, other than 1 (a), (b), and (c) above. **No vegetation shall be removed under a vegetation removal permit except:**
 - (a) Vegetation within fifteen (15) feet of the ordinary high water mark in the shoreland zone or top of bank in

riparian corridors may be removed if necessary for the development of water-dependent or water-related uses.

- (b) As much as twenty-five (25%) percent of the "Original Vegetation Inventory" of the land area in any shoreland zone or riparian corridor that is more than fifteen (15) feet but less than fifty (50) feet from the ordinary high water line may be trimmed or cleared of natural vegetation with approved vegetation removal permit provided that such action will not result in soil erosion.

"Original Vegetation Inventory" determined by counting stumps and other evidence of prior vegetation removal, based on what has been removed and what is growing. (Intent: Prevention of subsequent property owners to each take 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.

SECTION III. PROCEDURES FOR OBTAINING A VEGETATION REMOVAL PERMIT.

1. Permit applications should be made through the Dunes City Recorder, utilizing the appropriate form.
2. The application shall include a map of the property, including dimensions, legal description, the original vegetation inventory as defined in Section 1, and inventory of existing vegetation, indicating that which is proposed for removal.
3. 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.
4. Upon receiving application, the City Recorder will immediately notify the chairman 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.
5. The Planning Commission shall consider the following criteria:
 - (a) The Oregon Coastal Shorelands Goals;
 - (b) The effect the proposed changes will have on scenic values from adjoining properties and bodies of water;
 - (c) The effect the proposed changes will have on fish and wildlife habitat, soil erosion and water quality.

6. The Planning Commission will modify, approve or deny the proposal.
7. An appeal of the Planning Commission decision may be made to the city council by the applicant, 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.
 - (a) 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.
 - (b) 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.

SECTION IV. SOIL EROSION CONTROL:

1. It shall be considered detrimental to the safety, health and welfare of the citizens of Dunes 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.

SECTION V. RE-VEGETATION OF CLEARED AREAS.

1. 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:
 - (a) It is reforested to the specifications of the State Forestry Department; OR
 - (b) A re-vegetation plan is approved by the City Council.
2. In reviewing a re-vegetation plan required in Section V-1, the City Council shall consider the following criteria:
 - (a) The provisions of the Oregon Coastal Shorelands Goal;

- (b) Dunes City citizens desire as stated in the preamble to this ordinance;
- (c) Any other provisions of this ordinance.

SECTION VI. REMOVAL OF VEGETATION - PUBLIC RIGHT-OF-WAYS:

1. 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.
2. The following practices are exempt from this section:
 - (a) Weed and brush control on gravel shoulders;
 - (b) Weed and brush control in drainage ditches;
 - (c) Vegetation control operations conducted by the Public Utility District, the Telephone Company, and Cable T.V. franchises in areas within public easements pursuant to providing franchise services to the citizens of Dunes City.
 - (d) Maintenance trimming up to three feet in width on either side of improved public roadways.

SECTION VII. ABATEMENT PROCEDURES:

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

SECTION VIII. PENALTIES:

1. A violation of a provision of this ordinance is punishable by a fine not to exceed \$500.
2. Violations - each day's violation of this ordinance constitutes a separate offense. The abatement of the nuisance is not a penalty for violating this ordinance, but is an additional remedy. Imposition of a penalty does not relieve a person of the duty to abate the nuisance.

SECTION IX. REPEAL


Ordinances No. 59 and No. 97 are hereby repealed.

SECTION X. SEVERABILITY:

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Adopted by the City Council of the City of Dunes City, Oregon, this 10th day of April, 1997.

5 Ayes 0 Nays 0 Abstain 1 Absent



Robert B. Ward, Jr., Mayor

ATTEST:



Joyce Phillips, City Recorder

Effective Date May 10, 1997.